



June 28, 2019

Docket No.: CFPB-2019-0018

Request for Information Regarding Potential Regulatory Changes to the Remittance Rule (the "RFI")

Director Kraninger,

Appleseed thanks the Consumer Financial Protection Bureau (CFPB) for the opportunity to provide comments on the CFPB's RFI regarding two parts of its remittance rule (31 CFR Part 1005 Subpart B)(the "Remittance Rule"): the temporary exception for banks from providing certain disclosures to customers and the threshold for a person to be considered a "remittance transfer provider."

The Remittance Rule has benefited persons in the United States sending money outside the country, often to family members who need the funds to survive. With these regulations, consumers can better compare the cost of sending a remittance. Prior to the promulgation of these regulations, remittance providers would advertise costs in several different ways, often leaving consumers confused as to which remittance provider offered the best deal to the consumer.

Appleseed is a nonprofit network of 17 public interest justice centers in the United States and Mexico dedicated to building a society in which opportunities are genuine, access to the law is universal and equal, and government advances the public interest. Our financial access and asset building program is devoted to promoting fairness, transparency, multiple options, financial education, and safe and secure banking and asset building options for low-income persons, including a focus on immigrant communities. For many years, Appleseed has been involved in the effort to advocate for greater uniformity and transparency in consumer remittances and commented on the original regulations adopted in 2012, and on other amendments since then.

Appleseed believes that the Remittance Rule addressed a clear need for greater uniformity and transparency in consumer remittances and we believe that the Remittance Rule works and as our own research has shown, is an example of how effective consumer protections have concrete benefits for society. Our 2015 survey of remittance senders found that people were searching out low cost options in the market, pricing was steady or declining, and receiving the statement of rights on how to correct errors stood out as a top predictor of customer confidence in a remittance service provider.¹ The CFPB rule assessment found that the rule implementation coincided with expanded adoption of new technologies, total increased in remittance, and a slight increase in bank and credit union participation in the consumer remittance market.²

¹ Appleseed, *Sending Money: The Path Forward*, at 3 (May 2016). Available at:

https://www.appleseednetwork.org/uploads/1/2/4/6/124678621/sendingmoney_2016.pdf.

² Consumer Financial Protection Bureau, *Remittance Rule Assessment*, at 4 (corrected version, April 2019).

Available at: https://files.consumerfinance.gov/f/documents/bcftp_remittance-rule-assessment_report_corrected_2019-03.pdf

You have asked for comment on two issues: (i) the expiration of the statutory exception for banking organizations to provide certain information to customers (the “temporary exception”) and (ii) whether businesses sending more than 100 remittances per year should remain the threshold level for being considered to be providing remittances “in the normal course of business” for purposes of the Remittance Rule.

Expiration of the Temporary Exception

The statutory basis for the Remittance Rule is section 919 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) (Pub. L. 111-203, July 21, 2010, codified at 15 U.S.C. 1693o-1). The statute requires that specific disclosures be provided to consumers in a standardized format to enable consumers to effectively compare costs of various remittance transaction providers. One of those disclosures is the amount of money that will be received by the recipient and costs associated with the transfer at the recipient end. When funds are sent in a closed-loop system, such as Western Union, the remittance transfer provider controls the entire chain of the transfer and can readily disclose the amount the recipient will receive and any costs that will be paid at the recipient end. When funds are sent in an open-loop system used by banks, the banks cannot offer such certainty in the amount that the recipient will receive.

The statute gave banks a five-year exception from providing those disclosures with the ability for the CFPB to grant one additional five-year extension, which was granted in 2015. The exception will expire July 21, 2020 and cannot be renewed unless Congress acts. The CFPB has asked for information on how the expiration of the exception can be mitigated.

The CFPB notes in several places in the RFI that, from the information it currently possesses, the expiration of the temporary exception would not appear to have a material adverse effect on the availability of remittances, as most remittances are conducted by nonbank money services businesses, i.e., money transmitters.

The market is changing for banks and fewer banks need the exception. According to data in the RFI, just .5% of all remittance transfers are sent using the exception and the rate of bank usage of the exception has declined. Of the just 80 banks still using the exception, they use it for only between .4% and 27% of all transfers. The CFPB Remittance Rule assessment also found that remittance pricing went down and there continues to be substantial market competition and innovation in the wake of the implementation of the Remittance Rule.

Appleseed appreciates the CFPB’s effort, through the specific questions posed in the RFI, to obtain enough data to undertake a useful analysis of the possible consequences of the expiration of the temporary exception and looks forward to seeing the data that we hope you will be able to gather as part of the RFI process.

Available remittance data from the World Bank offers strong evidence that the U.S. Remittance market is low-cost and competitive. The United States is the second cheapest G8 market from which to send remittances, and U.S. average fees are two percentage points below the global average cost. Less than 6% of the money sent is charged as a fee for the remittance in the United States, compared to a global

average of approximately 8%.³ In addition, the United States saw one of the largest decreases in the average cost of remittances among G8 nations, from the fourth quarter of 2018 to the first quarter of 2019, a decrease in cost from 5.98% of the dollar amount sent to 5.74%.⁴ These cost trends, as well as overall market innovations identified in the RFI, such as the SWIFT GPI, reflect a healthy market under the rule with a high likelihood that eliminating the exception will not lead to less service in particular jurisdictions, but rather improved and lower cost services.

While Appleseed cannot provide specific data in response to the questions posed in the RFI, from our past work with the Remittance Rule and studying its effects, we would like to offer our thoughts in answer to your question #4, on what methods could insured institutions put in place to avoid relying on estimates by the time that the temporary exception expires on July 21, 2020. We would encourage those banking organizations that might consider terminating their remittance services to instead partner with larger banking organizations or nonbank money transmitters to act as a service provider to that withdrawing banking organization's customers. This would be especially useful in situations where the banking organization terminating the remittance services serves a portion of the remitting public that has few alternatives available to send remittances. These options offer substantial flexibility, including the ability to send account to account transfers.

The Remittance Rule is designed to improve accountability and transparency, and through those benefits to consumers, also benefit positive market competition and innovation. The exception was put into place to accommodate existing practices while the market adapted to the new rule standards. Evidence from pricing and market innovation indicate that the market has substantially adapted and is poised to move away from a need for the exception.

The “normal course of business”

Section 919 of Dodd-Frank defines a “remittance transfer provider” as “any person or financial institution that provides remittance transfers for a consumer in the normal course of its business.” 15 USC 1693o-1(g)(3). The Remittance Rule currently contains a safe harbor in the definition of “normal course of its business,” providing that a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business if it provided 100 or fewer remittance transfers in the previous calendar year or the current calendar year. 12 CFR 1005.30(f)(2).

In reviewing the RFI, it would appear to Appleseed that there is insufficient evidence for a need to increase the 100 remittances a year threshold. From the information provided in the RFI, the overwhelming majority of banks and credit unions send very few remittances and thus fall outside the requirements of the Remittance Rule. The CFPB notes that those banking organizations that provide remittances above the 100 a year threshold, but still at a relatively modest level, cannot generate the volume of remittances that would cover the compliance costs and as a result have partnered with service providers, which arrangement in some cases might result in higher costs to send a remittance than before the Remittance Rule went into place. As a result, the CFPB is considering whether to grant a “small financial institution” exception in the definition of remittance transfer providing, using the statutory authority in 15 USC 1693b(c).

³ The World Bank, Remittance Prices Worldwide, at 6 (March 29, 2019). Available at: https://remittanceprices.worldbank.org/sites/default/files/rpw_report_march_2019.pdf.

⁴ Id.

We agree that the CFPB needs additional detailed information to support a change in the current threshold. It is essential to know what size institutions are operating just above the 100 transaction threshold; where they are located; how many transactions above the 100 transaction threshold they engage in; details on the amount of each transfer; what other options exist in the market; and the cost of those options for similar transfers. Given the information provided in the RFI and overall decreasing market pricing and innovation trends making transparency even easier, Appleseed does not see compelling market data to support a proposal to increase the threshold or provide exceptions for smaller financial institutions.

Again, Appleseed appreciates the opportunity to comment on this RFI and we look forward to reviewing the data that we hope will be provided from commenters who are part of the remittance industry.

We would be happy to discuss these issues further at your convenience and our own research in the consumer remittances area. Please contact Ken Smith (ksmith@neappleseed.org) and Sue Berkowitz (sberk@scjustice.org).

Sincerely,

Appleseed Foundation

Connecticut Appleseed

Kansas Appleseed

Nebraska Appleseed

New Jersey Appleseed Public Interest Law Center

South Carolina Appleseed Legal Justice Center

Texas Appleseed