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July 22, 2011

Via Electronic Delivery

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

Re: Docket No. R-1419 and RIN 7100-AD76

Dear Ms. Johnson:

The Money Services Roundtable ("TMSRT") submits these comments on the Federal Reserve Board's ("Board") Proposed Rulemaking under Section 1073 of the Consumer Financial Protection Act of 2010. TMSRT is comprised of the following national money transmitters: RIA Financial Services, Sigue Corporation, American Express Travel Related Services Company, Western Union Financial Services, Inc. ("Western Union"), MoneyGram International ("MoneyGram"), Travelex Americas, Inc. and Integrated Payment Systems. These corporations provide a variety of funds transmission services, including use of internet sales outlet agents, kiosks, ATMs, mobile phones, etc.

The Proposed Rulemaking

Section 1073 of the Consumer Financial Protection Act of 2010 amends Regulation E, which implements the Electronic Fund Transfer Act ("EFTA"), and the Official Staff Commentary to Regulation E. In particular, the proposed rule contains new protections for consumers who send remittance transfers to consumers or entities in a foreign country through the use of disclosures and error resolution rights.

To one degree or another, TMSRT's members, their respective agents and their customers would be affected by the proposed rule. Outside of the obvious impact of higher cost-burdens on remittance transfer providers, agents and consumers as a result of the increased regulatory burden, TMSRT believes that a much more important issue is at stake—national security. That is, without striking a reasonable balance under the proposed rule that takes into consideration the operational limitations inherent in the remittance transfer system, it is likely that remittance transfer providers would not be able to offer certain remittance transfer services that are highly valued and relied upon by their customers. As a result, a likely consequence may be the driving of a significant volume of retail remittances underground to illicit transfer operators. Such entities are invisible to law enforcement, operate unregulated and, as such, are unlikely to comply with safety and soundness requirements, consumer protection laws or laws that are designed to prevent money laundering and terrorist financing. Neither the needs of law enforcement nor the public interest of the United States is advanced by providing any regulatory incentive for funds to migrate to illicit transfer operators. Hence, any regulatory measure that would have the effect of channeling money transmission transactions underground is counterproductive from the standpoint of consumer protection, law enforcement and, ultimately, national security.

Similarly, the promulgation of inflexible rules that cannot be adapted to new technologies and/or customer needs may provide yet another disincentive to the use of legitimate remittance transfer providers when other innovative alternatives are offered by illicit transfer operators.

Therefore, given the possible far reaching consequences described above, TMSRT is providing comments on the proposed rule.[1] However, rather than duplicating the efforts of our members, TMSRT generally adopts and incorporates by reference the comments submitted by Western Union and MoneyGram. Nevertheless, TMSRT would like to particularly emphasize the following issues:

1. Proposed Effective Date

The Board has specifically requested comment as to the length of time remittance transfer providers will need to implement a final rule on remittance transfers. TMSRT believes that the effective date should be 18 to 24 months from the publication of a final rule. As set forth in more detail by Western Union and MoneyGram, an 18 to 24 month period would be necessary in order to accommodate the technical difficulties, complexities and costs associated with complying and implementing any such final rule.

For example, in addition to the complexities that would confront remittance transfer providers in implementing the proposed rule, which would, among other things, entail significant changes to core compliance functions, hardware and software platforms and the possibility of renegotiation of individual agent contracts, remittance transfer agents would need ample time to implement certain requirements under the proposed rule. Because providing remittance transfers is not a core business function for the vast majority of remittance transfer agents, and because remittance transfer providers have no control over

[1] While some of our comments focus on issues that are based in the statutory terms of section 1073, we note that the Board has substantial authority under EFTA section 904(c) to make exceptions to the statutory requirements, particularly where such changes will facilitate compliance with the regulatory requirements.

agent budgetary constraints and upgrade schedules, implementation of significant changes to how remittance transfer agents operate would require considerable lead time.

2. Disclosures and Receipts

The proposed rule would require remittance transfer providers to provide consumers with an initial disclosure, prior to conducting a transaction, and a receipt following a transaction. These two disclosures must be in writing and must be capable of being retained by the sender. The proposed rule would also permit a combined disclosure containing both the required information from the initial disclosure and the receipt.

TMSRT supports the inclusion of model forms that provide a safe harbor for remittance transfer providers. Nevertheless, given the flexibility that will be required of remittance transfer providers with respect to new services, new delivery channels, new technology and state law disclosure requirements, TMSRT believes that the model forms should be flexible and adaptable enough to accommodate such changes.

In addition, we note that the proposed rule would require that receipts contain, among other things, contact information for the remittance provider's primary state regulator <u>and</u> the Consumer Financial Protection Bureau ("CFPB") <u>and</u> a toll-free telephone number established by the CFPB. Given the operational hurdles that would be involved in the individual disclosure of state regulators for remittance transfer providers and their agents, especially those that operate in multiple states, and the negligible consumer protection benefit that would be afforded to consumers by disclosing the state regulator <u>in addition to contact information for the CFPB,</u> TMSRT believes that post-transaction receipts should not require the disclosure of state regulators. For a more detailed discussion with respect to disclosures and receipts, please refer to the relevant MoneyGram and Western Union comments.

3. Foreign Language Disclosures

The proposed rule would require remittance transfer providers to provide disclosures and receipts in English and in "each of the foreign languages principally used by the remittance transfer provider to advertise, solicit, or market remittance transfer services, either orally, in writing or electronically, at that office," or "in the foreign language primarily used by the sender with the remittance transfer provider to conduct the transaction (or for written or electronic disclosures made pursuant to the [error resolution procedures] in the foreign language primarily used by the sender with the remittance transfer provider to assert the error), provided that such foreign language is principally used by the remittance transfer provider to advertise, solicit, or market remittance transfer services, either orally, in writing, or electronically, at that office."

Furthermore, the proposed rule provides that post-transaction receipts required to be provided to the sender for transactions conducted entirely by telephone "shall be made in English and, if applicable, in the foreign language primarily used by the sender with the remittance transfer provider to conduct the transaction."

TMSRT believes that the proposed foreign language disclosure requirements would provide a significant disincentive to remittance transfer providers to make available the wide range of foreign language services that are currently offered to their customers as a convenience and benefit as the ability to print receipts and disclosures in every language utilized to assist customers is, for many providers and agents, an operational impossibility.

Hence, without the ability to communicate in a customer's language of choice, we believe that illicit transfer operators will appear to such customers to be the "no hassle" way to send money to family and friends, resulting in the loss of transactions to non-licensed, non-regulated underground businesses. For a more detailed discussion with respect to foreign language disclosures, please refer to the relevant MoneyGram and Western Union comments.

4. Disclosure of Exchange Rates and Amounts Received

Under the proposed rule, the prepayment disclosures and the post-transaction receipts provided to a sender must describe the fees that will be charged by the remittance transfer provider, the exchange rate and the amount of currency that will be received by the recipient, all of which must be expressed in the currency into which the funds will be exchanged. Furthermore, under the proposed rule, remittance transfer providers would be able to provide an estimated exchange rate for those countries where local law or other circumstances do not permit the remittance transfer provider to determine a precise exchange rate. Excepted from these requirements, however, are banks and credit unions, which would be able to provide a "reasonably accurate estimate of the amount of foreign currency to be received" by the recipient if the transfer is conducted through a deposit account that the sender holds with the bank or credit union and the bank or credit union is unable to know the exact amount of foreign currency that will be received.

TMSRT believes that remittance transfer providers should be permitted to provide senders with estimates for fees, exchange rates and the amount of currency that will be ultimately received by the recipient. As remittance transfer providers generally have no knowledge as to the amounts of such fees and whether such fees will be charged in connection with a particular remittance transfer, it is often operationally impossible to predict such fees with any accuracy.

Furthermore, a distinction is made between traditional remittance transfers and transfers made by banks or credit unions under particular circumstances by permitting banks or credit unions to provide an estimate of the foreign currency that will be received by a recipient in an account-to-account wire transfer. This distinction is likely a direct response to the fees that may be assessed by each bank intermediary along the way that may reduce the amount received. This issue, however, is not only limited to account-to-account transfers made by banks or credit unions. Instead, account-to-account and cash-to-account transfers occur regularly outside of the bank and credit union context by non-bank remittance transfer providers. Accordingly, TMSRT believes that the bank and credit union exception should apply to non-bank remittance transfer providers to the same extent as it applies to banks and credit unions. For a more detailed discussion with respect to the disclosure of exchange rates and amounts received, please refer to the relevant MoneyGram and Western Union comments.

5. Designation of a Centralized Address for Disputes

Under the proposed rule, section 205.33 sets forth error resolution procedures that would take the place of the EFTA's existing error resolution procedures for remittance transfers. Accordingly, under the proposed rule, a sender would have 180 days from the promised delivery date of the remittance transfer to notify the remittance transfer provider of one of five specifically defined errors. Proposed comment 33(b)-5, however, states that a notice of error from a sender received by a remittance transfer provider's agent is deemed to be received by the provider for purposes of the 180-day time frame for reporting errors.

TMSRT believes, however, that a notice of error should be required to be sent to an address designated by the remittance transfer provider as opposed to its agent. Furthermore, TMSRT believes that remittance transfer providers should not be required to investigate errors where a notice of error is provided to an agent instead of to the address designated by the remittance transfer provider. As opposed to the remittance transfer provider that is better equipped and trained to process notices of error in a timely and efficient manner, the majority of remittance transfer agents are located in small retail locations such as convenience stores and grocery stores, are typically staffed by younger, inexperienced individuals and typically suffer from high turnover rates. In addition, agents do not typically have access to relevant information needed to resolve disputes. Accordingly, by permitting a sender to provide a notice of error to an agent, we believe there would be an increased likelihood that the notice would not be handled properly and in a timely manner. For a more detailed discussion with respect to this issue and error resolutions issues in general, please refer to the relevant MoneyGram and Western Union comments.

6. Acts of Agents

EFTA Section 919(f) generally makes remittance transfer providers liable for any violation of EFTA Section 919 by an agent, authorized delegate, or person affiliated with such provider, when such agent, authorized delegate or affiliate acts for that remittance transfer provider. The proposed rule provides two alternatives to implement EFTA Section 919(f):

- Alternative A – a remittance transfer provider would be strictly liable for violations by an agent when such agent acts for the provider.

- Alternative B – a remittance transfer provider would not be liable under the EFTA for violations by an agent acting for the provider where the provider establishes and maintains policies and procedures for agent compliance, including appropriate oversight measures, and the provider corrects any violation, to the extent appropriate.

TMSRT believes that Alternative B appropriately addresses the unique position of agents while still providing superior protection for senders. That is, Alternative B provides an incentive for a remittance transfer provider to train, monitor and audit its agents while also ensuring that a sender would be made whole in the event of a loss. For a more detailed discussion with respect to this issue, please refer to the relevant MoneyGram and Western Union comments.

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TMSRT appreciates the opportunity to comment on these important matters. If you have any questions concerning these comments, or if we can otherwise be of assistance in connection with this matter, please do not hesitate to contact me at (202) 778-1665.

Sincerely,

Sean Ruff
Counsel to TMSRT