



Report to the Congress on the Use of the ACH System and Other Payment Mechanisms for Remittance Transfers to Foreign Countries

April 2013

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM



Report to the Congress on the Use of the ACH System and Other Payment Mechanisms for Remittance Transfers to Foreign Countries

April 2013

This and other Federal Reserve Board reports and publications are available online at
www.federalreserve.gov/publications/default.htm.

To order copies of Federal Reserve Board publications offered in print,
see the Board's Publication Order Form (www.federalreserve.gov/pubs/orderform.pdf)
or contact:

Publications Fulfillment
Mail Stop N-127
Board of Governors of the Federal Reserve System
Washington, DC 20551
(ph) 202-452-3245
(fax) 202-728-5886
(e-mail) Publications-BOG@frb.gov

Contents

Executive Summary	1
Background	3
Discussion of Remittance Transfers to Foreign Countries	5
Evolution of FedGlobal Service	5
The Regulatory Environment and FedGlobal Compliance Efforts	6
Rules and Formats for International Payments Through Depository Institutions	8
Future Developments	9

Executive Summary

Section 1073(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directs the Board of Governors of the Federal Reserve System (the Board) to provide biennial reports to the Congress over 10 years regarding the Board's work with the Federal Reserve Banks (Reserve Banks) and the U.S. Department of the Treasury (Treasury) to expand the use of the automated clearinghouse (ACH) system and other payment mechanisms for remittance transfers to foreign countries.¹

Section 1073(b) instructs the Board to include in its report an analysis of adoption rates of international ACH transactions (IATs), rules, and formats; the efficacy of increasing adoption rates; and potential recommendations to increase adoption. Pursuant to this statutory direction, the Board is issuing this second biennial report.² The Board consulted with the Reserve Banks and the Treasury to develop this report.³

For more than a decade, the ACH network has enabled depository institutions to send IATs.⁴ Implementation of a new IAT identifier in 2009 redefined how IATs are classified. IAT use grew to 42.4 million commercial (non-government) transactions in 2012.

¹ Pub. L. No. 111-203, 124 Stat. 2065 (2010).

² The Board published in July 2011 its first biennial report on the use of the ACH system for international remittances, which is available at www.federalreserve.gov/boarddocs/rptcongress/ACH_report_201107.pdf. In its first report, the Board provided an overview of remittance transfers and methods to transmit them. The Board also discussed the ACH system and the legal framework and formats for international ACH transactions. The Board described the Reserve Banks' international ACH service, called FedGlobal ACH Payments (FedGlobal®), and some of the lessons learned in building the service.

³ The Consumer Financial Protection Bureau was provided an opportunity to comment on a draft of this report.

⁴ In this report, the term "depository institution" refers to insured depository institutions, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), and insured credit unions, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

The proportion of commercial IAT volume that is processed through the Reserve Banks' FedGlobal ACH service, however, has remained modest.⁵ The Reserve Banks have continued to explore methods to expand FedGlobal's geographic reach, provide additional service options, and facilitate depository institution regulatory compliance with remittance requirements.

Regulatory compliance continues to be a significant focus of depository institutions with respect to providing international remittance transfers. As mentioned in the Board's July 2011 ACH remittances report, depository institutions must comply with economic sanctions and anti-money-laundering regulatory requirements.

In the two years since the Board's last report, depository institutions that offer international remittances have also been responding to the consumer protection requirements of the Consumer Financial Protection Bureau (CFPB) regulation that implements Dodd-Frank Act section 1073(a). The regulation was first proposed in May 2011 and CFPB finalized many components in February 2012.

Since that time, CFPB has issued a number of revisions and proposals to the regulation—the last version of which remains outstanding—and has suspended the regulation's effective date. Depository institutions and the industry have taken steps collectively to implement formats and standards and revise industry rules to facilitate compliance with the regulation. It is difficult at this stage to assess the ultimate effect of the CFPB regulation on the use of the ACH system for international remittances.

⁵ The Reserve Banks, through their FedGlobal service, offer international ACH services to depository institutions, which in turn can offer the services to their customers. The Retail Payments Office of the Federal Reserve Bank of Atlanta centrally manages the Reserve Banks' check and ACH services, including the FedGlobal service.

Background

A remittance transfer is an electronic transfer of funds—requested by a consumer located in the United States—to a consumer or business in a foreign country; the transfer is initiated by a remittance-transfer provider, such as a depository institution.⁶

In practice, remittance transfers are often payments originated by foreign-born individuals who send money regularly to family members in their countries of origin. The Bureau of Economic Analysis (BEA) estimates that, over the past five years, annual remittances ranging from \$36.3 billion to \$38.5 billion were sent by foreign-born residents in the United States to households abroad.⁷

As mentioned in the Board’s July 2011 ACH remittances report, U.S.-based consumers have a number of possible channels for sending remittance transfers, and the method chosen may depend on a variety of factors, including the relative convenience and accessibility of the method, the speed with which funds are available in the destination country, and whether the method requires the sender and recipient to have access to accounts at depository institutions.

Consumers have historically chosen to send remittance transfers largely through money transfer operators such as Western Union and MoneyGram, which generally own proprietary, “closed-loop” payment systems and operate largely outside of conventional depository institutions. These operators commonly facilitate the transmission of money, through consumers either visiting brick-and-mortar agent loca-

tions in areas heavily populated with foreign-born individuals or through telephone or Internet requests.

Less commonly, consumers send remittance transfers through depository institutions, which generally use “open-loop” payment systems such as wire-transfer systems, correspondent banking channels, and ACH networks. Wire transfers are an option when both the sender and receiver have access to accounts at depository institutions, and such transfers are the primary method used by depository institutions to send funds internationally.⁸

The ACH system—a system that clears and settles batched electronic transfers for participating depository institutions—has supported transmission of remittances for more than a decade. The originating institution combines the payment instructions from its various customers and sends them in a batch to an ACH operator—the Reserve Banks’ FedACH or The Clearing House’s Electronic Payments Network (EPN)—for processing. The operator then sorts and delivers the payments to receiving institutions. IATs are conducted through an interface with other foreign payment systems.

This interface is commonly established through an “originating gateway operator” in the originator’s country and a “receiving gateway operator” in the receiver’s country. In the United States, the gateway

⁶ “Remittance transfer” is defined in section 919(g)(2) of the Electronic Fund Transfer Act, as amended by section 1073(a) of the Dodd-Frank Act.

⁷ See Bureau of Economic Analysis, “Personal Transfers, 1992:I–2012:IV,” (www.bea.gov/international/pdf/personal_transfers.pdf). The BEA’s data suggest that the total value of remittances has grown more slowly since 2008 than in prior years. The BEA’s definition of an international remittance differs from the definition in Dodd-Frank Act section 1073(a). In particular, the BEA’s definition excludes remittance transfers sent to businesses, and it is not limited to remittances sent in electronic form.

⁸ The Reserve Banks, which served an approximate 58 percent share of the U.S. interbank wire-transfer market in 2012, estimate that about 5,000 wire transfers per day processed by the Reserve Banks’ Fedwire Funds Service might constitute remittance transfers and that the median amount of a consumer-initiated wire transfer processed by the service is about \$6,500. The Reserve Banks’ estimate is based on a manual analysis of a sample of 500 wire transfers processed by the Fedwire Funds Service in May 2011. Data were not available regarding the number of wire transfers processed by the Clearing House Interbank Payments System that could be classified as remittance transfers.

operator can be a depository institution or, with appropriate agreements in place, an ACH operator.⁹

⁹ The ACH rules published by the National Automated Clearing House Association (NACHA) establish requirements for any U.S. depository institution or ACH operator that assumes the role of gateway operator. The rules set forth criteria for what

constitutes an IAT, and they require all payments meeting the criteria to carry certain information, such as the name of the ultimate beneficiary, and to follow a specific format (which includes a code that indicates the payment is an IAT). NACHA (www.nacha.org) publishes annually the *NACHA Operating Rules and Guidelines* that apply to the ACH network.

Discussion of Remittance Transfers to Foreign Countries

In 2012, the two U.S. ACH operators handled 16.8 billion ACH transactions, of which 42.4 million (or 0.3 percent) were commercial IATs.¹⁰ The ACH operators do not track which commercial IATs are initiated by a consumer, and the portion of IATs that are “remittance transfers” under section 1073(a) is not known.

From 2011 to 2012, commercial IAT volume grew 50.8 percent, whereas overall ACH volume grew 4.2 percent. Although the ACH operators processed all of these transactions, for the vast majority (99.6 percent) of commercial IAT payments, depository institutions—not the ACH operators—acted as the gateway operator.

Today, the Reserve Banks are the only U.S. ACH operator providing gateway operator services to other countries. The data in [table 1](#) on FedGlobal payments reflect the subset of IAT payments that the Reserve Banks handle as gateway operator.

Evolution of FedGlobal Service

The Reserve Banks have continued to explore methods for expanding FedGlobal’s geographic reach and for providing additional service options, including those that assist depository institutions in complying with existing and potential future regulatory requirements.

Although total commercial IAT volume in 2012 was 42.4 million transactions, FedGlobal’s commercial IAT volume in 2012 was 151,244 transactions.¹¹

The Board’s July 2011 ACH remittances report noted several specific factors that could be contributing to low FedGlobal volume, including FedGlobal’s limited geographic reach and ability to deliver funds to foreign recipients that do not hold accounts at depository institutions. In an effort to expand FedGlobal’s geographic reach, the Reserve Banks have sought to partner with foreign gateway operators

¹⁰ For the purposes of this report, “commercial” refers to payments initiated by a business or a consumer but not by the U.S. government.

¹¹ The number of depository institutions that offer FedGlobal services has not increased materially in two years. At year-end 2010, about 422 depository institutions (representing less than 5 percent of institutions that originate ACH transfers) had enrolled with the Reserve Banks to offer FedGlobal services; at year-end 2012, about 446 had done so (5 percent growth).

Table 1. International Automated Clearinghouse Transactions (IATs), 2010–2012
(number of transactions, except as noted)

	2010	2011	2012	2012 median value
Total IAT volume				
Commercial credits	2,885,490	3,367,318	3,660,149	—
Commercial debits	2,104,728	24,722,512	38,700,280	—
Total	4,990,218	28,089,830	42,360,429	—
FedGlobal IAT volume				
Commercial credits	40,275	74,816	139,693	\$312
Commercial debits	3,690	7,670	11,551	\$100
Total	43,965	82,486	151,244	

Note: Sources for the IAT volume data in the table are the two ACH operators, FedACH and EPN. Median value was not available for all IAT payments. The data include “inbound” and “outbound” IAT payments.

(FGOs) that can act as “hubs” for the distribution of payments into multiple countries within geographic regions.

In 2010, FedGlobal was successful in expanding its reach to 22 European countries through use of Deutsche Zentral-Genossenschaftsbank (DZ Bank) as an FGO counterparty.¹² Since then, FedGlobal has continued its efforts to identify additional partners for expansion.

To address the issue of unbanked foreign recipients, the Reserve Banks introduced the FedGlobal A2R (account-to-receiver) service, which permits recipients in Latin America (including Mexico) to pick up transfers in cash at specific nonbank locations. While the service has enabled the Reserve Banks to assess depository institutions’ appetite for an international payments product that reaches the unbanked, only a few hundred payments have been sent through the service since its inception in 2010.¹³ The Reserve Banks have not offered A2R services in additional countries.¹⁴

The Reserve Banks continue to strive to increase FedGlobal volume, and are exploring an expanded FedGlobal business model. The revised business model would include a focus on outbound business-payment volume expansion, increased opportunities for inbound payments to the United States, and an international payments hub model to route payments to and from foreign countries. The revised plan also reaffirms the Reserve Banks’ ongoing support of remittance payments. In furtherance of the expanded business model, the Reserve Banks issued a request for information (RFI) in late 2012 regarding various international payments products and services. The RFI will primarily enable the Reserve Banks to explore methods for expanding FedGlobal’s geo-

graphic reach and for providing additional service options in areas FedGlobal already covers.

The Regulatory Environment and FedGlobal Compliance Efforts

In its 2011 ACH remittances report, the Board noted that economic sanctions and anti-money-laundering regulatory requirements might have caused depository institutions to take a cautious approach to offering remittance transfer services through the ACH. Since that time, depository institutions have concentrated their efforts in the area of international ACH payments on assessing and planning for their new compliance obligations under section 1073(a) of the Dodd-Frank Act and the CFPB implementing rule, which, when effective, will require depository institutions to provide disclosures and error-resolution assistance to consumers who send remittance transfers.

Section 1073(a) of the Dodd-Frank Act generally requires a remittance-transfer provider to provide a written prepayment disclosure to the sender that contains the exchange rate, fees, and the amount to be received by the designated recipient in the foreign country. The remittance-transfer provider is also generally required to provide a written receipt, which must include all the information from the prepayment disclosure as well as the promised date of delivery of funds to the recipient and information regarding the sender’s error-resolution rights under section 1073(a).

The Dodd-Frank Act provides depository institutions with a temporary exception from the requirement to disclose the exact amount to be received by the designated recipient; this exception was included to allow these providers additional time to achieve compliance. The exception, which applies only to certain transfers sent by remittance-transfer providers that are depository institutions, permits estimates when the provider is unable to know, for reasons beyond its control, the amount of currency that will be made available to the designated recipient.

The temporary exception terminates on July 21, 2015, unless CFPB determines that termination of the exception would negatively affect the ability of depository institutions that are remittance-transfer providers to send remittance transfers. In such case, CFPB has authority to extend the exception up to July 21, 2020. CFPB finalized most requirements of

¹² At year-end 2010, eight depository institutions had enrolled in the Reserve Banks’ FedGlobal service to Europe; at year-end 2012, 59 institutions had done so.

¹³ At year-end 2010, 13 depository institutions had enrolled with the Reserve Banks to offer FedGlobal A2R services to Latin America; at year-end 2012, 49 had done so. These figures do not include depository institutions enrolled in the FedGlobal A2R service to Mexico, because the Reserve Banks’ enrollment process for that service is not separate from the process for FedGlobal’s account-to-account Mexico service. Depository institutions enrolled in FedGlobal’s Mexico service are included in the total number of institutions signed up for FedGlobal in footnote 11.

¹⁴ The Reserve Banks offer FedGlobal account-to-account services to Canada, Mexico, Panama, and 22 countries in Europe. The Reserve Banks offer FedGlobal A2R services to Argentina, Brazil, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Peru, and Uruguay.

Dodd-Frank Act section 1073(a) with a rule—with an original effective date of February 7, 2013—published in the *Federal Register* in February 2012.¹⁵

Since February 2012, CFPB proposed and finalized a second rule that, among other things, adopts a safe harbor from the definition of “remittance transfer provider” for small-volume remittance providers.¹⁶ Specifically, CFPB determined that an entity that does not provide more than 100 remittance transfers for consumers in a calendar year and did not provide more than 100 remittance transfers in the prior calendar year is not a “remittance transfer provider” that is required to comply with the rule, because such an entity does not provide transfers in the “normal course of its business.”¹⁷

CFPB in December 2012 also issued a third proposal to address industry concerns related to disclosure requirements and error-resolution rights.¹⁸ The CFPB proposal would revise the February 2012 rule in three primary ways.

- First, it would give remittance-transfer providers (including depository institutions) additional flexibility to estimate foreign taxes and the fees that are imposed on the transfer by the recipient’s institution (i.e., a depository institution or remittance-transfer provider located in a foreign country).
- Second, a remittance-transfer provider would be required to disclose (or estimate) only those taxes that are imposed by foreign national governments, as opposed to those imposed by foreign provincial or local governments.
- Third, the proposal would exclude from the rule’s definition of error situations in which a remittance-transfer provider sent funds to the account number that the U.S. consumer had provided, but the transfer was then received by someone other than the designated recipient because the consumer provided incorrect account information for the designated recipient.¹⁹ The exclusion would apply so

long as the remittance-transfer provider satisfied certain conditions, such as (1) giving the sender notice that provision of an incorrect account number could result in loss of the transfer amount and (2) using reasonable efforts to recover the amount deposited in the wrong account.²⁰

In addition, CFPB suspended the original effective date of its rule and announced that it would determine a new effective date upon finalization of its latest proposal.²¹ The ultimate effect of the CFPB rule on the future development of cross-border remittance services provided to consumers through open-loop systems remains unclear.

In anticipation of a February 2013 effective date for the CFPB remittance-transfer rule, the Reserve Banks have taken steps to assist depository institutions in complying with the original remittance rule. For example, the Reserve Banks have informed depository institutions using the FedGlobal service that the Reserve Banks will strive to complete and respond to trace requests related to error resolution.²²

In addition, the Reserve Banks will provide an estimated exchange rate (based on the previous day’s rate) to U.S. depository institutions sending transfers through FedGlobal. The Reserve Banks also will provide depository institutions using FedGlobal with information regarding foreign taxes imposed at the national level for certain destinations, as made available by FGO counterparties. Finally, FedGlobal has generally structured its arrangements with its FGO counterparties to prevent the deduction of fees by intermediary institutions, although fees may still be deducted by the receiving institution.²³

are few if any economical methods by which a sending depository institution can prevent such situations by verifying in advance that the account number provided by the consumer is actually owned by the designated recipient.

²⁰ 77 FR 71888, Dec. 31, 2012.

²¹ 78 FR 6025, Jan. 29, 2013.

²² Federal Reserve Bank Services, “FedGlobal ACH Payments: Disclosures on International Payments Readily Available” (www.frbservices.org/files/communications/pdf/fedach/091412_fedglobal.pdf). The reach of the trace requests, however, would vary by foreign jurisdiction, and the Reserve Bank may not be able to determine to which account at the receiving institution the payment was credited.

²³ Under the CFPB rule of February 2012, the fees assessed by the recipient institution generally must be disclosed (or estimated) by the sending U.S. depository institution. The outstanding CFPB proposal to amend its rule would give providers additional flexibility regarding the calculation or estimation of such fees in certain circumstances.

¹⁵ 77 FR 6194, Feb 7, 2012.

¹⁶ 77 FR 50243, Aug. 20, 2012. See also 77 FR 40459 (July 10, 2012) (technical correction).

¹⁷ Under the CFPB rule, entities that do not qualify for the safe harbor are still not remittance-transfer providers if they do not provide remittance transfers in the normal course of their business. Whether a person provides remittance transfers in the normal course of business depends on the facts and circumstances, including the total number and frequency of remittance transfers sent by the provider. 77 FR 50244 at 50285, Aug. 20, 2012.

¹⁸ 77 FR 71888, Dec. 31, 2012.

¹⁹ This portion of the proposal is of particular significance to depository institutions because within open-loop systems there

The Reserve Banks have worked with the Mexican central bank (Banco de México) to enable U.S. depository institutions sending remittance transfers through the FedGlobal service to Mexico, called Directo a México, to comply with future disclosure requirements. Banco de México has provided the Reserve Banks with specific information about applicable taxes and informed the Reserve Banks that no Mexican financial institutions that receive payments through FedGlobal will deduct fees.²⁴

Further, CFPB stated in its February 2012 *Federal Register* notice that “remittance transfers sent via Directo a México currently would qualify for the permanent exception” to the requirement to disclose the exact foreign exchange rate and exact amount of funds that will be received by the designated recipient.²⁵ By contrast, enhancements to the Reserve Banks’ FedGlobal services to other countries may be necessary to facilitate depository institutions’ compliance with future disclosure requirements after expiration of the temporary exception.

Rules and Formats for International Payments Through Depository Institutions

The banking industry has taken steps to implement formats and standards and revise industry rules that will help facilitate compliance with the CFPB regulation as originally adopted in 2012. For example, the ACH and wire-transfer networks have developed transaction codes that will help identify international payments that are “remittance transfers” under the regulation; use of these codes could help depository institutions comply with the disclosure requirements imposed on “remittance transfers” and track more closely the number of remittance transfers they handle.

Effective September 21, 2012, the ACH rules were modified to include an “REM” transaction-type code, which indicates to a depository institution that receives an IAT from another institution that the payment may have been originated by a “natural per-

son” and should be treated as a remittance transfer.²⁶ For the domestic portion of international wire transfers, the Reserve Banks’ Fedwire Funds Service and the Clearing House Interbank Payments System have developed a voluntary market convention by which a sending depository institution that has a bilateral agreement with a receiving U.S. institution can indicate to the receiving institution (by means of a three-digit code) that a payment is a remittance transfer.²⁷ These ACH and wire-transfer payment indicators enable the sending institution to flag that the institutions’ agreed-upon methods for handling a payment that is a remittance transfer should apply to the transaction; for example, a predetermined exchange rate might be applied to the payment.

For IATs, the U.S. gateway operator and its FGO counterpart must establish a payment-format translation between the payment systems of the two countries involved (for example, between the IAT payment format in the United States and the format of the receiving payment system in the foreign country), which can be complex. The International Payments Framework Association (IPFA), of which the Federal Reserve Bank of Atlanta is a founding member, has created standards for bridging national payment format differences. In 2013, one of the IPFA’s planned areas of focus is adapting its rule set and message standards to address the requirements of the CFPB rule implementing Dodd-Frank Act section 1073(a).²⁸

In addition, depository institutions expressed concern that certain warranties in the ACH rules for international payments were too broad. Specifically, a sending U.S. depository institution warranted that an IAT complied with the laws of the receiving country, and some depository institutions did not believe that they could reasonably ascertain whether payments comply with the laws of foreign countries. Institutions also noted that there is no equivalent warranty for remittances sent through wire-transfer networks. The ACH rules have since been revised, effective March 15, 2013, such that the sending U.S. depository institution now warrants only that, if the rules

²⁴ Under Mexican law, however, the Banco de México cannot assume liability for the actions of receiving Mexican institutions.

²⁵ 77 FR 6194 at 6246, Feb. 7, 2012.

²⁶ Because the IAT code indicates only that the transaction is international, the REM code signals that the transaction is a remittance transfer.

²⁷ Federal Reserve Bank Services, “Market Convention for Dodd-Frank Remittance Transfers,” (www.frbservices.org/files/communications/pdf/fedwire/090512_dodd_frank.pdf).

²⁸ International Payments Framework Association, “IPFA Focus in 2013,” (<http://ipf-a.org/news/ipfa-focus-in-2013-.html>).

of the receiving country require authorization, the payment's authorization complies with those rules.

Future Developments

The Board is continuing to pursue the steps noted in its 2011 report to increase adoption rates of IATs for remittance transfers. In particular, the Federal Reserve plans to continue to (1) work on improved

global reach for the Reserve Banks' FedGlobal service; (2) facilitate dialogue with depository institutions about regulatory compliance requirements associated with sending international remittances; and (3) encourage education and outreach by depository institutions to their customers about options for sending remittances. The Federal Reserve may also assess, where appropriate, possible future wire-transfer service options.

