



Regulation E Remittance Transfer Rules

The Consumer Financial Protection Bureau (CFPB) has amended Regulation E establishing disclosure, error resolution and cancellation rights for foreign remittance transfers. Previous to this rule, wire transfers were not covered under Regulation E; however, international wire transfers will be covered under the new foreign remittance transfer requirements. While the rules had an initial effective date in February 2013, the CFPB announced an extension, pending further amendment. The CFPB issued another final rule on April 30, 2013, communicating modifications and an effective date. A final rule correction was issued in August 2013 that also included a clarifying amendment. In May 2020, the CFPB issued an amending final rule to implement new, permanent exceptions for certain disclosures and is increasing the safe harbor threshold.

Updated Alert Date: May 29, 2020

Status: Initially Effective October 28, 2013; May 2020 Rule Effective July 21, 2020

Links: [Final Rule - 02/07/2012](#) [Final Rule Correction - 07/10/2012](#)
[Final Rule - 08/20/2012](#) [Final Rule - 01/22/2013](#)
[Final Rule - 04/30/2013](#) [Final Rule - 08/07/2013](#)
[Final Rule - 09/18/2014](#) [Final Rule - 05/06/2020](#)

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Pursuant to Dodd-Frank, the CFPB has issued various final rules amending Regulation E. These rules apply to all providers of remittance transfers as defined by the rule which does include financial institutions of all sizes. Regulation E is also a consumer protection regulation and the new rules only apply to transactions conducted on behalf of a consumer. It does not apply to commercial senders of these transfers.

In August 2012, the CFPB published a new final rule in which they adopted a “safe harbor” to determine whether an institution is covered by the rule. This amendment provided that institutions that consistently conduct 100 or fewer remittance transfers per year do not provide transfers in the “normal course of business” and therefore are not subject to the new requirements.

In November 2012, the CFPB published Bulletin 2012-08 which communicated their expectation to further amend the final rule and to propose an extension of the effective date. The delay of the initial effective date was made formal in the CFPB’s final rule issued in January 2013.

In April 2013, the CFPB issued another new final rule to make various amendments and establish the effective date. The first two amendments of this final rule make it optional (in certain circumstances) to disclose: 1) fees imposed by a recipient’s institution and 2) taxes collected by a person other than the remittance transfer provider. In place of these two former requirements, a required disclaimer is to be added to the rule’s disclosures indicating that the recipient may receive less than the disclosed total due to fees and taxes. The other amendment of this rule revises error resolution provisions in instances where the transfer was not delivered because the sender provided incorrect or insufficient information.

In August 2013, the CFPB issued a final rule correction that included a clarifying amendment regarding error resolution and remedies. This adjustment merely makes explicit the Bureau’s interpretation that in the event of certain errors, the provider may deduct certain fees imposed and taxes collected as part of the first unsuccessful remittance transfer attempt.

In September 2014, the CFPB issued a final rule extending the temporary provision that permits institutions to estimate certain pricing disclosures. The sunset date of this provision was extended from **July 21, 2015**, to **July 21, 2020**. Other clarifications and technical corrections were included in this rule.

In May 2020, the CFPB issued a new final rule that has two primary focuses. First, new permanent exceptions are established that are aimed at helping institutions face challenges when the current, temporary provision sunsets on July 21, 2020. These new permanent exceptions permit institutions to disclose estimates for exchange rates and covered third-party fees, provided certain criteria are met. Second, the CFPB is increasing the safe harbor threshold tied to whether a person makes remittance transfers in the normal course of business, which is being adjusted from 100 or fewer remittance transfers to 500 or fewer remittance transfers. This rule is effective July 21, 2020.

What Transactions Are Covered?

A remittance transfer includes all electronic transfers of funds to designated recipients in a foreign country that are initiated by a remittance transfer provider upon the request of consumers in the United States. An exemption does exist for very small dollar

amounts of less than \$15 as currently defined by the Electronic Funds Transfer Act. Examples of remittance transfer include wire transfers, ACH transactions, FedGlobal ACH Transactions and any other electronic funds transfer that sends funds internationally.

What Are The Requirements Imposed By The Rules?

Disclosures

A remittance transfer provider must give the consumer a disclosure prior to receiving payment for the transfer, which includes (but is not limited to):

- the exchange rate, the applicable fees and taxes, and the amount to be received by the recipient.

With regard to **third party** fees, the regulation distinguishes between:

- **covered third-party fees** – fees charged by a person other than the provider (except for non-covered fees, described below), and
- **non-covered third-party fees** - charged by the recipient's institution, except if the institution acts as an agent of the provider.
 - With regard to disclosures, a provider may be required to include a disclaimer that fees or taxes collected by a person other than the provider may apply and result in the recipient receiving less than the amount disclosed. A provider may only include this disclaimer to the extent that such non-covered fees or taxes do or may apply.

A written receipt must also be provided when payment is made and must include the same information as the pre-payment disclosure, along with the following additional information:

- the date of availability,
- the recipient's contact information,
- an abbreviated notice of error resolution rights,
- the cancellation rights of the sender, and
- the contact information of the remittance provider (institution), its state regulator and the CFPB.

These two disclosures can be combined into a single written disclosure prior to payment as long as proof of payment (such as a stamp or confirmation number) is also included after payment has been received. The proof of payment can be on the same disclosure or provided separately from the pre-payment disclosure. The final rule contains model formats for these disclosures.

It is important to note that the disclosures will need to be made available at the time the transfer is initiated. Therefore, if transfers can be initiated via online banking, text message, and/or mobile banking, the financial institution needs to be able to identify the method used to initiate the transfer and provide the correct disclosure as outlined in the model notices contained in the rule. The disclosures may be given orally for transfers initiated by telephone.

Estimate Exceptions:

The final rule does outline specific estimate exceptions to the disclosure requirements. These are:

- **Temporary Exception** - This exception allows a financial institution to provide an estimate of the amount of currency to be received if the specific amounts disclosed cannot be determined due to reasons beyond the financial institution's control. For example, if the exchange rate is set by someone that the institution has no correspondent relationship with, or if the fees that need to be disclosed are imposed by intermediary institutions and the remitting institution has no correspondent relationship with them. *This exception will expire on **July 21, 2020**.*
- **Permanent Exception for Transfers to Certain Countries** - This exception applies when you cannot determine amounts to be disclosed due to the laws of a recipient country or the method by which transactions are made in the recipient country. The CFPB maintains a list of "safe harbor countries" on their website.
- **Permanent Exception for Transfers Scheduled Before Date of Transfer** – This exception applies to transfers scheduled by a sender 5 or more business days before the transfer, in which the provider agrees to the sender's request to fix the transfer amount in the currency in which the transfer will be received (and not the currency in which it was funded).
- **Permanent Exception for Optional Disclosure of Non-Covered Third Party Fees and Taxes** – This exception applies to non-covered third-party fees and taxes and the disclosure of those items as estimates.
- **Permanent Exception for Estimation of the Exchange Rate by an Insured Institution** – Effective **July 21, 2020**, this new exception provides that certain estimates may be provided for transfers to particular countries if the recipient of the remittance transfer will receive funds in the country's local currency and when certain conditions are met. Generally, those

conditions include that the provider is an insured institution, the institution cannot determine the exact exchange rate, the institution made 1,000 or fewer remittance transfers in the prior calendar year to the particular country, and the remittance transfer is sent from the sender's account.

- **Permanent Exception for Estimation of Covered Third-Party Fees by an Insured Institution** – Effective **July 21, 2020**, this new exception provides that certain estimates may be provided for transfers when certain conditions are met. Generally, those conditions include that the provider is an insured institution, the institution cannot determine the exact covered third-party fees required to be disclosed, the institution made 500 or fewer remittance transfers in the prior calendar year to that designated recipient's institution or a US federal statute or regulation prohibits the institution from being able to determine the exact covered third-party fees required to be disclosed, and the remittance transfer is sent from the sender's account.

Error Resolution Procedures

Financial institutions are required to have written policies and procedures designed to ensure compliance with error resolution requirements. A sender must provide notice of error orally or in writing no later than 180 days after the date of availability stated in the receipt. An institution has 90 days from receipt of the dispute to investigate the error and must provide oral or written notification of the results of the investigation and available remedies if the error is as asserted by the sender and written notice of the results and available remedies if the error is different than what was asserted by the sender within 3 business days. The error must be corrected within 1 business day after the sender communicates their choice of remedy which must be within 10 days of receipt of the available remedies to them. The record retention requirement is 24 months from the date the error notice is received.

The types of errors covered include:

- Incorrect amount paid by sender
- Computational or bookkeeping error
- Incorrect amount received by the designated recipient (unless the disclosure provided an estimate, the failure was a result of extraordinary circumstances or the difference resulted from non-covered third-party fees)
- Failure to make funds available by date of availability (unless extraordinary circumstances occurred, the delay was due to fraud screening procedures, the transfer was made with fraudulent intent, or the sender gave the provider incorrect information)

Remedies available to the sender:

- Obtain a refund of the amount tendered in connection with the remittance transfer that was not properly transmitted, or an amount appropriate to resolve an error or discrepancy.
- Make available to the designated recipient the amount appropriate to resolve the error at no additional cost to either the sender or recipient
 - The amount appropriate to resolve the error is the specific amount of transferred funds that should have been received if the transfer had occurred without error and does not include consequential damages.
- Depending on the cause of the error (delay in availability), refunding of all fees (regardless of who charged them) associated with the transfer may also be required.
- In the case of an error that occurred because the sender provided incorrect or insufficient information, the provider shall refund the amount of the transfer that was not properly transmitted (or an amount appropriate to resolve the error).

Cancellation and Refund Rights

The final rule requires a minimum of a 30 minute cancellation period for a sender to cancel their request for transfer. All funds and fees associated with the cancelled request must be refunded to the sender within 3 business days of receiving the sender's valid cancellation request.

For pre-authorized transfers the sender must give notice of cancellation 3 business days before the scheduled date of the transfer.

Recommendations for Next Steps

1. Determine whether the institution falls within the "safe harbor".
 - a. If the institution does fall within the "safe harbor", implement periodic monitoring to determine if/when the institution no longer qualifies for the exemption.
 - b. If the institution does not fall within the "safe harbor", proceed with the remaining steps.

2. Review wire transfer policies and procedures and resolve inconsistencies caused by the final rule.
3. Develop required disclosures that contain all applicable information.
4. Develop and implement written policies and procedures to ensure:
 - a. Estimates meet regulatory requirements
 - b. Disclosures are provided as required and contain all required elements
 - c. Error resolutions are handled as required
 - d. Cancellation rights are considered and followed
 - e. Pre-authorized transfers are handled as required, as the disclosure and cancellation rules are different for these types of transfers
 - f. Records are retained as outlined in the rule
5. Work with core processor to ensure transfers will be identified and disclosures provided regardless of method used, such as online banking or text messaging, and that preauthorized remittance transfers will be handled appropriately.
6. Train applicable staff on the requirements of the final rule and internal policies and procedures.

By July 21, 2020:

1. Review the 2020 rule to determine impact of the new amendments and, as needed, adjust processes.