



HOLDING COMPANY

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July 22, 2011

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th St. and Constitution Avenue, NW.
Washington, DC 20551

VIA ELECTRONIC SUBMISSION

Re: Regulation E; Docket No. R-1419; May 23, 2011

Dear Ms. Johnson:

Thank you for giving us the opportunity to comment on the proposed changes to Regulation E - Electronic Funds Transfers. While we recognize the Board has drafted the proposed rules within the narrow boundaries set forth in the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd Frank), we have grave concerns over the impact that this rule will have on our ability to offer remittance transfers to foreign countries.

Disclosures

Providing a customer with an agreement and/or receipt pertaining to a specific remittance transfer is not an issue, and it is our current practice. What is problematic is the requirement in proposed sections 205.31(vi) and (vii) that any fees and taxes imposed by a person other than the provider and the amount that will be received by the designated recipient must be disclosed and must be accurate.

In today's environment, it would be difficult to ascertain the applicable fees for even a domestic remittance transfer sent to a bank within the United States. For transfers sent outside of the country, it will be nearly impossible to know with any degree of certainty the fees, taxes, and exchange rate imposed by any intermediary and the receiving foreign entities. The ability to estimate the fees is helpful, but once the exemption sunsets on July 20, 2015 we will have virtually no chance to successfully comply with this requirement.

Procedures for Resolving Errors

As required by Dodd Frank, customers have 180 days after a remittance transfer is stated to be available to make a claim that an error occurred. This timeframe is excessive and will significantly increase our risk as it relates to remittance transfers.

Procedures for Cancellation and Refund of Remittance Transfers

The Board was required to issue rules regarding appropriate transfer cancellation and refund policies for consumers. As the Board has correctly acknowledged, wire transfer and ACH transactions cannot be cancelled once the payment order has been accepted by the sending institution. The Board also recognizes that this will most likely result in transmittal delays until the cancellation period has passed. We agree with this conclusion.

In order to limit our liability, we would be forced to delay these transfers. However, this again poses a problem with disclosure as exchange rate fluctuations during the cancellation period may result in the original disclosure becoming inaccurate. In this case, we may be forced to cancel the transaction to avoid a potential dispute by the sender. Although flawed, the proposed timeframe in which the sender can cancel a transfer may be the best option unless the Board elects to allow cancellation up to the point the transfer has been processed by the provider.

Additional Comments

In the proposal, the Board specifically requested comment on certain provisions of the rule. Below are our responses to several of the requested comments.

1. Will there be instances when a remittance provider may only receive a recipient's email address and therefore be unable to determine the location where funds are to be received?

Yes, there may be instances where only a recipient's email address is received. This generally occurs with transfers conducted via debit or credit card.

2. Should there be an exemption for online bill payments made through the sender's institution, and specifically preauthorized bill payments?

Yes, online bill payments made through the sender's institution should be exempt from the rule. Depending on the processing method, bill payments are already governed by check or ACH rules. Subjecting them to this rule as well would create an unnecessary layer of complexity. Additionally, providing timely disclosures will prove to be extremely difficult. For example, a bill payment may be initiated on August 1 to be originated on August 15. The disclosure cannot be provided on August 1 because we will not know the exchange rate until August 15. There is no reasonable way to generate the notice on August 15, and meet the requirement that the disclosure be delivered to the recipient for approval and to finalize remittance of the payment. Users of bill payment services expect that once a payment is initiated, no further action on their part is required.

3. How should electronic disclosures be provided for transactions conducted via text messaging or a mobile phone application?

The Board should be flexible in how it allows disclosures to be delivered for transactions conducted via text messaging or a mobile phone application. Currently, it would be appropriate to allow for mail, email, or .pdf delivery of the disclosures, or as an alternative an Internet link either to the disclosures or to a login to the remittance transfer provider's website where the disclosures can be viewed.

It would be prudent to write the final rule to allow institutions to easily adopt new delivery methods based on future technological advancements. As an example, the Board may elect to allow, but not require, delivery of the disclosures via text messaging or a mobile phone application. It is our opinion that delivery of the required disclosures via text messaging or a mobile phone application utilizing current technologies would be difficult to generate and difficult for the sender to review. However, future advancements of these or other technologies may make these delivery methods more viable. Without a forward looking rule, our ability to use advancing technologies may be restricted.

4. Should proof of payment be required for remittance transfer providers using the combined disclosure?

The Board should not require proof of payment on the combined disclosure. Doing so will create a procedural challenge for the required timing of disclosures as we are required to provide disclosures to a sender prior to collecting payment for the remittance. If proof of payment were to be required, then the combined disclosure would not be an option as we would need to provide a subsequent disclosure to the sender after collecting the payment to prove payment was made.

The Board has also requested comments regarding timing of cancellations and the refund of payments and fees. In all likelihood, we will not initiate a remittance transfer until the cancellation period has passed. As such, returning payments and fees to senders within three days of cancellation would not be difficult. It would be helpful if examples were provided of when a payment is initiated and when the cancellation period has passed (similar to what the Board has done for Right of Rescission under Regulation Z).

As was stated previously, we recognize the Board is constrained in its rulemaking by the boundaries set forth in Dodd Frank. However, we urge the Board to take every possible opportunity to provide flexibility for compliance with the requirements of the act.

Regretfully, if the final rules are issued in a form that is substantially similar to the proposal, we will be forced to evaluate the viability of continuing to provide foreign remittance transfer services. Primarily, we will evaluate if the small amount of fee income and customer utility generated by offering foreign remittance transfer services outweighs the significant added legal and regulatory risk. Our belief is that many other small providers of these services will undertake similar evaluations as well. Ultimately, this will lead to the exit of many small providers from the business and will, therefore, lower availability and increase costs for the end users of these services.

Thank you for your consideration of my comments. If you have any questions or need clarification on any issue I have raised, please contact me at (303)235-1353.

Sincerely,



Jeff Asher, CRCM, CAMS
Senior Vice President