May 23, 2017

Via Electronic Delivery

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

Re: **Docket No. Bureau–2017–0004; Request for Information Regarding Remittance Rule Assessment**

Dear Ms. Jackson:

The Clearing House Association L.L.C. ("The Clearing House"), the Consumer Bankers Association ("CBA"), the Bankers Association for Finance and Trade ("BAFT"), and the American Bankers Association ("ABA")[1], collectively referred to herein as the "Associations," respectfully submit this comment letter to the Consumer Financial Protection Bureau (the "Bureau") in response to the Bureau's notice and request for information ("RFI") regarding its planned assessment of regulations pertaining to consumer remittance transfers under the Electronic Fund Transfer Act (subpart B of Regulation E) (the "Remittance Rule" or the "Rule").[2]

The Associations appreciate the opportunity to provide recommendations for ensuring that the Remittance Rule achieves it purpose of protecting consumer-senders of remittance transfers while reducing compliance burdens on providers of those services. To that end, the Associations strongly support the Bureau's intent to include as part of the assessment process a review of sender *and* provider experience data, both statistical and empirical.

I. Executive Summary of the Associations' Comments and Recommendations

The Associations provide comments herein with respect to both (a) the methodology of the Bureau's Remittance Rule assessment plan, as described in the RFI; and (b) provisions of the Rule that the Associations would encourage the Bureau to retain, eliminate, modify or clarify. Regarding the assessment process, we encourage the Bureau to consider developing a "Remittance Rule Impact Survey" that could be used as a tool for the Bureau in its information gathering efforts. This survey could facilitate organized data collection, and better enable data comparison across remittance transfer

[1] Please see trade association descriptions at the end of this letter.
[2] Request for Information Regarding Remittance Rule Assessment, 82 Fed. Reg. 15009 (March 24, 2017).

providers. We also suggest that the Bureau incorporate a cost/benefit analysis, from both the sender and provider perspective, when comparing current remittance transfer transactions against a "baseline" transaction that would have occurred prior to adoption of the Remittance Rule.

With regard to specific Rule provisions, the recommendations of the Associations discussed below include:

- preserving the ability of depository institutions to provide estimates of third party fees and exchange rates (rather than actual fees and rates) in connection with remittance transfers to countries for which obtaining exact data is operationally not feasible;
- modifying the scope of the Rule by (i) excluding transfers in excess of a certain dollar amount, and (ii) excluding from coverage those transfers effectuated through reloadable prepaid cards;
- modifying disclosure requirements by (i) permitting senders more flexibility in selecting preferred delivery mechanisms, (ii) eliminating redundant disclosures to senders making concurrent, multiple transfers by phone, and (iii) simplifying the disclosures necessary for pre-scheduled transfers;
- modifying cancellation and resend rights by (i) eliminating the 30 minute cancellation window in lieu of a right to cancel prior to a provider's execution of transfer; and (ii) limiting error resolution remedies to a refund (rather than a resend request) when the error results from sender error, involves an amount less than $15, or does not impact the amount of funds received by the designated recipient; and
- modifying the Rule's error resolution provisions by holding the sender, and not the provider, responsible for transaction costs resulting from sender error.

II. Summary of the RFI

A. Introduction.

The Bureau has requested public comment on its plans to prepare an assessment report on regulations related to consumer remittance transfers under the Electronic Fund Transfer Act (subpart B of Regulation E). This assessment is required under The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") which requires the Bureau to conduct an assessment of its significant rules and orders, and publish a report of such assessment, no later than five years after the effective date of such rule or order.[3] Before publishing the report, the Bureau is also required under the Dodd-Frank Act to invite public comment on whether such rule or order should be modified, expanded, or eliminated.[4] As stated in the RFI, the Bureau has concluded that the Remittance Rule is significant, and accordingly, the Bureau is beginning its statutorily-required process of determining the effectiveness of the Rule in meeting its purposes and objectives under the Dodd-Frank Act, as well as those goals articulated by the Bureau during the rulemaking process.[5]

---

[3] 12 USC §5512(d).

[4] Id.

[5] The Bureau's goals in promulgating the Remittance Rule included (1) improving the predictability of remittance transfers; (2) providing consumers with sufficient information about the transaction to enable comparison shopping; and (3) with regard to amendments made in 2012 and 2013, limiting potential market disruption that

B. Bureau Assessment Process.

The RFI indicates that the Bureau's assessment will have two primary areas of focus: (1) whether the market for remittances has evolved in ways that promote access, efficiency, and limited market disruption by considering how volumes, prices and competition in the remittance transfer market may have changed since adoption of the Remittance Rule; and (2) whether new consumer protections have brought greater information, transparency and price predictability to the market.

Regarding its methodology, the RFI states that the Bureau will analyze available data and metrics (to the extent feasible), and conduct interviews with market participants, to better understand the following:

1. provider activities undertaken to comply with the Rule such as provision of disclosures, responses to errors, and provision of cancellation rights;
2. consumer utilization of error resolution rights;
3. whether the Rule has brought greater transparency and predictability of costs to consumers to enable them to comparison shop; and
4. other market impacts the Rule may have brought about, such as number and types or providers[6], number of remittances sent, and prices thereof.

Finally, the RFI identifies several specific Rule provisions that the Bureau "may" analyze, including: (i) use of the temporary exception that permits insured institutions to estimate third party fees and exchange rates (which expires in July 2020); (ii) the 100-transfer safe harbor exception to the definition of "provider"; (iii) exceptions to the error resolution requirements for sender mistakes involving incorrect account numbers and recipient institution identifiers; (iv) optional disclosure of recipient institution fees for transfers conducted over open networks; (v) optional disclosure of taxes imposed on a transfer other than those imposed on the provider; and (vi) foreign language disclosure requirements.

---

might have resulted from implementing the Remittance Rule as originally adopted. Request for Information Regarding Remittance Rule Assessment, 82 Fed. Reg. 15009, 15013 (March 24, 2017).

[6] We note that during the rulemaking process many smaller banks and credit unions stated that they would exit the remittance transfer market due to the burden of complying with the rule. For example, a working paper published in February 2014 based on a survey of small banks conducted in 2013, prior to the effective date of the Rule, found that only 22.5% of small banks offered remittance transfer services and of those 2.3% had already stopped providing the services as a result of the upcoming Rule and another 2.7% anticipated that they would stop providing the services. Hester Pierce, Ian Robinson and Thomas Stratmann, *How are Small Banks Fairing under Dodd Frank?*, Mercatus Center, February 2017, *available at* *https://www.mercatus.org/system/files/Peirce_SmallBankSurvey_v1.pdf*. It would be helpful for the Bureau to determine whether depository institutions exited the remittance transfer market and, if so, the impact to competition in the market. We further note that reduction in competition and services would be contrary to section 1073(b) of the Dodd Frank Act, which required the Treasury and Federal Reserve to expand international remittance services.

III. Comments and Recommendations

A. Assessment Plan Evaluation

As a general matter, the Associations support the Bureau's assessment plan; however, we make the following observations and suggestions intended to assist the Bureau in gathering robust data that will enable a more accurate assessment of the Rule's impact on senders, providers, and the expediency of remittance transfers.

1. Remittance Rule Impact Survey

While the RFI indicates that the Bureau will conduct interviews with industry participants, it is unclear how interview candidates (particularly providers) will be selected, and whether the interviews will be conducted using a uniform, pre-set agenda, or be more "free-form" in scope. To that end, the Associations suggest the creation of an optional, confidential survey that can be used as a data-gathering tool for the collection of specific information from providers regarding their Remittance Rule compliance efforts. Such a survey could be completed by providers and submitted to the Bureau in advance of any interviews so as to promote more focused, meaningful discussions. Ideally, the survey should be disseminated broadly and be designed to capture more empirical experience information to supplement any available statistical data available through other sources identified by the Bureau in the RFI (such as from the Federal Financial Institutions Examination Council ("FFIEC") Call Report Schedule RC-M, or the World Bank Migration and Remittance Database), and facilitate comparison of results across providers. Topics covered might include:

a. Rule impact on remittance service offerings, including availability, fees, and transaction dollar thresholds (whether minimum or maximum);

b. Frequency and nature of customer complaints, including sufficiency of disclosures, customer experience with oral disclosures provided by phone, including when multiple transfers are sent at the same time, expediency of transactions, and speed of transfers;

c. Customer use of error resolution procedures;

d. Evidence of consumer use of disclosures to "comparison shop";

e. Procedure for accommodating and customer use of "30-minute" cancellation window; and

f. Compliance operational costs.

2. Remittance Transfer "Baseline" Transaction and Corresponding Cost/Benefit Analysis

One assessment tool that the RFI states that the Bureau will develop is a compliance "baseline" transaction designed to illustrate the difference in pre- and post-Rule "consumer outcomes." As part of this exercise, the Associations suggest that the Bureau perform a cost/benefit analysis (from both the sender and provider perspective), and that such analysis consider both increases in the cost of services and compliance as well as any negative impact on the availability or growth of remittance transfer

services that have resulted from the Rule, including whether providers restrict remittance to in-person transactions and restrict the time during which the service is available.[7]

B. Recommendations for Retaining, Modifying, or Eliminating Provisions of the Remittance Rule

The Associations appreciate the Bureau's engagement with the financial institution industry during the rulemaking process and the important improvements the Bureau made to the Remittance Rule that were critical – and remain critical – to the ability of financial institutions to provide remittance transfer services. However, many of the policy underpinnings of the Rule that the Associations identified during the rulemaking process as being not well-suited to bank services remain so today. Specifically, the Associations continue to think that the scope of the Rule goes beyond the class of consumers that Section 1073 of the Dodd-Frank Act was intended to protect, namely consumers sending relatively small-dollar transfers to other countries.

In addition, banks' experiences with the Rule over the past four years have validated many of the banks' predictions made during the rulemaking process about the needs and preferences of their consumer customers. For example, the Rule's assumption that consumers will use the prepayment disclosure to comparison shop between various providers has not proven to be a prevalent practice among bank customers. Receipt disclosures provided at the time a transfer is requested also do not appear to be of use to consumer customers, especially those who send large value transfers or multiple transfers at once. Additionally, the 30-minute cancellation window tends to be more a source of frustration to bank customers than a benefit utilized with any meaningful frequency.

1. ***Retain those Rule Provisions and Interpretations that Facilitate Remittance Transfers Without Depriving Consumers of Necessary Protections***

As an initial matter, the Associations recognize that the Bureau has taken several actions to account for the practical realities of open-network remittance transfer services provided by banks without causing harm to consumer-senders. For example, recognizing the difficulties inherent in providing exact disclosures in all remittance transfer scenarios, the Bureau appropriately included exceptions to several of the Rule's disclosure provisions that enable providers to provide estimated amounts in their disclosures. As further discussed below, the Associations believe that these exceptions need to stay in place and that there is no evidence to suggest that the continued use of estimates for certain disclosures will result in consumer harm. We therefore encourage the Bureau to extend, or make permanent, many of these exception provisions. Specifically, we suggest that the Bureau take the following actions:

[7] As described more fully in ABA's separate letter, a survey that ABA conducted of 75 of its member banks shows that the Rule has restricted consumers' access to remittances, increased fees for use of the service, and unnecessarily delayed remittance requests. Specifically, as a consequence of the Rule, 60% of surveyed banks have experienced increased costs, and nearly 40% have increased their fees charged to customers to send a remittance to cover the added compliance costs. In addition, nearly 80% of banks report never receiving a customer request to cancel a remittance transfer and nearly 75% of banks have never received an error claim from a customer, calling into question the benefit provided by the Rule's cancellation and error resolution provisions.

a. *Make permanent, or extend, the ability of depository institutions to provide estimates of third party fees and exchange rates after the July 21, 2020 "sunset date" of the temporary exception*.[8] The Associations recognize that there are statutory restraints under the Dodd-Frank Act to extending the temporary exception beyond July 21, 2020. The Associations are hopeful, however, that the Bureau will work with depository institution providers to either pursue a legislative remedy to this problem, or by exercising its rulemaking authority under other provisions of the Rule to provide relief on this issue.

The Bureau could accomplish this by recognizing that the method by which transfers are made to low-volume corridor countries does not permit a provider to disclose the exact amounts required under the Rule such that estimates would be permissible under the permanent exception for transfers to certain countries.[9] Providers are unable to determine exacts amounts for such corridors because the low-volume of transactions and resulting lack of correspondent relationships in such geographies[10] makes the usual means by which depository institutions gather information to enable exact disclosures cost prohibitive or not operationally feasible.[11]

If the temporary depository institution exception sunsets, transfers to such low-volume corridors may be jeopardized as depository institutions will be required to provide exact disclosures without a reasonable means of gathering the necessary information. If depository institutions stop providing transfers to these corridors, competition will be reduced in the remittance transfer market for the impacted corridors. Moreover, depository institution customers will experience a reduction in services and be forced to send such transfers via potentially more expensive services or use informal, unregulated channels.

The Associations believe that the Bureau's investigation into depository institution reliance on the temporary exception will reveal that (i) utilization by depository institutions of estimates of third party fees and exchange rates (rather than actuals) is a very infrequent basis of consumer-sender complaints; and (ii) the availability of the temporary exception has not been used by depository institutions as an excuse to delay efforts to obtain data needed for exact disclosures when such data is reasonably available. In fact, depositories have been diligent in building out their information networks to procure the required data whenever possible. For example, in 2014, The Clearing House providers (on average) used estimates for

---

[8] Id. at §1005.32(a)(1).

[9] Id. at §1005.32(b)(1)(i)(B). Currently the CFPB through commentary limits this exception to transfers made via certain FedACH Global services. Bureau Official Interpretation 32(b), comment 3.

[10] In many low-volume countries U.S. banks have reduced correspondent relationships in recent years due to compliance and regulatory concerns. For example, a recent article reported a study that found U.S. banks reduced their correspondent relationships by 20% between 2009 and 2016. Mark Taylor, *Sanctions Fears Propel Western Banks' Derisking Drive,* Law360, May 8, 2017.

[11] For example, some global banks survey their correspondents on an annual basis to gather information about lifting fees and local charging practices and use this information to provide disclosures. Global banks may also track the cost of transfers sent to certain countries. For low-volume corridors, the cost of gathering and tracking this data may greatly exceed the revenue a bank makes from sending transfers to the region.

8.66% of their remittance transfers; by 2016, that number was down to 5.82%.[12] These statistics suggest that the industry is being judicious in its use of the exemption, and that only a relatively small percentage of remittance transfers are utilizing the temporary exemption. Notwithstanding this significant progress, the Associations believe that the industry is unlikely to reduce its use of the temporary exception to 0% by 2020, and thus the ability to provide estimates needs to preserved.

b. *Retain and expand the list of "safe harbor" countries that have laws impacting exchange rates*.[13] As a corollary to the above request, the Associations urge the Bureau to consider expanding the list of those countries for which the provision of exchange rate estimates (rather than actuals) would be permitted on Rule-required disclosures.

c. *Retain the optional disclosure of non-covered third party fees and taxes imposed on a transfer other than those imposed by the provider.*[14] The Bureau should permit the use of the disclaimer in all instances when non-covered third party fees and foreign taxes may be assessed on the remittance transfer. The disclosure of these amounts, whether actual or estimated, is optional under the Rule, and so the consumer sender is not losing any Rule-mandated protection. Furthermore, making this disclosure mandatory would likely lead many institutions (particularly smaller community banks) to stop providing remittance services to their customers. The time and cost required to obtain and disclose such data, and the consequences under the Rule for not providing the data (or providing inaccurate data) may be viewed as too onerous a compliance burden to warrant continued provision of the service.

d. *Retain those Rule provisions and interpretations that hold the sender, and not the provider, liable for transaction errors that result from sender mistakes involving the provision of incorrect recipient account numbers and recipient institution identifiers*.[15] The RFI indicates that the Bureau may, as part of its assessment effort, analyze information about exceptions to the Rule's error resolution provisions for sender mistakes involving incorrect account numbers and recipient institution identifiers.[16] The Association believes that these protections for providers acting on sender-provided data are necessary to ensure the continued availability of remittance transfer services. Providers are not in a position to readily ascertain the accuracy of recipient-related data provided by a sender during a transfer request, and placing such a duty on providers, or making providers financially liable for such sender error, would be inequitable, operationally unfeasible, cost-prohibitive, and contrary to sound risk management.

---

[12] Based on a review of Schedule RC-M in the FFIEC call reports for Clearing House member banks in 2014 and 2016.
[13] Id. at §1005.32(b)(1)(ii).
[14] Id. at §1005.31(b)(1)(viii).
[15] Id. at §1005.33(c).
[16] Request for Information Regarding Remittance Rule Assessment, 82 Fed. Reg. 15009, 15013 (March 24, 2017).

e. *Retain the clarification under the Rule that a "sender" includes consumers on U.S. military bases located in foreign countries*.[17] As a general matter, the Rule provides that a sender is an individual located in a "State," and that for transfers from a consumer's account, the consumer is located in the State where the account is located.[18] The Associations encourage the Bureau to retain the clarification that, for purposes of the Rule, members of the U.S. military physically located in a foreign country should be treated by providers as being located in a State, and similarly, accounts located on U.S. military installations located in foreign countries should be treated as accounts located in a State.

2. ***Modify Scope of the Remittance Rule***

The Associations continue to believe that the Remittance Rule is overly broad in scope, which has a negative impact on both consumer-senders and financial institution providers. Accordingly, the Associations would encourage the Bureau to consider the following Rule revisions:

a. *Modify the definition of "remittance transfer" to exempt high-value transfers in excess of a certain amount, e.g., $10,000*. The Associations believe this narrowing of the Rule's scope is justifiable because consumers who send high-dollar transfers are not sending "remittances" as the term is commonly used (i.e., a small value payment sent to family members in another country)[19]. Thus, such consumers do not need the special protections mandated by the Rule. In fact, many members of the Associations have reported that customers who send high value transfers frequently complain about cumbersome, often redundant Rule disclosures. Furthermore, we note that modifying the scope of the Remittance Rule would be consistent with the statutory authority given to the Bureau under the Dodd-Frank Act to "conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services, from any provision of [Title X], or from any rule issued under [Title X], as the Bureau considers necessary or appropriate to carry out the purposes and objectives of [Title X]…."[20] Precedent exists for relaxing the Rule's applicability to high-dollar transactions; consider, for example, Regulation Z's relaxed disclosure requirements for loan transactions in excess of certain dollar thresholds.[21]

---

[17] Id. at §1005.30(g).

[18] See Bureau Official Interpretation 30(g)(1).

[19] As the Federal Reserve Board's initial request for public comment on the proposed Remittance Rule suggests, the consumer protection concerns that motivated the development of the Rule were not high-value transfers initiated by private banking and wealth management customers, but rather low-value transfers to family members living abroad. See 76 Fed. Reg. 29902 (May 21, 2011) ("The term "remittance transfer" typically describes a transaction where a consumer sends funds to a relative or other individual located in another country, often the consumer's country of origin. Traditional remittance transfers often consist of consumer-to-consumer payments of low monetary value.").

[20] See Dodd-Frank Act §1022(b)(3)(A). The Remittance Rule statutory provisions of the Dodd-Frank Act are located at Dodd-Frank Act Title X, §1073.

[21] See, e.g., 12 CFR §1026.3(b) (credit extensions in excess of annually-determined threshold amounts exempt from regulation, including disclosure requirements).

b. *Eliminate coverage of reloadable prepaid cards.* The Remittance Rule, as written, covers prepaid cards mailed to recipients outside of the U.S. Specifically, it restricts the ability of a consumer to load funds on to such a card as such loads would require disclosures which cannot be practically provided. The Associations believe this is unnecessary given other federal laws and rules that impose restrictions on the mailing and use of prepaid cards outside of the U.S that are purchased by consumers (e.g., Regulation II, the Bank Secrecy Act and related anti-money laundering rules adopted by the Financial Crimes Enforcement Network ("FinCEN")).[22] Additionally, prepaid card disclosure requirements (and a host of other account holder protections) are now covered by the Bureau's new Prepaid Card Rule, effective April 2018.[23]

The Associations believe that coverage of prepaid cards under the Remittance Rule creates a compliance problem in those situations in which a consumer purchases a prepaid card in the U.S., subsequently moves to (or travels to) a foreign country, and then requests a replacement card. Because these cards could potentially be reloaded by a consumer, the technical reading of the Rule means that an issuer cannot send the customer a replacement card. The Rule similarly restricts joint card accounts where one of the joint cardholders is out of the U.S. Accordingly, the Associations urge the Bureau to modify the Rule such that (i) reloadable prepaid cards may be treated, for purposes of the Rule, like a debit card tied to a checking account; or (ii) the location of the prepaid card account would always be the (omnibus) account where the underlying funds are held, regardless of where the card is actually mailed or used.

3. ***Modify the Remittance Rule Disclosure Requirements***

There are certain operational challenges faced by providers when trying to comply with the Rule's disclosure obligations. The Associations encourage the Bureau, as part of its Rule assessment, to consider whether permissible disclosure delivery mechanisms could be determined without reference to the manner in which a sender interacts with a provider to instruct a remittance transfer (i.e., in-person, by phone, on-line, or via mobile device (which term could encompass a broad range of wireless devices (e.g., tablets) which may or may not have telephone capabilities or Internet access)). Accordingly, the Associations urge the Bureau to consider the following actions:

a. *Permit greater, alternative disclosure delivery options that would give consumers greater flexibility in determining how they would like to receive Rule-required disclosures.* For example, remittance transfers requested by phone could be greatly expedited if providers had the option of offering senders the ability to receive required disclosures in writing after the transfer is instructed rather than being required to listen to an oral disclosure. This is particularly true for customers who send routine remittance transfers, are familiar with the nature of the remittance disclosures, and would likely prefer to receive transaction-specific disclosures by e-mail or text message. The Associations are *not* advocating that

[22] See 12 CFR Part 235 (Regulation II); 31 USC 5311 et seq. (Bank Secrecy Act); 31 CFR Part 1010, 1022 (FinCEN Prepaid Access Rules).
[23] See 81 Fed. Reg. 83934 (November 22, 2016).

optional delivery channels be mandated by regulation, but rather that the provider have the ability, if it chooses, to offer its consumer-senders alternative delivery channels and that consumer-senders have the ability to choose from such alternative delivery channels.

b. *Eliminate duplicative disclosure requirements to senders making multiple, concurrent transactions by phone*. This is a frequent complaint from customers of members of the Associations who are required under the Rule to listen to lengthy, redundant disclosures during a single telephone call. The Associations believe there is no benefit to requiring a sender to listen to duplicative oral disclosures during the same telephone session during which multiple transfers may be requested, and that the sender in such situation should have the option of being provided with an abbreviated version of the disclosures after the first full disclosure has been provided in the same telephone session.

c. *Eliminate the long form error resolution and cancellation notice.*[24] Many providers never receive requests from senders for this notice yet must train, test, and manage multiple systems to make the notice available, and manage compliance for the notice content. Sufficient information is provided in the other required disclosures, e.g., receipt requirement under 1005.31(b)(2)(iv).

d. *Simplify disclosure requirements for pre-scheduled transfers*. Many providers have discontinued or chosen not to implement a pre-scheduled offering because the requirements for disclosures are too complex and too costly to implement. As part of its assessment plan, we request that the Bureau consider whether and how the disclosure requirements for pre-authorized transfers could be streamlined so as to encourage more providers to continue providing these types of transfers.

4. ***Modify the Remittance Rule Cancellation and Refund Rights***

a. *Eliminate the Rule's "30-minute cancellation" window in lieu of the customary right of a customer to cancel a payment if such cancellation request is received prior to the bank's execution of the payment*. The Associations believe that statistical evidence from providers will support the view that the 30-minute cancellation window is not utilized by senders with any meaningful frequency.[25] In addition, we think that the Bureau's planned interviews with providers will reveal that it is common industry practice for bank providers to simply "hold" remittance transfer funds pending expiration of the 30-minute cancellation window so as to avoid

[24] See 12 CFR §1005.31(b)(4).

[25] One member of The Clearing House reports that, in 2016, less than .61% of all remittance transfers processed were cancelled within the 30-minute window; another Clearing House member reports that, during the first quarter of 2017, only .16% remittance transfers sent through one of its retail services were cancelled during the 30-minute window, and that a survey of its correspondent bank customers (i.e., those banks for which the Clearing House member provides correspondent services) reported no cancellation requests from consumers during the same period. The Associations believe their other members would report statistics consistent with these numbers, and again encourage the Bureau to solicit this data from industry providers as part of its Rule assessment.

incurring costs that would result from recalling a cancelled transfer. Further some banks extend the 30 minutes to ensure that a transfer is not executed while a consumer may be on hold and waiting to speak with a bank representative to cancel the transfer. Note that the 30-minute cancellation window can result in even further execution delays if the transfer request is received at the end of a business day which delays execution until the opening of the next business day (and even greater delay if received at the end of business on a Friday). Such delays may also put the consumer at a financial disadvantage by resulting in a less favorable foreign exchange rate being quoted, disclosed, and applied to the transfer amount; the possibility of this would be largely determined by how the provider manages transaction risk.[26] Furthermore, the historic rationale for this cancellation period, i.e., to enable consumers to change their mind about a transfer if they find a provider offering lower fees, is unrealistic and not observed in practice. Hence, we think retention of the 30 minute cancellation window offers little discernable "upside," while elimination of the window would actually benefit the consumers by enabling faster execution of their transfers.

The Associations encourage the Bureau, as part of its assessment efforts, to inquire of routine senders who use their bank as a provider whether they are, in fact, using the cancellation period to "comparison shop." Finally, the Associations urge the Bureau to consider, from a public policy perspective, that the 30-minute window is contrary to the stated goals of the Federal Reserve System's Faster Payments Task Force, and its published *Strategies for Improving the U.S. Payment System*, which include improving speed and efficiency of all payments, generally, and the timeliness of cross-border payments, specifically, which the Federal Reserve describes as "slow" and "inconvenient."[27]

b. *Allow providers to limit error resolution to refund (rather than resend) when (i) an error results from sender error; (ii) when the amount in error for any reason is less than $15; and/or (iii) when the error, whether provider error or sender error, has no impact on the amount of funds actually received by the designated recipient of the transfer.* This suggested approach would avoid the provider being forced to incur additional expense likely to result from multiple "resend" requests from the consumer-sender in situations where the provider reasonably believes that the resend attempt will similarly fail. Also, providers should not be forced to incur costs for resending funds related to small amount errors when the sender can be made whole through a refund. Similarly, providers should not be forced to send amounts to a designated recipient that correct errors that did not result in the recipient receiving an incorrect amount. For example, if a consumer's account is erroneously debited in an incorrect amount (e.g. $110 debit for a $100 transfer) but the correct amount was received by the designated recipient, the provider should only be

[26] As described more fully in ABA's separate letter, a survey that ABA conducted of 75 of its member banks found that over one-third of the banks reported that the 30 minute cancellation window has delayed remittance transfers, increased bank fees charged to the customer, or reduced hours during which a customer may order a remittance transfer.

[27] See, generally, https://fedpaymentsimprovement.org/wp-content/uploads/strategies-improving-us-payment-system.pdf.

required to refund the consumer the amount in error (e.g. $10) and not send the amount to the designated recipient.

5. ***Modify the Remittance Rule Error Resolution Procedures***

a. *Require the sender, and not the provider, to absorb any costs resulting from true sender error (i.e., incorrect designated recipient, or incorrect recipient account)*. Under the existing Rule, the provider is required to absorb certain fees and costs (including foreign exchange differences) when a remittance transfer fails as a result of sender error. Such an inequitable approach does not further any of the Bureau's stated goals behind the Rule, and may in fact negatively impact the availability of remittance transfer services.

b. *Reconsider the appropriateness of the length of time within which a sender must assert error (currently 180 days) and whether a shorter timeframe (e.g., 60 days) would be equally protective of consumer rights.*[28] It is unlikely that a sender would require 180 days to discover an error, which is *three times* the 60-day period that a consumer has to assert an error under Subpart A of Regulation E.[29] A 180-day time period within which to report an alleged error rewards senders who are dilatory in pursuing their rights and makes it more difficult for providers to seek recourse for the out-of-pocket losses they have to bear. The Associations request that the Bureau ask providers, during the Rule assessment interviews, how many remittance transfer errors are being reported outside of a 60-day window.

****

[28] 12 CFR §1005.33(b)(1).

[29] Id. at §1005.6(b)(3).

Thank you for your consideration and review of these comments. If you have any questions or wish to discuss this letter, please do not hesitate to contact the undersigned using the contact information provided below.

Yours very truly,

/S/Alaina Gimbert

Alaina Gimbert
Senior Vice President & Associate General Counsel
The Clearing House Association L.L.C.
alaina.gimbert@theclearinghouse.org

/S/ David Pommerehn

David Pommerehn
Vice President & Associate General Counsel
Consumer Bankers Association
dpommerehn@consumerbankers.com

/S/Samantha Pelosi

Samantha Pelosi
Senior Vice President, Payments and Innovation
Bankers Association for Finance and Trade
spelosi@baft.org

/S/Robert G. Rowe, III

Robert G. Rowe, III
Vice President & Associate Chief Counsel,
Regulatory Compliance
American Bankers Association
rrowe@aba.com

Trade Associations

The Clearing House is a banking association and payments company that is owned by the largest commercial banks and dates back to 1853. The Clearing House Payments Company L.L.C. owns and operates core payments system infrastructure in the United States and is currently working to modernize that infrastructure by building a new, ubiquitous, real-time payment system. The Payments Company is the only private-sector ACH and wire operator in the United States, clearing and settling nearly $2 trillion in U.S. dollar payments each day, representing half of all commercial ACH and wire volume. Its affiliate, The Clearing House Association L.L.C., is a nonpartisan organization that engages in research, analysis, advocacy and litigation focused on financial regulation that supports a safe, sound and competitive banking system.

The **Consumer Bankers Association** is the only national financial trade group focused exclusively on retail banking and personal financial services—banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members include the nation's largest bank holding companies as well as regional and super-community banks that collectively hold two-thirds of the total assets of depository institutions.

BAFT is an international financial services trade association whose membership includes banks headquartered in roughly 50 countries around the world, financial services providers, as well as a growing number of non-bank and financial technology companies. BAFT provides advocacy, thought leadership, education and training, and a global forum for its members in the areas of transaction banking including trade finance, cash management, payments, liquidity, and compliance. For nearly a century, BAFT has played a unique role in expanding markets, shaping legislative and regulatory policy, developing business solutions, and preserving the safety and soundness of the global financial system.

The **American Bankers Association** is the voice of the nation's $17 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $13 trillion in deposits and extend more than $9 trillion in loans.