



# Remittance Transfers: Lessons from the Maxitransfers Consent Order

September 24, 2019

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# Overview of Remittance Transfer Rule

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# What is a remittance transfer?

## Key Terms

- Electronic Transfer
- Sender
- Designated Recipient
- Remittance Transfer Provider

“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.”

- 12 CFR 1005.30(e)(1)

# How are remittance transfers regulated?

- CFPB has rulemaking authority
- CFPB responsible for supervision and enforcement for non-bank companies
- Various bank regulators responsible for supervision and enforcement over banks depending on characteristics of the bank (e.g. size and charter)

# What do the remittance transfer rules require?

- Disclosures
  - Clear and accurate disclosures at specified times with specified content
  - Specific rules regarding estimates and when estimates are allowed
- Error Resolution – Specific timing and process requirements for responding to and resolving alleged errors
- Cancellation Procedures – Timing and process requirements for cancelling remittance transfers at the consumer's request
- Acts of agents – Providers are generally responsible for acts of their agents
- Transfers Scheduled Before the Date of Transfer – Special procedures for certain transfers that are scheduled in advance



# Lessons from the Maxitransfers Consent Order

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# Is the transaction a remittance transfer?

**Providers must accurately determine whether the transaction is a remittance transfer**

1. Transfers in cash or by another method conducted through a money transmitter or financial institution
2. Wire transfers from sender to designated recipient
3. Addition of funds to prepaid card in a prepaid card program where the prepaid card is sent or was previously sent to a person in a foreign country
4. International ACH transactions completed at the sender's request
5. Online bill payments and other electronic transfers made by the sender's financial institution at the sender's request to a designated recipient

“Until at least 2017, Respondent failed to treat its international bill-pay services as remittance transfers covered by EFTA and the Remittance Transfer Rule and did not provide consumers of these services with all of the consumer disclosures or protections these laws require.”

- Maxitransfers Consent Order



Example	Yes	No
Consumer sends cash at a money transmitter located in Colorado to a business recipient in France	✓	
Business sends cash at a money transmitter located in Colorado to a consumer recipient in France		✓ - business is not a "sender"
Consumer wires money from a bank account in California to a consumer bank account in Brazil	✓	
Consumer sends an ACH from a bank account in California to make a mortgage payment in Brazil	✓	
Consumer sends cash at a money transmitter in California to a consumer recipient in Colorado		✓ - recipient is not located in a foreign country
Consumer buys a prepaid card in the U.S., and provider gives or mails the prepaid card to that consumer in the U.S.		✓ - provider does not know whether consumer will send the card abroad
Consumer buys a prepaid card in the U.S., and the provider mails the prepaid card directly to a recipient abroad	✓	
Consumer has a U.S.-based bank account, and the consumer's bank mails an ATM card associated with that U.S. account to a recipient abroad		✓

# Are my disclosures compliant?

## Providers must ensure that their disclosures are compliant

- Must provided two disclosures
  - Prepayment
  - Receipt
- Must also provide a disclosure regarding error resolution and cancellation procedures when requested by the sender
- Disclosures must be clear and conspicuous
- Disclosures must generally be written and in a retainable form
  - Option to provide oral disclosures in limited circumstances
  - Option to provide disclosures via text message or mobile application in limited circumstances

“Respondent failed to use specified or substantially similar terms in its remittance disclosures. ”

- Maxitransfers Consent Order

## Prior to Payment

- **Pre-payment disclosure**

- Amount to be transferred
- Front-end fees and taxes
- Exchange rate
- Covered third--party fees
- Total amount to be received by designated recipient
- Disclaimer regarding non-covered third-party fees and foreign taxes (if applicable)

## Payment Made

- **Receipt**

- All information required in pre-payment disclosure
- Date of availability
- Name of designated recipient
- Error resolution/cancellation rights
- Remittance transfer provider contact information
- State regulator and CFPB contact information
- Transfer date (transfers scheduled 3+ business days before date of transfer and first in series of preauthorized RTs)

Alternative: Combined disclosure plus proof of payment

# Are my processes for resolving errors compliant?

**Providers must maintain policies and procedures to resolve errors and follow those policies and procedures**

- Error has a specific and fairly narrow meaning
- Providers must investigate, remedy, and notify the consumer within specified time frames

“[Maxitransfers] ‘CFPB Policy’ document failed to meet the requirements of § 1005.33(g)(1). Among other things, the “CFPB Policy” did not address what constitutes an “error” under the Remittance Transfer Rule; what constitutes a notice of error from a consumer; what investigation is required; how investigation results should be provided to consumers; or the time limits for an investigation.”

- Maxitransfers Consent Order

**Sender reports  
error within 180  
days of disclosed  
date of  
availability**



**Provider must  
investigate and  
make  
determination  
within 90 days**



**Provider must  
report results to  
sender within 3  
business days  
after completing  
investigation**



**If error occurred,  
must correct error  
within 1 business  
day, or as soon as  
reasonably  
practicable, or  
receiving sender's  
instructions**

# Do any of my representations constitute a UDAAP?


**Providers must ensure that their representations are accurate and understandable**

- The CFPB penalized Maxitransfers for inaccurately describing the consumer's legal rights in its terms and conditions

- While the Remittance Transfer Rule does not address a company's terms and conditions, representations are always subject to the general requirement that they cannot be unfair, deceptive, or abusive

“Respondent's statement that it would not be responsible for errors made by its payment agents misled or was likely to mislead consumers acting reasonably under the circumstances because Respondent in fact was responsible for their errors under EFTA and the Remittance Transfer Rule.”

- Maxitransfers Consent Order



# **Additional CFPB Guidance**

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# Themes from Supervisory Highlights

- Compliance Management System weaknesses
- Inaccurate, incomplete, or deceptive disclosures
- Transactions that do not benefit consumers
- Weaknesses in the error resolution and remedy processes
- Failure to treat international bill pay and top up services as remittance transfers



# Helpful Resources

- Regulation E and Appendices – CFPB hosted, user-friendly version of Regulation E and its appendices (including model forms in Appendix A)  
<https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1005/>
- Small Entity Compliance Guide – CFPB published, user-friendly description of the Remittance Rule requirements  
[https://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_Intl\\_Money\\_Transfer\\_Small\\_Entity\\_Compliance\\_Guide.pdf](https://files.consumerfinance.gov/f/documents/201701_cfpb_Intl_Money_Transfer_Small_Entity_Compliance_Guide.pdf)
- Model Forms – Organized list of Remittance Rule model forms  
<https://www.consumerfinance.gov/policy-compliance/guidance/remittance-transfer-rule/remittance-transfer-rule-model-forms/>
- Examination Procedures – CFPB's procedures for examining compliance with the remittance transfer rules  
[https://files.consumerfinance.gov/f/documents/201310\\_cfpb\\_remittance-transfer-examination-procedures.pdf](https://files.consumerfinance.gov/f/documents/201310_cfpb_remittance-transfer-examination-procedures.pdf)