

CFPB Adopts Safe Harbor for Exempting Small Remittance Providers from Remittance Transfer Rule

In February 2012 the Consumer Financial Protection Bureau amended Regulation E to implement Section 1073 of the Dodd-Frank Reform Act to incorporate provisions relating to remittance transfers initiated by consumers. 77 FR 6194. The February 2012 final rule defines a “remittance transfer” as an electronic transfer of funds sent by consumers in the United States to recipients to be received in locations in other countries. The February 2012 final rule imposes a number of disclosure requirements on remittance transfer providers including requirements to disclose fees associated with the remittance upfront and to disclose the exchange rate and amount to be received by the recipient.

The Bureau has now issued additional amendments to Regulation E establishing a threshold (safe harbor) for determining whether a person is providing remittance transfers in the “normal course of business,” and thus is a “remittance transfer provider.” Under the final rule, a company, including a financial institution, that: (i) provided 100 or fewer remittance transfers in the previous calendar year; and (ii) provides 100 or fewer remittance transfers in the current calendar year, would not be deemed to be providing remittance transfers for a consumer in the normal course of its business and, thus is exempt from the provisions of the Bureau’s remittance transfer rule. Note that this safe harbor threshold is higher than what was originally proposed – which was 25 or fewer remittance transfers in the prior calendar year.

The amended rule also provides guidance when an institution’s remittance transfer activity exceeds the 100 threshold in a given year. Specifically, when an institution crosses the 100-transfer threshold the final rule permits a reasonable time period, not to exceed six months, to begin complying with the provisions of Regulation E. The amendments are effective February 7, 2013, which coincides with the final remittance transfer rule adopted by the Bureau in February 2012.

The final rule also revises several aspects of the February 2012 final rule regarding remittance transfers that are scheduled before the date of the transfer, including preauthorized remittance transfers.

For a detailed discussion of the February 2012 final rule, refer to BCG Handout #12-4A, “Expanding Regulation E: Final Rule on Remittance Transfers” (April 2012).