California CREDIT UNION LEAGUE NEVADA CREDIT UNION LEAGUE

July 20, 2011

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th and C Streets, N.W.
Washington, DC 20551

Re: Remittance Transfers
Docket No. R–1419; RIN 7100–AD76

Dear Ms. Johnson:

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on the proposal by the Federal Reserve Board (Board) to require disclosures on "remittance transfers" to recipients in a foreign country. This proposal implements the remittance transfer disclosures under Regulation E as required by the Dodd-Frank Act, and will be finalized by the Consumer Financial Protection Bureau (CFPB). By way of background, the California and Nevada Credit Union Leagues (Leagues) are the largest state trade associations for credit unions in the United States, representing the interests of more than 400 credit unions and their 10 million members.

Summary of the Proposal

The proposal requires a remittance transfer provider, such as a credit union, to provide a consumer sender: 1) a written "prepayment disclosure" prior to initiating a transaction that includes the actual exchange rate, fees and taxes, and the amount of currency to be received by the recipient; and 2) a written receipt that includes the prepayment disclosure, information about error resolution, provider and regulator contact information, and the availability of the funds upon receipt. While we understand there is a temporary exception for federally-insured financial institutions regarding the disclosure of the amount of currency to be received by the recipient, we will focus our comments and concerns on the rule as it will operate after the expiration of that exception, which is July 20, 2015.

The Leagues' Concerns

The Leagues appreciate the Board's effort in this rule to protect immigrants, the unbanked, and underserved populations who send international remittances to family and friends back home. As written, the proposal would apply to virtually all cross-border, consumer-initiated electronic funds transfers—other than debit or credit cards, transactions from a consumer's U.S. account to an account in that consumer's name in another country, or online bill payments made through a website—including international wire transfers and international ACH transfers. We are very concerned that applying the proposed disclosure requirements regarding exchange rates, handling fees, and taxes to international wire transfers and international ACH transfers will be extremely impractical and burdensome on credit unions:

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- Exchange rates on wires sent in currency: Most credit unions offering international transfers do not perform currency conversion in-house, but instead work with their currency provider in a real-time environment to contract exchange rates. This allows them to provide their members with the most competitive exchange rates possible. However, in such an arrangement the exchange rate that will be applied is only known at the time the contract is accepted. By contrast, many other transfer providers enter into static exchange rate arrangement with their currency provider. This permits them to provide the consumer with the exchange rate prior to the transfer. However, static rate arrangements, while providing a consistent rate for a specified period of time, usually incorporate a margin into the rate to protect the contracting entity from currency fluctuation during the period the rate is valid. If credit unions are required to provide the actual exchange rate in a prepayment disclosure, they will be forced to obtain static rate arrangements that include a margin, which will serve to increase the cost of wiring funds for consumers who may possess limited resources.

- Exchange rates on wires sent in U.S. dollars: When a member requests an international wire sent in U.S. dollars, a credit union does not know if the beneficiary account is denominated in U.S. dollars or in another currency, as it is possible for a U.S. dollar account to be held by a consumer outside the U.S. Other times, members may request U.S. dollar transfers to their foreign accounts and have arrangements with the beneficiary bank to convert to the currency of the account at the current exchange rate available or at a pre-arranged contract. In any of those situations, providing an exchange rate—even an estimated exchange rate—at the time of the request would be extremely challenging.

- External fees: A credit union sending a transfer is able to control delivery of the transfer only to the next institution, which many times is not the final beneficiary bank. Banks in the U.S. and outside the U.S. are not required to publish or otherwise disclose their normal handling fees or their clearing and settlement arrangements. Therefore, the prepayment disclosure of these fees is not feasible.

- Taxes: Taxes vary not only by country but also by factors such as:

    - Tax status of the sender and receiver (resident vs. non-resident, consumer vs. business)
    - Currency (local currency or major global currency)
    - Account type (interest bearing vs. investment account)
    - Type of financial institution receiving the funds (offshore entity, brokerage, insurance company); and
    - Stated purpose of the transaction

Most consumers do not know the particulars of these details that will ultimately determine the taxation obligation. Further, there is no comprehensive guide to potential transactional tax information by country for reference. It is obvious that the requirement to disclose tax information is not merely problematic, but virtually impossible to satisfy.

The Leagues' Recommendations

In light of these serious and glaringly burdensome requirements, the Leagues strenuously urge the CFPB to exclude international wire transfers and international ACH transfers from coverage of the rule. We understand there is an exception in the proposal when the provider "cannot determine the amounts to be disclosed because of the laws of, or the method by which transactions are made in a recipient country." However, this exception is for international ACH transfers only; further, we believe the exception language is ambiguous and does not provide sufficient protection against claims of noncompliance. A clearly-stated exemption for wire and ACH transfers would be much more reasonable, fair, and unambiguous. If the CFPB is unwilling to provide an exemption for these transactions, we urge the Bureau at a minimum to also apply the exception cited above to international wire transfers, and to amend the exception language in the proposal to specifically acknowledge the types of situations we address above in our concerns.

The Leagues also recommend that the Bureau interpret the statutory provision regarding providing remittances "in the ordinary course of business" to 1) exempt institutions that do not hold themselves out as "remittance" providers; or 2) exempt institutions that do relatively few international wire or ACH transfers per year, such as fewer than 5,000 per year.

Finally, the Leagues strongly support the proposed official staff commentary that would define "remittance transfer" to exclude transfers from a consumer's U.S.-based account to an account in another country that the consumer has access to (such as if the foreign account is also in the name of the sender).

In closing, we thank you for the opportunity to provide our concerns and recommendations on this proposal. We are very concerned that finalization of this proposal without addressing the limitations inherent in the international wire and ACH transfer systems, will have the unintended consequence of forcing many credit unions to cease offering these services to their members.

Sincerely,

Diana R. Dykstra
President/CEO

cc: League Member CEOs