

June 19, 2018

Acting Director Mick Mulvaney
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Agency/Docket Number: Docket No. CFPB-2018-0011 -- Request for Information Regarding the Bureau's Adopted Regulations and New Rulemaking Authorities: **Remittances Rule**

Dear Acting Director Mulvaney,

The undersigned consumer, community, civil rights and legal services groups submit these comments in response to the Consumer Financial Protection Bureau ("CFPB")'s Request for Information ("RFI") regarding its adopted regulations and new rulemaking authorities. **In these comments we urge you not to revisit or weaken the CFPB's remittance rule.** We have joined other comments on other regulations.

I. Introduction

The undersigned organizations support the CFPB's remittance rule and urge the bureau not to revisit or weaken it.¹ "A 'remittance transfer' means the electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider."²

The experience of our organizations is that the remittance rule is working and is protecting money sent abroad and the financial security of U.S. residents who send this money. Prior to the remittance rule, customers had inadequate up-front information about fees and exchange rates needed to compare the cost of different services. Our surveys show that consumers now have more confidence when sending remittances. Moreover, the volume of remittances us up but the cost is down since the CFPP rule was adopted. The average cost of sending remittances has fallen to 5.67% in 2018 down from 6.75% in 2013.

Immigrants are more likely to be taken advantage of and less likely to feel empowered to assert their legal rights than other members of our society.³ Therefore, they are more vulnerable to both the mistakes and the deliberate malfeasance of those with whom they do business. Congress passed the statute requiring consumer protections for remittances in Section 1073, the Dodd-Frank Act, in a deliberate attempt to provide more protections to all remittance senders, including immigrants.⁴

¹ 12 C.F.R. § 1005.30 –36.

² 12 C.F.R. § 1005.30.

³ See generally, Ruben J. Garcia, *Marginal Workers: How Legal Fault Lines Divide Workers and Leave Them Without Protection*, NYU Press, Sept. 13, 2013; 7 *Ways immigrants enrich our economy and society*, <http://www.nclr.org/issues/immigration/resources/facts?gclid=CO3l4OHyg9QCFV6Bswod3KQOoQ>.

⁴ 15 U.S.C.A. § 1693o-1 (West).

These regulations are required to be issued by statute, and much of what is in the regulations is specified in the statute.

II. Background

Section 1073 of the 2010 Dodd-Frank regulatory reform legislation added a new section to the Electronic Funds Transfer Act dealing with international consumer remittances to increase the transparency of the remittance process and mandate uniform disclosures so that consumers are better able to compare different remittance providers and make the most informed choice about which provider to use.

Simply put, the remittance rule requires that costs be disclosed prior to payment for the transaction and requires proof of payment after the transaction. Low-income individuals and immigrants should not be denied transparency and disclosures available with many financial products; nor should a \$66 billion per year financial industry affecting largely low-income immigrants be unregulated.

A. Pre-Transaction Disclosures: Pricing for Amount Delivered, Fee Details and Exchange Rate

The focus of Section 1073 and the subsequent remittance rule is to require that certain disclosures be made prior to and after a customer orders a funds transfer. Information to be disclosed prior to the transfer includes:⁵

- i. The amount that will be transferred to the recipient in the currency in which the transaction is funded.
- ii. Any fees imposed and any taxes collected on the remittance transfer by the remittance transfer provider.
- iii. The total amount of the transaction [sum of items (a) and (b)].
- iv. The exchange rate used by the provider for the remittance transfer.
- v. The amount that will be received by the designated recipient in the currency in which the funds will be received.
- vi. A statement indicating that there might be fees associated with the transfer that are collected by a person on the receiving end that may result in the recipient receiving less than the amount disclosed in paragraph (e).

B. Post-Transaction Disclosures: Proof of Purchase, Availability of Funds, Rights and Recourse.

The customer must receive a receipt post-payment that includes the information noted above, along with some additional information including the following:⁶

- i. The date in the foreign country on which funds will be available to the designated recipient.
- ii. The name and, if provided by the sender, the telephone number and/or address of the designated recipient.

⁵ 15 U.S.C.A. § 1693o-1(a)(2) (West)

⁶ *Id.*

- iii. A statement about the rights of the sender regarding the resolution of errors and cancellation related to the transaction.
- iv. The name, telephone number(s), and web site of the remittance transfer provider.
- v. A statement that the sender can contact the state agency that licenses or charters the remittance transfer provider with respect to the remittance transfer and the CFPB for questions or complaints about the remittance transfer.

C. Language Requirements

Disclosures must be in English and (if applicable) either in (a) each of the foreign languages principally used by the remittance transfer provider to advertise, solicit, or market remittance transfer services at the office in which a sender conducts a transaction or asserts an error; or (b) the foreign language primarily used by the sender with the remittance transfer provider to conduct the transaction, provided that such foreign language is principally used by the remittance transfer provider to advertise, solicit, or market remittance transfer services.⁷

III. The Rule is Working.

Our organizations have been studying immigrant access to financial services, including consumer remittances, for over ten years. For example, Texas Appleseed worked to afford access for immigrants to financial institutions and foster transparency in international remittance markets, with a focus on the U.S.-Mexico market.⁸

Appleseed's most recent survey "**Sending Money: The Path Forward**" proves that the remittance rule is working and is protecting money sent abroad and the financial security of U.S. residents who send this money. Prior to the remittance rule, customers had inadequate up-front information about fees and exchange rates needed to compare the cost of different services.

"**Sending Money: The Path Forward**" is based on data from a survey of international remittance customers' preferences and behavior administered by Appleseed in five states from September 2015 through December 2015. Appleseed Centers in Connecticut, Kansas, Nebraska, Texas and Washington surveyed a total of 702 customers about their typical remittance transactions, comparison shopping behaviors, past problems with remittances, knowledge of their rights, and overall confidence in remittance services.

Among the report's key findings proving that the rule works are:⁹

- **Consumers are receiving pricing disclosures.** About 84% of consumers confirmed that they receive written disclosures before completing their transactions, and 83% reported that they understand the disclosures either "well" or "very well." Similarly, 72% of consumers confirmed that they received written receipts following transactions.

⁷ 15 U.S.C.A. § 1693o-1(b) (West)

⁸ Texas adopted remittance consumer protections in 2003.

⁹ Appleseed, *Sending Money: The Path Forward* <http://appleseednetwork.org> (2016).

- **Customers are choosing lower fees.** More than *half* of customers compare fees between money transfer services and always choose the service that has the lowest fee and *two-thirds* *always or sometimes* choose the service with the lower fee.
- **Consumers report stable or decreasing prices.** Three of four remittance senders report that prices remained stable (69%) or decreased (6%).
- **Consumers say their confidence has improved over last year or stayed the same.** When asked if they had experienced a *shift* in confidence over the past year, 18% of customers reported that their confidence had improved, 74% reported no change in confidence, and only 1% reported that their confidence had worsened. Consumers say that receiving a statement of rights on how to correct errors was the single best predictor of confidence in remittance services.
- **Language matters.** If information is also provided in the consumer’s primary language, the survey showed an association with greater attention to fees and exchange rates on the disclosures.

IV. Additional Arguments in Support of the Current Rule

- A. The remittance rule is a compromise and the CFPB declined to adopt several provisions that consumer groups wanted, while making several provisions or changes in response to industry requests.**

The evidence provided in Appleseed’s “**Sending Money: The Path Forward**” report shows that the CFPB issued fair and achievable regulations based on balanced and effective rulemaking. The CFPB heard and addressed industry and consumer concerns, weighed and carefully factored this information into the final regulations, which mandate that specific information be provided to consumers in a uniform manner so they can make informed choices.¹⁰

The CFPB issued final regulations in February 2012, with an original effective date of February 2013.¹¹ The regulations were subsequently amended several times in response to issues raised by industry representatives as they developed policies, procedures, and systems to comply.¹²

Over the objections of advocates representing these immigrants and other remittance senders, the CFPB allowed a number of significant exceptions to the mandates in the statute.

Exceptions to the rule include:

- i. Excluding persons providing 100 or fewer transfers a year from the definition of remittance transfer provider (and therefore not subject to federal regulations)¹³ and modifying some of the requirements addressing senders ordering transfers in advance;¹⁴

¹⁰ Appleseed, *Sending Money: The Path Forward* <http://appleseednetwork.org> (2016).

¹¹ 77 Fed. Reg. 6194-01 (Feb. 7, 2012).

¹² *See, e.g.*, 78 Fed. Reg. 30662 (May 22, 2013); 81 Fed. Reg. 25325 (Apr. 28, 2016); 81 Fed. Reg. 70320 (Oct. 12, 2016)

- ii. Allowing estimates to be provided regarding disclosures to the sender of certain fees and taxes that will be imposed on the transfer;¹⁵
- iii. Revising when an error in the resolution process has occurred if a sender provides incorrect information;¹⁶ and
- iv. Extending an exemption for banks regarding estimated disclosures of amounts expected to be received by the recipient.¹⁷

B. Serious public complaints against money transfer companies persist even with the protections of the remittance rule.

We recommend that the CFPB consult its own complaint database for proof that consumers continue to cite problems with money transfers that the remittance rule addresses. Such information should be retained in a public format to enable the public, companies, and the CFPB to analyze complaints by geography, by service, among immigrants from particular countries, or other factors. The successes of the complaint database should be noted (e.g., over 1.1 million complaints received, the amount of money returned to consumers, and cessation of problems).

We have reviewed approximately 1000 complaints and report that complaints allege the following:

1. Most Common Complaint is Delay in Remittance Delivery

The most common complaint is that though remittance transfer providers must indicate when the funds will be available to the recipient, the funds fail to be there by that date. Oftentimes, the consumer would contact the company or bank and would either get no response or would have to stay on the telephone line for hours to get their situation resolved.

One remittance transfer provider stated in its disclosures that the money would be available overseas in just minutes yet failed to do so for 72 hours causing the consumer to miss paying emergency bills. Another company rejected a remittance with no notice whatsoever, causing an elderly couple to go to the bank many times to try to get their money.

Other customers complained that money does not reach its intended destination; one customer complains that a bank closed a complaint without resolving the issue.

2. There are also Delays in Sending Remittances

In one case, a consumer was told that his/her money would be transferred five minutes after he/she got a confirmation call. The call never came and customer service was unresponsive. Another consumer complained that a company hid how long the transfer would take in the fine print (despite the requirement that disclosures must be “clear and conspicuous”), speculating that the company used the money for its own purposes for the eight days before it was transferred (i.e., benefitting from a “float”).

¹³ 12 C.F.R. § 1005.30. Money transmitters generally are licensed and regulated by individual states.

¹⁴ 12 C.F.R. § 1005.36

¹⁵ 12 C.F.R. § 1005.32

¹⁶ 12 C.F.R. § 1005.11

¹⁷ 12 C.F.R. § 1005.32

3. Receiving Less Money in Foreign Currency than Originally Disclosed

Another common problem was that consumers would receive less money in foreign currency than they were informed by the remittance transfer provider. In some cases the exchange rate was not noted up front as required. One company gave fewer pesos than disclosed by the remittance transfer provider. Other companies provided a lower than anticipated market exchange rate that cost the consumer about \$25 - \$30. One company did not disclose that the exchange rate would be different if the consumer used a credit card. In multiple cases the consumer received less money because the consumer's requests for the kind of currency they wanted to send was ignored.

4. Refusal to Refund

A company refused to refund funds sent to a consumer when the wrong person picked up a remittance despite the sender providing correct recipient information. There are additional complaints that upon cancellation or decline of an order, the money does not quickly come back to the account from which it came.

5. Other Complaints

There were many other complaints filed by consumers. Complaints arising from crypto-currencies are also fairly common. Another consumer reports being told that a company would not do business with the consumer without any explanation.

C. Remittance prices have declined.

The average cost of sending remittances from the U.S. fell to 5.67% as of the first quarter 2018, down from 6.91% in the first quarter of 2012.¹⁸ The CFPB issued final regulations in February 2012.

D. The remittance rule has not harmed the market for remittances.

The volume of remittances sent from the U.S. has consistently increased year to year since 2010 (below in millions of U.S. dollars):¹⁹

2010	2011	2012	2013	2014	2015	2016
50,776	50,556	52,652	55,669	58,882	62,501	66,649

The industry has already largely come into compliance with the remittance rule and should not bear the cost of revamping procedures again. The remittance rule affords a level playing field for

¹⁸ The World Bank, *Remittance Prices Worldwide*, https://remittanceprices.worldbank.org/sites/default/files/rpw_report_march2018.pdf (last accessed June 11, 2018).

¹⁹ World Bank, *Migration and Remittances Data*, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> (last accessed May 31, 2018).

companies – regardless of corridors served, technology and method of transmission – and subjects companies to the same baseline rules.

IV. Conclusion

For the foregoing reasons, the Consumer Financial Protection Bureau should not re-examine the remittance rule.

Thank you for considering these comments.

Allied Progress
Americans for Financial Reform
Appleseed Foundation
Arkansans Against Abusive Payday Lending
Atlanta Legal Aid Society, Inc.
Brooklyn Coop Federal Credit Union
Center for NYC Neighborhoods
Consumer Action
Consumer Federation of America
East Bay Community Law Center
Florida Alliance for Consumer Protection
Georgia Watch
Heartland Alliance for Human Needs & Human Rights
Interfaith Center on Corporate Responsibility
Jacksonville Area Legal Aid, Inc.
Kentucky Equal Justice Center
Maryland Consumer Rights Coalition
NAACP
National Association of Consumer Advocates
National Center for Law and Economic Justice
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
The One Less Foundation
People's Action Institute
Public Justice Center
Tennessee Citizen Action
Texas Appleseed
Tzedek DC
U.S. PIRG
UnidosUS
Virginia Poverty Law Center
West Virginia Center on Budget and Policy
Woodstock Institute