



June 6, 2014

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

**RE: Amendments to Regulation E, Electronic Funds Transfers, Docket
No. CFPB-2014-0008**

VIA ELECTRONIC MAIL: www.regulations.gov

Dear Ms. Jackson,

The Michigan Credit Union League (MCUL), the statewide trade association representing 98% of the credit unions located in Michigan and their 4.5 million members, appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB's) most recent request for comment regarding amendments to Subpart B of Regulation E, which implements the Electronic Funds Transfers Act.

Temporary Exception

The MCUL is generally supportive of any exception to the CFPB rules that will provide regulatory relief to credit unions. In this proposed rule, the CFPB would extend a temporary exception that allows covered remittance transfer providers to estimate fees and exchange rates in certain circumstances to July 21, 2020 (from July 21, 2015).

Credit unions conducting international remittance transfers rely on third parties to process those transactions. Fees and exchange rates are often difficult to determine or unknown to the credit union, making accurate disclosures nearly impossible. Therefore, this exception is critical for credit unions, and if not adopted, the MCUL believes even more credit unions would be driven to discontinue this service for their members.

Currently, consumers are faced with increasingly limited options for this service due to the CFPB's rules governing international remittance transfers. The MCUL has conducted a survey of Michigan credit unions on various issues, including the international remittance rule, to which 115 institutions responded. It revealed that nearly 70% of those responding credit unions that stated they do not offer international wire transfers actually discontinued this service specifically due to the new CFPB regulations. For those that do still offer the service, many report significantly higher fees charged by third parties, increasing the cost for the member considerably and diminishing the use of the service. Therefore, the MCUL agrees with the CFPB's analysis that allowing the sunset of this

exception, which provides one of the few elements of relief in this bill, would negatively affect credit unions' ability to continue to provide the service.

Non-Consumer Accounts

The CFPB believes there is confusion among providers about whether the purpose of a transfer from an account is determined by the purpose for which the account was established or the purpose of the particular transfer. For remittance transfers from an account, the primary purpose for which the account was established determines whether a transfer from that account is requested for personal, family or household purposes. To clarify, the CFPB is proposing to add commentary explaining that a consumer is a "sender" only where they request a transfer primarily for personal, family or household purposes. The MCUL supports this clarification.

Written and Electronic Disclosures

The CFPB proposes to clarify that the requirements within 1005.31(a)(2) for disclosures to be "in writing", apply to facsimile ("fax") transmissions. Specifically, commentary is being proposed that explains that, for purposes of disclosures required to be provided pursuant to 1005.31 and 1005.36, disclosures provided by fax are considered to be provided "in writing" and not subject to the additional requirements for electronic disclosures set forth in 1005.31(a)(2). The MCUL agrees with the adoption of the CFPB's clarifying comments.

Disclosures for Oral Telephone Transactions

Informally, the CFPB has provided guidance that disclosures made orally by telephone can, in certain circumstances, be applied to remittance transfers that senders first initiate by fax, mail, or email if the requirements for disclosures for oral transactions are met. Consistent with that guidance, the CFPB is proposing commentary that a remittance transfer provider may treat a written or electronic communication as an inquiry when it believes that treating the communication as a request would be impractical.

For example, if a sender located abroad contacts their U.S. financial institution and attempts to initiate a remittance transfer by first sending a mailed letter, the provider's communication by letter with the sender could be considered impractical due to the physical distance and mail delays. Under these circumstances, a provider could conduct the transaction orally and entirely by telephone pursuant to 1005.31(a)(3) when the provider treats the initial communication as an inquiry. The MCUL supports this amendment.

Disclosure Requirements – CFPB Website on Receipts

The CFPB is in the process of creating a single webpage that will contain resources relevant to international money transfers. The CFPB is also

developing a similar webpage in the Spanish language. The CFPB is proposing that remittance transfer providers include one of these websites on receipts provided to senders. However, the adoption of this proposal would not **require** remittance transfer providers to change existing receipts that replicate the current model forms and link to www.consumerfinance.gov. Instead, the CFPB would **urge** providers to adjust their receipts to include the new website. The MCUL supports the CFPB's approach to not require receipts to be updated to include the revised web address. This will allow credit unions to gradually make adjustments to the receipts with the revised information.

Procedures for Resolving Errors

Under subpart B of Regulation E, an error occurs if there is a failure to make funds available to a designated recipient by the date of availability stated in the disclosure provided to the sender, unless the failure occurs due to certain reasons. These enumerated reasons include delays related to the remittance transfer provider's fraud screening procedures or Bank Secrecy Act (BSA), Office of Foreign Assets Control (OFAC), or other similar laws' and requirements. The CFPB would clarify that the application of the above provision only applies to delays related to individualized investigations or other special action by the remittance transfer provider or a third-party as required by fraud screening procedures or in compliance with the BSA, OFAC or other requirements. The CFPB indicates that they did not intend to apply this provision to delays that occur in the ordinary course of business related to fraud screening procedures.

The MCUL notes that credit unions frequently conduct enhanced due diligence on member accounts, in compliance with their internally established policies and procedures. In these situations, it is common for the credit union to investigate a member's account activity, including international wires. The CFPB needs to be cognizant of the fact that even though due diligence is conducted as part of "ordinary course of business fraud screening", credit unions must file suspicious activity reports ("SARs") for activity they deem to be suspicious, even if the law has not been broken. If transactions are determined to be in line with account behaviors, it is quite realistic that an investigation on a member's account activity may not yield suspicious or prohibited activity to report. However the investigation must still be completed in compliance with BSA policies and/or procedures.

Therefore, the MCUL has strong concerns that as stated in the proposal, the exception would not apply if "no potentially fraudulent, suspicious, or blocked or prohibited activity is identified and no further investigation or action is required." The CFPB needs to provide an exception for credit unions conducting BSA and other required investigations in accordance with their policies and procedures, even if no suspicious or prohibited activity is identified.

Regulatory Relief

The MCUL also requests that the CFPB take this opportunity to revisit the safe harbor threshold for financial institutions performing international remittance transfers in the “normal course of businesses.” The final rules established the safe harbor for those remittance transfer providers that provide 100 or fewer remittance transfers in the current and previous calendar years.

With the implementation of the international remittance transfer requirements finalized last year, the CFPB has single-handedly reduced the number of legitimate and regulated providers in the market and increased costs for consumers, in a single blow. As mentioned previously, because of significant liability concerns and enhanced compliance burden, credit unions previously offering this low-cost service for their members are either no longer providing it or have increased costs significantly (some reporting the cost having doubled). As a consumer protection agency, it seems doubtful that was the intended impact of the regulation. However, without intervention and further expansion of a safe harbor, cost effective methods of transferring money internationally for consumers will continue to deteriorate

As mentioned previously, the MCUL conducted a survey of credit unions in Michigan, intended to identify the impact of various CFPB regulations on credit unions’ business. In addition to questioning about offering and discontinuing the service, a survey questioned respondents if the safe harbor threshold was increased to 1,000 international remittance transfers a year, would they continue offering or resume remittance transfers as a service to their members. An astonishing 80% of respondents indicated that they likely would.

Conclusion

The MCUL appreciates the CFPB’s willingness to consider the negative consequences that the elimination of the temporary exception for estimating fees and exchange rates would have on providers, and extending the effective date appropriately. The MCUL also appreciates the CFPB’s proposed revisions aimed at further clarification and providing commentary to the existing rules. However, the MCUL believes the CFPB is missing an opportunity to consider material revisions, including the increase of the safe harbor threshold that will directly benefit consumers.

The CFPB’s mission is “to make markets for consumer financial products and services work for Americans.” However, the international remittance transfer rules have done the exact opposite in many respects. As discussed herein, the CFPB has limited consumer choices and caused providers to charge higher fees. Without intervention and further expansion of a safe harbor, credit unions (and other financial institutions) will continue to limit or eliminate this service for their members, and without a competitive market, costs will continue to soar while provider options continue to deteriorate.

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The MCUL appreciates the opportunity to provide comment on these proposed amendments.

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Ross', written in a cursive style.

Ken Ross
Executive Vice President & Chief Operating Officer