

# Dodd Frank Remittance Rules – Regulation E

---

Ruth Wandhöfer

Global Head of Regulatory and Market Strategy

Citi Transaction Services

# Regulation E Amendment

---

## Final Rule Implementing Section 1073 of the Dodd-Frank Act – Requirements for Remittance Transfers

---

### Timeline

- On 20 January 2012 the Consumer Finance Protection Bureau (CFPB) issued the Final Rule amending Regulation E, subpart B, implementing section 1073 of the Dodd-Frank Act. The rule was published in the Federal Register on 7 February 2012
- The new rule ushers in sweeping changes in the way cross border consumer-initiated US wire services are provided to customers
- Compliance with most of the new requirements is required by 7 February 2013

### Overview

- Prior to the adoption of the final rule, most remittance transactions were generally not covered by federal consumer protection regulations
- According to the CFPB, adoption of this rule will significantly improve the predictability of remittance transfers and provide consumers with better information for comparison shopping (however, a study conducted for the Federal Reserve indicates few consumers actually shop for remittances services)
- The rule implements new protections for consumers transferring funds outside the US
  - The rule requires consistent, reliable disclosures about the price, the amount of currency to be delivered to a designated recipient and the date funds will be available
  - Consumers must receive pricing information before payment
  - Consumers generally will have 30 minutes to cancel after payment
  - Providers will be required to investigate disputes and remedy errors

# Definitions

---

## Remittance Transfer

- An electronic transfer of funds, initiated by an individual, sent by a remittance transfer provider (does not include payments when a consumer provides a credit, debit or prepaid card directly to a merchant)
- Originated by a consumer in the US for personal, family or household purposes, sent to recipient (consumer or business) located in a foreign country by a remittance transfer provider
- May include an electronic book entry
- Includes bill payments unless electronic transfers are specifically excluded in the bill payment arrangement
- Excluded transactions
  - Small value transfers of US\$15 or less
  - Purchases and sales of securities or commodities

## Remittance Transfer Provider

- Any person that provides remittance transfers for a consumer in the normal course of business, regardless of whether the consumer holds an account with such person
- If more than one entity in the chain meets the definition of Remittance Transfer Provider only one set of disclosures is needed and the providers can assign responsibility for the disclosures, although all remain responsible for compliance

## Designated Recipient

- Any person specified by the sender as an authorised recipient of a remittance transfer to be received at a location in a foreign country

## Sender

- A sender is a consumer in a State who, primarily for personal, family, or household purposes, requests a remittance transfer provider to send a remittance transfer to a designated recipient

# Requirements Under Dodd-Frank Section 1073

---

- Disclosures
- Temporary Exemptions
- Permanent Exemptions
- Cancellation Rights
- Error Resolution
- Error Assertion and Remedies

# Requirements Under Dodd-Frank Section 1073 – Disclosures

---

- A Prepayment Disclosure is required and must be provided at time of request and prior to payment

## Minimum Requirements

- Remittance Transfer Provider fees
  - Transfer amount in the currency in which the transfer is funded
    - Transfer amount in the currency which will be made available to the recipient (Depends on if a remittance transfer is converted to local currency and by whom)
    - Transfer fees imposed
    - Taxes imposed
    - Exchange rate (to nearest basis point)
  - Fees by other parties (correspondent, intermediary or beneficiary institutions)
    - Transfer fees imposed
    - Transfer amount in the currency which will be made available to the recipient (Depends on if a remittance transfer is converted to local currency and by whom)
    - Taxes imposed
  - Total amount to be received by recipient in destination currency
- All information required on pre-payment Disclosure
  - Specific date funds will be available to recipient (can be sooner)
  - Name of recipient
  - If provided by sender: Recipient telephone number/Recipient address
  - Statement of sender's error resolution rights
  - Name, telephone number and website of remittance provider
  - Name of state agency and CFPB if sender would like to contact for questions/complaints
- Disclosures must be provided in English and in
  - Each of the languages principally used to advertise or market remittance service or
  - The language used to conduct the transaction

# Requirements – Receipt Disclosures

---

## Date Available

- Date in foreign country when the funds become available to the recipient. (N.B. RTP can disclose the latest possible date funds will be made available with a statement that funds “may be available sooner”

## Recipient Contact

- Name and, if provided by sender, telephone and address of recipient

## Error Resolution and Cancellation Rights (Short Form)

- Model Short Form Disclosure. “You have the right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at [phone number] or [website]. You can also contact us for a written explanation of your rights. You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited. For questions or complaints about [name of RTP], contact”
- Long Form Disclosure. Upon sender’s request, RTP must promptly provide sender a notice describing in detail the sender’s error resolution and cancellation rights

## Provider Contact

- Name, telephone number and website of RTP

## Regulatory Agency Contact

- A statement that sender can contact the state agency that licenses or charters RTP and the Bureau for questions and complaints about RTP + name, telephone number and website of Bureau and state agency

# Requirements – Combined Disclosures and Estimated Disclosures

---

## Combined Disclosures

- If all disclosures are made prior to payment being made
  - Content: Includes all the prepayment and receipt disclosures
  - Proof of Payment: If RTP provides combined disclosure and sender completes transfer, RTP must provide sender with proof of payment

## Estimated Disclosures

- Exchange Rate estimate must be based on
  - For transfers sent via international ACH that qualify for methods exception, most recent exchange rate set by recipient country's central bank or other government entity and reported by FRB
  - The most recently available wholesale exchange rate plus any spread applied by RTP or its correspondent to such rate for transfers for such currency
  - Most recent rate offered/used by person making funds available directly to recipient or by person setting the exchange rate
- Transfer Amount (recipient's currency)
  - Estimate must be based upon estimated exchange rate

# Requirements – Estimated Disclosures (Cont'd)

---

- Other Transfer Fees (recipient's currency)
  - For fees that are a percentage of the amount transferred, estimated exchange rate
  - For fees imposed by intermediaries or recipient institution, RTP's most recent remittance transfer to recipient institution or representations of recipient institution and intermediaries in any one of the potential transmittal routes that RTP reasonably believes a requested transfer may travel
- Other Transfer Taxes (recipient's currency)
  - Estimate must be based on estimated exchange rate and estimated other transfer fees BUT only if such taxes are a percentage of the total as opposed to a flat tax
- Total to Recipient (recipient's currency)
  - Estimate must be based on estimated exchange rate and estimated other transfer fees and taxes



# Exemptions

---

## Temporary Exemptions (Expires July 2015 )

- Remittance Transfer providers can provide Reasonably Accurate Estimates for
  - Exchange rates
  - Transfer amounts
  - Fees
  - Taxes
  - Total amount to be received by recipient

If

- Remittance provider is an insured institution +
- Transfer is sent from sender's account at the institution +
- Remittance provider cannot determine exact amounts for reasons beyond its control

## Permanent Exemptions

- Estimates are permitted where laws of a recipient country do not permit disclosure of exact amounts
- Fed International ACH offering
- Less than 25 transfers per year (awaiting confirmation from CFPB)
- Transfers for amounts under US\$15

# Cancellation Rights

---

## One time transfers

- Sender has right to notify remittance transfer provider to cancel transfer within thirty minutes after payment
- This is on the condition that the sender's request enables the RTP to identify the transfer, and the funds have not been picked up by the recipient or deposited into the recipient's account
- The RTP must refund amount of funds tendered and all fees and, if not prohibited by law, taxes within three business days after receiving cancel requests

## Recurring transfers

- Sender must notify remittance transfer provider of cancellation no less than three business days prior to scheduled date of transfer
- Senders' cancellation rights vary based on type of remittance transfer being made

# Error Resolution

---

- Definition of Error is very general
  - An incorrect amount paid by a sender in connection with a remittance transfer
  - A computational or bookkeeping error made by a provider relating to a remittance transfer
  - The failure to make available to a designated recipient the amount of currency stated on the receipt or combined disclosure
  - A provider's failure to make funds in connection with a remittance transfer available to the designated recipient by the date of availability stated on the receipt or combined disclosure
- Protections of Uniform Commercial Code for Funds Transfers (UCC Article 4A) no longer apply
  - Remittance providers are no longer able to rely on UCC Article 4A's rules governing the rights and responsibilities among the parties to a wire transfer
  - If remittance provider transfers funds to incorrect account, based on incorrect information provided by the sender, the sender may be entitled to a refund
  - If sender would like funds resent to correct account, remittance transfer provider cannot charge transaction fees
- Sender has 180 days from stated delivery date of transfer to assert error
  - Remittance transfer provider has 90 days after receiving the sender's notice to promptly investigate a notice of error to determine whether an error occurred
  - Where error is based on documentation sender previously requested, sender to provide notice of error to RTP by the latter of 180 days after disclosed date of availability or 60 days after provider sent the additional documentation that was requested
  - Remittance transfer provider must report the results within three days of completing the investigation
- If an error is established, based on the type of error the sender may have the following remedies
  - Right to full refund of all amounts tendered
    - Including all fees imposed
  - Have remittance transfer provider make available to the designated recipient, without additional cost to sender/designated recipient, the amount appropriate to resolve the error

# Challenges

---

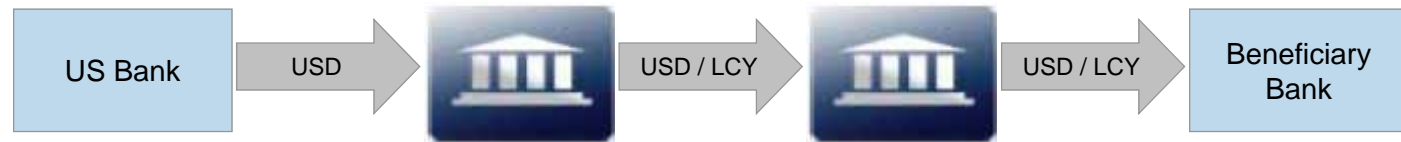
## Tax

- Remitting institutions have limited visibility into taxes that will be applied by Beneficiary bank
- Uncertainty around what types of taxes are included in scope of regulation
  - Only transfer taxes?
  - Other taxes, including sales or income taxes as well?
- Some industry associations are discussing the development of an industry solution – a table of applicable taxes by Beneficiary country

## Other Challenges

- Providing accurate disclosures
- Rule interpretation
  - E.g. scope of tax disclosure
- Implementation of 30 minute cancellation policy
- Error resolution
  - Coordination of resolving potential errors presented within 180 day window
  - Managing increased risk resulting from Reg. E Subpart B's replacement of UCC 4A for remittances
- Costs
  - Due to costs associated with providing disclosures and expanded error resolution risk, payments in scope may become more expensive for remitters

# Disclosure Challenges



## Disclosures

	US Bank	Intermediary of Remitting Bank	Intermediary of Bene Bank	Beneficiary Bank
Currency of Bene Acct	Unknown	Unknown	Unknown	Known to Bene Bank
Exchange Rate	Unknown Known if FX Done by the Bank or its IBK if FX Done Further Down Payment Chain	Unknown Known if FX Done by IBK if FX Done Further Down Payment Chain	Unknown Known if FX Done by IBK if FX Done Further Down Payment Chain	Known to Bene Bank
Other Fees	Fees Taken by Bene Bank and its Correspondent are Not Visible	Fees Taken by Bene Bank and its Correspondent are Not Visible	Fees Taken by Bene Bank may or may Not be Visible	Known to Bene Bank
Other Taxes	Unknown	Unknown	Unknown	Known to Bene Bank
Amount Received	Unknown	Unknown	Unknown	Known to Bene Bank

■ Known ■ Potentially Known ■ Unknown

# Implications

---

- Easier for closed loop providers to comply
- Harder for banks that use wire or ACH solutions?
- Options that have been mentioned
  - Change the law
  - Get out of the consumer remittance business
  - Outsource to a non-bank provider
  - Find/build a 1073 compliant solution in the bank to bank channel

# Possible Community Options

---

## Creation of Generic Repository

- Central reference data repository for generic charging practices
- Measures including
  - (i) Operating hours and cut off times for domestic clearing systems
  - (ii) Local and global holiday calendar
  - (iii) Guide to country charging practices, rules and conventions
  - (iv) Country tax practices and rates for inbound remittance payments
    - Would permit US banks to estimate transaction delivery dates and charges to a central repository
- Limited by the fact that data is only available for generic country charging practices, so limited comfort for full DF 1073 compliance

## Market Practice Rules

- Potential role for SWIFT to launch a DF 1073 compliant messaging service based on MT 103 to which both US banks and their non-US correspondents can subscribe to in order to create an environment which competes with 'closed loop'.

# Conclusions

---

- The New Rule becomes effective 7 February 2013
  - Focus on ease of implementation
  - Take advantage of estimates where/when permissible
  - Utilise existing tools to obtain information required for disclosures
- Solutions based on estimates will – sunset
  - Risk of recouping expense for potentially temporary solution
  - Industry wide solutions may be developed / key role for SWIFT
  - Regulation scope may change
- Determine if you qualify for Temporary and/or Permanent Exemptions.
  - Refer to your legal and compliance departments
- Reach out to your service provider to understand their service offerings that can be leveraged to ensure you are compliant with Regulation E, as amended for Remittance Transfers, by 7 February 2013
  - Ensure that you communicate any specific requirements you may have for your business which are necessary for compliance

At Citi we continue to leverage our Global Capabilities as a leader in cross border payments, in providing new and innovative solutions for our customers.

We look forward to assisting you, our valued customers, as you work towards complying with these new regulations.



# Questions & Answers

Ruth Wandhöfer  
Email: [ruth.wandhofer@citi.com](mailto:ruth.wandhofer@citi.com)