National
Consumer Law
Center
Fighting Together
for Economic Justice

January 11, 2023

Ms. Sonia Lin
Ms. Brenda Muniz
Ms. Susan Gasper
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Our Request for Additional Information on International Remittances

Dear Sonia, Brenda, and Susan:

On behalf of the low-income clients of the National Consumer Law Center, we write to express our appreciation for your interest in addressing potentially swollen international remittance fees, as well as related issues impacting low-income immigrants under the current remittance regulations. This letter is a belated thank you for the meeting between advocates[1] and relevant staff on remittance issues on November 1, 2022. If you would forward this to other appropriate staff, we would appreciate it.

The goals of our meeting and this letter are to ask the Bureau to take steps to— a) gather data on how well the disclosures required by the current regulations provide meaningful information to remittance senders, b) evaluate the different prices charged for sending international remittances by different types of providers, and c) consider amending the Remittance Rules to address issues raised by these findings.

1. Current disclosures are not clear. As we explained in our meeting on November 1, 2022, and in our letter of October 19, 2021,[2] we are concerned that the current disclosures required by Reg. E, 12

[1] Appleseed of Texas, Appleseed Network, UnidosUS, and Americans for Financial Reform.

[2] National Consumer Law Center, Coalition Letter to CFPB Regarding Hidden Fees in International Remittances, (Oct. 19, 2021).

C.F.R. §§ 1005.30-36 obscure the real costs of sending remittances by allowing remittance service providers to hide fees in the exchange rate spread, and to use estimates rather than firm disclosures for third-party charges.

Our 2021 letter included illustrations of how the current disclosure requirements allow providers to disguise true costs, often leading to higher charges for remittances.[3] Costs for remittance senders include inflated exchanges rates, fees charged by the remittance provider, fees charged by the provider's agent in the foreign nation, and the fees charged by the provider who delivers the remittance to the recipient. This makes it difficult for many consumers to choose the lowest-cost option.

Although the individual differences in fees between providers may be relatively small—only a few dollars on remittances of $100—many immigrants send funds home multiple times every month, and over time the cumulative impact of these higher costs are significant. Remittance senders in the United States are harmed, as are the recipients and the communities in which they live.

To evaluate this issue, we urge you to conduct consumer testing of the current disclosure requirements against a simpler disclosure scheme, which emphasizes just two discrete numbers:

> 1) the **total amount that the consumer will pay** (which combines the amount to be transferred with the total amount of fees charged for sending and receiving the remittance), and
>
> 2) the **total amount of foreign currency that the remittance recipient will receive** (after *all* fees have been subtracted, including third-party charges).[4]

Disclosure requirements emphasizing just these two numbers would allow senders to evaluate the actual cost, without requiring the complicated analysis of multiple variables.

2. Remittance Costs are Not Transparent for Many Providers. While some providers post their remittance charges on the internet in a way that allows meaningful comparison shopping of the real costs,[5] not all providers are so transparent. For instance, many banks and credit unions do not provide online price quotes, instead requiring consumers to log into their online banking accounts to

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[3] The World Bank, About Remittance Prices Worldwide, (2015), ("[O]ne of the most important factors leading to high remittance prices is a lack of transparency in the market. It is difficult for consumers to compare prices because there are several variables that make up remittance prices.")

[4] The total amount the consumer will pay for the remittance might be compared with the disclosure for total of payments required to be disclosed under the Truth in Lending Act, *see* 12 C.F.R. §1026.18(h). The total amount to be received would be analogous to the disclosure for the amount financed under TILA, *see* 12 C.F.R. §1026.18(b).

[5] *See e.g.,* International money transfers, Wise, (2022), https://wise.com/us/send-money/.

fill out cumbersome online forms before viewing the required price disclosures. These additional barriers to comparison shopping may be one reason that financial institutions have been found to charge higher prices.[6]

While the World Bank publishes reports on worldwide remittance costs, these reports do not capture the costs of sending remittances for a range of transfer amounts, and as a result, they do not allow an analysis of the full scope of the differences in remittance charges across the marketplace.[7] This is worrisome, as often the lowest-income immigrant consumers send repeated international remittances in small amounts that are not reflected in the World Bank report.[8]

This lack of transparency is most worrisome for the industry's most vulnerable consumers – low-income migrant farmworkers. These consumers often send frequent small dollar remittance transfers. They are likely to lack access to the internet[9] and transportation,[10] while having few options for nearby brick-and-mortar service providers in rural areas.[11] We worry that this restricted access may further insulate providers from competition, and thus lead to higher prices for this already marginalized group.

To evaluate this issue, we ask that the CFPB conduct a market-wide study on the charges imposed for sending international remittances, with a particular emphasis on the charges associated with sending remittances through different corridors, using a range of transfer amounts (accounting for differences in prices between low and high dollar amount transfers), across a variety of remittance services providers, along with collecting data on price differences between urban and rural areas. Such a study will enable the Bureau to target future reforms to ensure that access to the least-cost remittance providers is available to all senders.

3. Widespread Use of Estimates Adds Unnecessary Complexity. Contrary both to the spirit and letter of the Electronic Fund Transfer Act (EFTA), the CFPB has promulgated several

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6 Thorsten Beck, Matilde Janfils & Kangni Kpodar, Working Paper: What Explains Remittance Fees? Panel Evidence, International Monetary Fund, at 24 (April 2022) (The significant and positive coefficient on the share of banks suggest that banks do not only charge higher fees but also through their market share put upward pressure on fees charged by MTOs.).

7 The World Bank, Remittance Prices Worldwide Quarterly, 7, 22(Sept. 2022), (Only analyzing remittance costs for $200 and $500 transfer amounts).

8 The World Bank report also does not address the median transfer amounts for each type of remittance services provider, which may mean that fees for small dollar remittances are more inflated than these reports already suggest.

9 *E.g.,* Colorado Agricultural Workers' Rights of Access to Key Healthcare Providers: A Policy Brief. Front Public Health, (May 26, 2022), (identifying lack of transportation and internet access as key barriers to healthcare for migrant farmworkers).

10 *Id.*

11 *See e.g.,* Cons. Fin. Protec. Bureau, Data Spotlight: Challenges in Rural Banking Access, (Apr. 2022).

regulations that permit remittance providers to provide estimates instead of fixed amounts in the required disclosures. These estimates, and the disclosures that accompany them, undermine the value of the remittance disclosures, likely lead to inflated prices charged by the providers that use them, and make it difficult for consumers to evaluate whether they should pursue their rights to error resolution under the statute when amounts received differ from the disclosures. We are concerned that estimates seem likely to lead to inflated prices charged to consumers receiving them, as the remittance providers allowed to use estimates have fewer incentives to search for the least-cost third parties to lower costs.

The intent of the amendments to the EFTA in 2010 was to ensure that consumers sending remittances could obtain clear, concrete, and enforceable disclosures of the costs of international remittances. Since 2013, the remittance regulations permit providers to estimate several charges, including "non-covered third-party fees collected by a person other than the provider."[12] The EFTA authorizes estimates in only two instances, neither of which contemplates this exception.[13] With the burgeoning use of the SWIFT system, there is no real need for providers to estimate third-party fees, as SWIFT provides sufficient infrastructure to enable providers to determine third-party costs at the time the remittance is made.[14]

The 2020 amendments to Regulation E authorize financial institutions to use additional estimates that are not authorized by the EFTA. For example, financial institutions are allowed to estimate the applicable exchange rate when they have sent fewer than 1000 transfers to the designated recipient's country.[15] Financial institutions may also estimate covered third-party fees, defined as fees that are not non-covered third party fees, so long as the institution sent fewer than 500 transfers to the designated recipient institution in the previous year.[16] Both of these estimates are presumed compliant with the law so long as the designated recipient received *the same or greater* amount of funds in comparison to the amount the remittance transfer provider disclosed.[17] However, *all remittance transfer providers*, insured institutions and money transfer operators alike, must disclose that *non-covered* third party fees may result in the designated recipient receiving *less than the amount disclosed*.[18] The combination of stated prices, estimates, and this disclosure is undoubtedly confusing to many consumers, and seems likely to lead to higher prices.

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12 12 C.F.R. § 1005.31(b)(3).

13 15 U.S.C. § 1593o-1(a)(4).

14 Swift, The Payments Process Explained.

15 12 C.F.R. §1005.31(b)(4).

16 12 C.F.R. §1005.31(b)(5).

17 12 C.F.R. §1005.32(c).

18 12 C.F.R. §1005.31(b)(1)(vii)-(viii).

We recommend that the CFPB evaluate whether current technology would enable remittance transfer providers to disclose remittances costs based on fixed prices and re-consider whether allowing these estimates is still necessary.

4. Expanded Safe Harbor Likely Harms Immigrants. Finally, we ask that the CFPB re-evaluate the 2020 expansion of the regulatory safe harbor for financial institutions from the previous limit of 100 transfers per year to 500 transfers per year. We are concerned that the current regulatory safe harbor disincentivizes banks from participating in the remittance market in a way that would achieve economies of scale, and thus lower the price of sending international remittances for low-income consumers. World Bank reports show that banks are the most expensive remittance service providers in the market.[19] We suspect that this may partly be because most bank transfers are by wire transfers rather than international Automated Clearing House (ACH) payments.

The Federal Reserve offers a series of programs that enable international ACH payments, and these programs are rapidly growing.[20] Some of these programs enable financial institutions to determine costs up front in accordance with the EFTA and Reg E, obviating the need for estimates, but some do not enable originating remittance transfer providers to determine these costs.[21] We recommend that the Bureau study the programs offered by the Federal Reserve, and ensure that any future regulations (and possible safe harbors) are promulgated to ensure that banks both adhere to the statutory requirements in the EFTA and are simultaneously not incentivized to keep transfer amounts below arbitrary thresholds.

Banks may be less appropriate for senders making smaller dollar transfers, but the differences in costs and risks are not transparent to consumers. Some consumers may pay these higher prices because of a heightened sense of trust, trust that may not be warranted if their banks are subject to the safe harbor and the error resolution rules of the EFTA do not apply to the transaction.

Thank you very much for your consideration of our concerns and these requests. We, along with our advocacy partners, would be happy to engage more on these issues.

Sincerely,

Nicole Cabeñez
Skadden Fellow

Margot Saunders
Senior Counsel

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[19] The World Bank, Remittance Prices Worldwide Quarterly, 17-18 (Sept. 2022).

[20] *See* Eight additional countries now available for FedGlobal® ACH Payments (Aug. 3, 2020).

[21] Federal Reserve Board, FedGlobal ACH Payments Service Origination Manual, 8 (Oct. 6, 2022).