

# Federal Reserve Board Proposes New Remittance Transfer Regulations Under Dodd-Frank Act

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**On May 23, 2011, the Board of Governors of the Federal Reserve (the Board) published proposed rules to regulate foreign remittances. The rules implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) requiring disclosures and other consumer protections for remittances as a matter of federal law for the first time. The new requirements may improve transparency for senders of remittances, but their complexity and prescriptive nature seem likely to increase costs for providers.**

Cash remittances from the United States to foreign households have traditionally been regulated at the state level under state money transmitter statutes and Article 4A of the Uniform Commercial Code. The Dodd-Frank Act changed this balance by amending the Electronic Fund Transfer Act (EFTA) to broadly define remittance transfers to include transac-

tions that traditionally have not been governed by EFTA, such as consumer wire transfers. New rules under Regulation E would require both financial and non-financial remittance providers to deliver rate and fee disclosures (in both English and the sender's foreign language), investigate and correct errors, and provide cancellation rights and refunds at no additional cost to the sender.

## Scope of proposed rules

“Remittance transfers” under the proposed rules involve a request by a “sender” to make an electronic transfer of funds to a “designated recipient” that receives the funds in a foreign country through a “remittance transfer provider.”

Business-to-business or business-to-consumer transactions, and transfers of \$15 or less, are exempted.

“Remittance transfer providers” would include both financial and non-financial institutions, but payment networks are not considered remittance transfer providers to the extent they only provide third-party payment and settlement services. If, however, the sender uses a debit or credit card issued by a payment network to transfer funds to a designated recipient, such transfer would be a “remittance transfer” and the payment network would be considered a “remittance transfer provider” in this case.

Transactions that traditionally have not been subject to EFTA, such as cash-based remittances sent through money transmitters and consumer wire transfers made through banks, would fall within the scope of the proposed rules. The proposed rules would also apply to certain transfers not traditionally considered to be remittances, such as online bill payments to a designated foreign recipient.

## Disclosure requirements

The proposed rules would require remittance transfer providers to give senders



specific disclosures about the transaction, including a pre-payment disclosure that sets forth the amount to be received by the designated recipient, fees and taxes, the applicable exchange rate, and the total transaction amount. The provider must also provide a post-payment receipt that includes the pre-payment disclosure information, as well as the promised date of availability; recipient and remittance transfer provider contact information; a statement of the sender's error resolution and cancellation rights; and instructions on how to contact a state agency with jurisdiction over the remittance transfer provider, as well as the federal Consumer Financial Protection Bureau, with questions or complaints.


The proposed rules would require the disclosures to be made in English as well as the "primary" language used by the provider to "advertise, solicit, or market remittance transfer services, either orally, in writing, or electronically, at that office."

### Error resolution procedures

Proposed error resolution procedures are similar in important respects to those applied to EFTs under existing Regulation E. In general, a sender must give notice of an "error" within 180 days of the promised delivery date. This notice triggers the provider's duty to investigate and determine, within 90 days of receipt of the notice, if an error occurred. The provider must report the

results to the sender within three days of completing its investigation and correct the error within one business day or "as soon as reasonably practicable after" receiving instructions regarding the sender's preferred remedy. There is no ability to "provisionally recredit" the sender and extend the time period for investigation. These procedures do not apply to a mere inquiry into the status of a transfer or to transfers of \$15 or less.

### Cancellations and refunds

The proposed rules give senders a right to cancel a remittance transfer orally or in writing if made within one business day after payment is made, provided that the funds have not yet been picked up or deposited into an account of the designated recipient. The provider must issue a refund of the total amount, including any fees imposed, within three business days of receiving the cancellation notice, at no additional cost to the sender. 

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Over a year has passed since Congress passed the Dodd-Frank Act (DFA) and regulators are far from finished in adopting the several hundred regulations mandated by DFA. However, despite slipping deadlines, the regulatory agencies are hard at work in pumping out new regulations even as Congress debates changes in DFA dealing with the structure and financing of the Consumer Financial Protection Bureau (CFPB) while considering other changes in the DFA.

This program will provide bankers, including CEOs, directors, executive and senior management, compliance officers and other appropriate bank personnel, with the up-to-date status of this rule-making process, including:

- A progress report on the implementation of key regulations mandated by DFA
- Potential risks and consequences during the transition to the new regulations

- A status report on the start-up of the new CFPB and the challenges it presents for bankers
- Changes taking place in the mortgage arena as new disclosure forms are developed and tested
- Basel III and how it will interact with existing and pending capital and liquidity regulations

The 2011 Regulatory Updates Forum will feature top-notch speakers including:

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