

Remittance Transfer Examination Procedures

These procedures should be used to examine institutions that provide remittances in the normal course of business for compliance with protections afforded consumers in the United States who send remittances to individuals and businesses in foreign countries (including to accounts abroad).

Examiners should complete a risk assessment, conduct necessary scoping, and use these procedures, in conjunction with the compliance management system review procedures, to conduct a remittance transfer examination.

Examination Objectives

1. To assess the quality of the regulated entity's compliance risk management systems in its remittance transfer business.
2. To identify acts or practices that materially increase the risk of violations of federal consumer financial law and associated harm to consumers in connection with remittance transfers.
3. To gather facts that help to determine whether a supervised entity engages in acts or practices that are likely to violate Federal consumer financial law in connection with remittance transfers.
4. To determine, in accordance with CFPB internal consultation requirements, whether a violation of a federal consumer financial law has occurred and whether further supervisory or enforcement actions are appropriate.

Background

Regulatory History

The Wall Street Reform and Dodd-Frank Act amended the Electronic Fund Transfer Act (EFTA) and created a new system of consumer protections for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries. In December 2011, the CFPB restated the Board's implementing Regulation E at 12 CFR Part 1005 (76 Fed. Reg. 81020) (December 27, 2011). In February 2012, the CFPB published Subpart B (Requirements for Remittance Transfers) to Regulation E to implement the new remittance protections set forth in the Dodd-Frank Act (77 Fed. Reg. 6194) (February 7, 2012).¹

Following a series of amendments published later in 2012 and early 2013, the Bureau published another amendment in May 2013 to, among other things, establish a new effective date of October

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¹ The amendment designated 12 CFR 1005.1 through 1005.20 as Subpart A.

28, 2013 (78 Fed. Reg. 30661) (May 22, 2013). In 2014, the Bureau extended a temporary exception within the remittance rule (that has since expired) and provided some basic clarifications and technical corrections to the rule effective November 17, 2014 (79 Fed. Reg. 55970)(September 18, 2014). Minor clerical and non-substantive edits were made in 2016, effective November 14, 2016 (81 Fed. Reg. 70319)(October 12, 2016).

The Bureau further amended Regulation E in November 2016. These amendments were finalized and effective as of April 1, 2019 (83 Fed. Reg. 6364) (February 13, 2018). The latest amendments to Regulation E occurred in May 2020 further amending Subpart B, effective July 21, 2020 (85 Fed. Reg. 34870 (June 5, 2020)).

Effect of Remittance Rules on Transaction Practices

A “remittance transfer” is an electronic transfer of money from a consumer in the U.S. to a person or business in a foreign country. It can include transfers from retail non-depository “money transmitters” as well as banks and credit unions that transfer funds through wire transfers, automated clearing house transactions, or other methods.

The rule requires providers to disclose to consumers who send these transfers, certain fees, the exchange rate, and an indication of the amount to be received by the recipient. Disclosures must generally be provided when the consumer first requests a transfer and again when payment is made. The rule also contains specific provisions applicable to transfers that consumers schedule in advance and for transfers that are scheduled to recur on a regular basis. In addition, the rule also generally requires that:

1. Consumers receive the opportunity to cancel a transfer and get their money back.
2. Companies investigate if a consumer reports a problem with a transfer. For certain errors, consumers can generally get a refund or have the transfer sent again free of charge if the money did not arrive as promised.
3. Companies that provide remittance transfers are responsible for mistakes made by certain people who work for them.

Additional guidance in the form of a narrative summary of the remittance transfer rule and an examiner checklist are provided in the Supplemental Information attached to these procedures.

Consumer Risks Addressed Outside the Remittance Rule

To carry out the objectives set forth in the Examination Objectives section, the examination process should also include assessing consumer risks addressed outside the remittance rules. These risks may include potentially unfair, deceptive, or abusive acts or practices (UDAAPs). Examiners should refer to the procedures that address UDAAPs for information about the relevant legal standards and the CFPB’s approach to examining for UDAAPs. Because the particular facts and circumstances in a case are crucial to the determination of UDAAPs,

examiners should consult with Headquarters to determine whether the applicable legal standards have been met before a UDAAP violation is cited.

Moreover, examiners should ensure that the Remittance Transfer Provider's account agreement does not waive the consumer's rights under the Electronic Funds Transfer Act (EFTA) or Regulation E. Section 914 of EFTA (15 USC 1693l) provides that an agreement or writing between the consumer and the institution cannot contain language that constitutes a waiver of any consumer's right or cause of action created by EFTA or Regulation E. An example of this, which has been cited on previous deposits examinations, is including a requirement that the consumer must agree to "cooperate" with an investigation before the institution will conduct an error investigation.

Further, examiners should consider whether a remittance provider has complied with privacy provisions enacted as part of the Gramm-Leach-Bliley Act (GLBA) and implemented through Regulation P. These provisions impose limitations on when financial institutions can share nonpublic personal information with third parties. They also require under certain circumstances that financial institutions disclose their privacy policies and permit customers to opt-out of certain sharing practices with unaffiliated entities.

Scoping Considerations

The remittance transfer protections provided by Regulation E apply to entities that offer remittances as part of their "normal course of business." Under Regulation E, entities that provide 500 or fewer remittance transfers in the relevant time frame fall outside this definition. Instead, they fall within a 500-transfer "safe harbor." For an entity to qualify for this "safe harbor," it must have provided 500 or fewer remittance transfers in both the current calendar year and the previous calendar year. If an entity sends more than 500 transfers either in the previous calendar year or the current calendar year, it no longer qualifies for the "normal course of business" safe harbor, and therefore, generally, it must begin complying with the rule within a reasonable period of time (not to exceed six months).

Examiners should consider the volume of remittance transfers that an entity provides before proceeding further. Only entities that provide more than 500 remittance transfers in the relevant time frame should be examined for compliance with the remittance transfer rules.

Management and Policy-Related Examination Procedures

1. Through a review of all available information (e.g., board minutes, management reports, monitoring reports, etc.) and discussions with management, determine that the board and management have set clear expectations about compliance with federal consumer financial law, including Regulation E, not only within the entity but also concerning key business partners, agents, correspondent banks, and software providers, to the extent relevant.

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2. Through a review of all available information (e.g., written policies and procedures, management's self-assessments, customer complaints, prior examination reports, and any compliance audit material, including workpapers and reports), determine whether:
 - a. There are any weaknesses or other risks in the business model;
 - b. The scope of the audit addresses all provisions of Regulation E as applicable;
 - c. The scope of the audit addresses all key business processes and functions, including those carried out by third-party service providers or key business partners, as appropriate;
 - d. Management has taken corrective actions to follow up on previously identified deficiencies;
 - e. As applicable, testing includes risk-based samples covering product types and decision centers;
 - f. There is an audit trail that supports the findings and conclusions of the work performed;
 - g. Significant deficiencies and their causes are included in reports to management and/or to the board of directors or principal(s); and
 - h. The frequency of review is appropriate.

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3. Through discussions with management and review of available information, determine whether the entity's internal controls are adequate to ensure compliance with respect to the Regulation E area under review. Consider among other things:
 - a. Organizational charts;
 - b. Process flowcharts;
 - c. Policies and procedures;
 - d. Account (if applicable) and transaction documentation;
 - e. Checklists; and
 - f. Computer program documentation.

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4. Through a review of the entity's training materials and discussions with management, determine whether:

- a. The entity provides appropriate training to employees and other persons responsible for Regulation E compliance and operational procedures; and
- b. The training is comprehensive and covers the sections of Regulation E that apply to the individual entity's product offerings and operations including, to the extent appropriate, those functions carried out by third-party service providers or other business partners, such as agents and correspondent banks.

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Transaction-Related Examination Procedures

As applicable, conduct transaction testing using the following examination procedures:

Obtain all available information as it relates to the provider's remittance program. Examples of this include but are not limited to:

- a. List of divisions or departments involved in offering or providing remittance transfers (e.g., retail, high net worth, prepaid cards, bill payment, online or mobile banking, foreign exchange and/or treasury departments);
- b. Remittance transfer products offered;
- c. Disclosure forms in all languages (as applicable);
- d. List of foreign countries to which the provider sends remittance transfers, if available;
- e. List of all foreign currencies in which remittance transfers sent by the provider may be received where there are limitations on such currencies, and identification of the currencies in which the provider controls the exchange rate;
- a. List of all third-party service providers or business partners involved in remittance transfers, including correspondent banks, payment networks, payment processors, software providers, foreign currency providers, agents in the U.S. or abroad, or similar entities;
- b. Locations of U.S. and foreign agents;
- c. Applicable documentation related to remittance transfer operations (e.g., transaction logs, agent/respondent agreements, advertising and marketing material including any done in foreign languages, and documentation regarding calculation or estimates of fees, taxes, exchange rates, and dates included on disclosures);
- d. Procedural manuals and written policies;
- e. Error resolution files;
- f. Form letters used in case of errors or questions concerning a remittance transfer (including any provided in foreign languages);

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- g. Any agreements with third parties allocating compliance responsibilities; and
- h. Consumer Complaint Files.

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Module 1: Disclosures

General Form of Disclosures – 12 CFR 1005.31

1. Obtain and review a sample of the provider's disclosure forms for the provider's various remittance transfer products. Include disclosures as provided for various products and through various channels (e.g., in person, through a website, by telephone, through a mobile phone application, or a text message, or through online bill pay). Verify that:
 - a. Disclosures are in the appropriate form, and are clear and conspicuous (for transfers conducted online or by telephone via mobile application, determine which screen(s) shown to the consumer are the provider's disclosures);

Note: It may be helpful to request a walkthrough of the remittance provider's product to understand where and at what time consumers encounter the required disclosures.

- b. Written and electronic disclosures are in a retainable form (except where expressly permitted not to be retainable);
 - c. Pre-payment disclosures match figures disclosed on receipts and match those actually applied to the transfer;
 - d. The provider's policy for providing oral disclosures is appropriate for the related transactions;
 - e. Copies of scripts used for oral disclosures comply with the regulation;
 - f. Disclosures comply with the format requirements regarding the grouping of like items, proximity, prominence and size, and segregation from other information; and
 - g. Disclosure of amounts required to be disclosed under 12 CFR 1005.31 (b) (1), (2), and (3), use the appropriate terms (e.g., transfer amount, transfer taxes, currency), or substantially similar terms.

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2. If applicable, determine whether the provider complies with the foreign language disclosure requirements as outlined under 12 CFR 1005.31(g).

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Pre-payment Disclosures – 12 CFR 1005.31(b)(1)

3. Based on a review of the provider's policies and, if appropriate, sampled transactions, determine that it appropriately categorizes third-party fees as covered or non-covered.

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4. Based on a review of the provider's policies on pre-payment disclosures and, if appropriate, sampled pre-payment disclosures and related documentation, determine whether the provider appropriately calculates and discloses:
 - a. In the currency in which the remittance transfer is funded:
 - i. The amount that will be transferred to the designated recipient, using the term, "Transfer Amount" or a substantially similar term;
 - ii. Fees imposed and taxes collected on the remittance transfer by the provider, using the terms, "Transfer Fees" and "Transfer Taxes," or substantially similar terms; and
 - iii. The total amount of the transaction using the term, "Total," or a substantially similar term;
 - b. The exchange rate used by the provider for the remittance transfer using the term "Exchange Rate" or a substantially similar term;
 - c. In the currency in which the funds will be received by the designated recipient:
 - i. The transfer amount in the currency, but only if covered third-party fees are imposed using the term, "Transfer Amount," or a substantially similar term;
 - ii. Any covered third-party fees imposed on the remittance transfer using the term, "Other Fees," or a substantially similar term;
 - iii. The amount that will be received by the designated recipient (total amount of the transaction minus covered third-party fees) using the term, "Total to Recipient," or a substantially similar term; and
 - iv. If applicable, a statement that non-covered third-party fees or taxes collected on the remittance transfer by a third person may apply to the remittance transfer and result in the designated recipient receiving less than the amount disclosed.

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NOTE: The exchange rate used to calculate the amounts under (c) is prior to any rounding.

Receipt Disclosures – 12 CFR 1005.31(b)(2)

5. Review policies on receipt disclosures, sample receipts, and related documentation to determine whether the provider appropriately calculates and discloses:
 - a. Information disclosed in the pre-payment disclosure;

- b. The date in the foreign country on which funds will be available to the designated recipient, using the term “Date Available” or a substantially similar term;
- c. The name and, if provided by the sender, the telephone number and/or address of the designated recipient, using the term “Recipient” or a substantially similar term;
- d. A statement about the rights of the sender regarding the resolution of errors and cancellation (unless the transfer is conducted entirely by mobile application, then this statement must be provided prior to payment of the remittance transfer);
- e. The name, telephone number(s), and website of the remittance transfer provider; and
- f. A statement that the sender can contact the Consumer Financial Protection Bureau (CFPB) and, if applicable, the state agency that licenses or charters the remittance transfer provider with respect to the remittance transfer and for questions or complaints about the remittance transfer provider, as well as their telephone number(s), and website addresses.

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NOTE: For any remittance transfer scheduled by the sender at least three business days before the date of the transfer, the statement about the rights of the sender regarding cancellation must state that the sender must request the cancellation at least three business days before the next scheduled transfer. The statement must also note that the request must enable the provider to identify the sender's contact information and the particular transfer to be canceled.

Combined Disclosures – 12 CFR 1005.31(b)(3)

NOTE: Complete this section only if the provider provides combined disclosures as an alternative to the pre-payment and receipt disclosures.

6. Review policies on combined disclosures, sample disclosures and related documentation to:
 - a. Determine that they contain all the information required for the pre-payment disclosure and receipt disclosure as described above;
 - b. Determine that the provider provides proof of payment after payment is made for each transaction; and
 - c. Determine that the proof of payment is clear and conspicuous, provided in writing or electronically, and provided in a retainable form.

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Accuracy and Timing – 12 CFR 1005.31(e) and (f)

7. Review, as appropriate, all available information including transactions or investigation/trace logs/records or similar documents to verify (subject to the disclaimer statement with respect to non-covered third-party fees and third-party taxes) the accuracy of disclosures provided to consumers:
 - a. In instances in which pre-payment disclosures and receipts are provided that do not contain estimates, confirm with respect to any transaction for which payment was made, that the information on the most recent pre-payment disclosure for that transaction and the information on the receipt for that transaction are the same;
 - b. For amounts that are not estimates, confirm that the disclosed amounts were accurate at the time that payment was made;
 - c. For amounts that are estimates, determine whether the estimates were calculated correctly, in accordance with the applicable bases outlined in 12 CFR 1005.32; and
 - d. In the case of estimates pursuant to 1005.32(b)(1), (b)(2), (b)(4) and (b)(5) that are based on an approach that is not one of the listed bases in 1005.32(c), determine that the recipient received the same, or greater, amount of funds than what was disclosed.

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8. Review processes and procedures or records, as appropriate, to determine whether the required disclosures are provided in accordance with the timing requirements in 12 CFR 1005.31(e).
 - a. Determine whether pre-payment disclosures are provided when the sender requests the remittance transfer, but prior to payment; and
 - b. Determine whether receipts are provided when payment is made, or in accordance with 1005.31(e)(2) for transactions conducted by telephone.

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Long-form Error Resolution and Cancellation Notice – 12 CFR 1005.31(b)(4)

9. Determine the provider's policy for providing long-form error resolution and cancellation notices to senders upon request.

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10. Review the provider's records of senders' requests and determine that a long-form error resolution and cancellation notice is promptly provided in response

to each request.

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11. Review sample notices to determine that they use the language set forth in Model Form A-36 (Model Form for Error Resolution and Cancellation Disclosures (Long) of Appendix A to Subpart B), or substantially similar language.

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Module 2: Estimates**Temporary Exception for Insured Institutions – 12 CFR 1005.32(a)**

12. The temporary exception for insured institutions expired on July 21, 2020. Procedures relating to 12 CFR 1005.32(a)(1) have been removed.

Permanent Exception for Transfers to Certain Countries– 12 CFR 1005.32(b)(1)

13. Review and assess the adequacy of the provider’s policy for determining that:
- The laws of the recipient country do not permit a determination of the exact amount; or
 - The methods by which transactions are made in the recipient country do not permit such determination.

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14. Review the provider’s transaction log/records to identify remittance transactions that were sent to countries on the list provided by the CFPB for which estimates may be provided on remittance transfer-related disclosures to determine if the provider properly relied on the list in making estimates.

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15. Determine whether the provider gave estimates for transactions to a country that is not on the list provided by the CFPB. Review related documentation to confirm that the recipient country does not legally permit, or the method by which transactions are conducted in that country does not permit determination of exact amounts.

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16. Review records to determine:

- The bases used for the estimates under 12 CFR 1005.32(c) and their appropriateness:
 - If estimates were provided in accordance with one of the bases listed in 12 CFR 1005.32(c), review documentation to confirm that inputs to estimates are appropriate; or
 - If estimates are based on an approach that is not one of the listed bases, determine as appropriate, that the designated recipient received the same

amount as, or a greater amount than, the amount of funds that the remittance transfer provider disclosed.

- b. That the estimated amounts are appropriately labeled with the term “Estimated” or a substantially similar term, placed in close proximity to the term described.

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Permanent Exception for Transfers Scheduled Before the Date of Transfer – 12 CFR 1005.32(b)(2)

17. Review and assess the adequacy of the provider’s policy and procedures for using estimates in the case of transfers scheduled five or more business days before the date of transfer.

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18. Review and assess transactions for which estimates were used, as well as related disclosures (required by 12 CFR 1005.36(a)), and any other relevant documentation, as appropriate, to determine compliance with 12 CFR 1005.32(b)(2).

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Permanent Exception for Estimation of the Exchange Rate by an Insured Institution – 12 CFR 1005.32(b)(4)

19. Determine that the remittance transfer provider is an insured institution within the definition provided in 12 CFR 1005.32(a)(3).

- a. If the remittance transfer provider is not an insured institution, skip this section.

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20. Review the appropriate information including transaction log/records, etc., to identify and create a list of remittance transfer transactions that were sent from the following:

- a. The sender’s account with the institution, excluding prepaid accounts, unless that prepaid account is a payroll card account or a government benefit account.

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21. From the list identified in 20, identify transactions for which estimates were used.

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22. For each transaction identified in 21 for which estimates were used:

- a. Determine whether the designated recipient of the remittance received funds in the country's local currency;
- b. Determine whether the insured institution could not determine the exact exchange rate required to be disclosed under 12 CFR 1005.31(b)(1)(iv) for that remittance transfer at the time the insured institution must provide, as applicable, the disclosure required by 12 CFR 1005.31(b)(1) through (3) or 12 CFR 1005.36(a)(1) or (2); and
- c. Determine whether the insured institution made 1,000 or fewer remittance transfers in the prior calendar year to the particular country for which the designated recipients of those transfers received funds in the country's local currency.

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NOTE: An insured institution acting as an agent on behalf of another in connection with a remittance transfer is not a remittance transfer provider.

Permanent Exception for Estimation of Covered Third-party Fees by an Insured Institution – 12 CFR 1005.32(b)(5)

23. Determine that the remittance transfer provider is an insured institution within the definition provided in 12 CFR 1005.32(a)(3).

- a. If the remittance transfer provider is not an insured institution, skip this section.

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24. Review the appropriate information including transaction log/records, etc., to identify and create a list of remittance transfer transactions that were sent from the following:

- a. The sender's account with the institution, excluding prepaid accounts, unless that prepaid account is a payroll card account or a government benefit account.

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25. From the list identified in 24, identify transactions for which estimates were used.

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26. For each transaction identified in 25 for which estimates were used:

- a. Determine whether the insured institution could not determine the exact covered third-party fees required to be disclosed by 12 CFR 1005.32(b)(1)(vi) at the time the insured institution must provide, as applicable, the disclosure required by 12 CFR 1005.31(b)(1) through (3) or 12 CFR 1005.36(a)(1) or (2); and

- b. Either determine whether the provider made 500 or fewer remittance transfers in the prior calendar year to the designated recipient's institution; or
- c. Determine whether the institution identified a United States Federal statute or regulation prohibiting the insured institution from being able to determine the exact covered third-party fees required to be disclosed. If so, determine whether you agree.

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NOTE: Your OSP point of contact can help evaluate whether the statute or regulation is applicable.

Module 3: Error Resolution**Procedures for Resolving Errors – 12 CFR 1005.33**

27. Review the provider's policies and procedures on error resolution.

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28. Review relevant error resolution statements/files, consumer complaints, form letters, etc., used in addressing errors or questions concerning remittance transfer transactions.

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29. Assess the provider's compliance program to determine whether it has developed and maintains adequate written policies and procedures designed to ensure compliance with the error resolution requirements applicable to remittance transfers. Consider:

- a. The procedures for receiving complaints of error from branches, agents or other locations where a consumer may lodge a complaint;
- b. The procedures for identifying complaints alleging “errors” as identified in 12 CFR 1005.33(a); and
- c. The procedures for investigating, responding to, and resolving complaints.

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30. Determine the extent of the provider's compliance with its policies and procedures on error resolution.

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31. Determine the provider's compliance with the regulatory requirements regarding the investigation of alleged errors, and notification of consumers within the allotted time frames.

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32. Determine the timeliness and adequacy of remedies the provider uses to address identified errors.

- a. For errors under 12 CFR 1005.33(a)(1)(iv) *other than* those that occurred because the sender provided incorrect or insufficient information, consider:
 - i. If the provider gave the sender notice regarding the error investigation;

- ii. If the sender requested a remedy, determine whether the provider provides the remedy selected by the sender. If a default remedy is provided, determine whether the sender had a reasonable time to designate a remedy after receiving a report of the error;
 - iii. If the remedy is delivery of the amount appropriate to correct the error, determine whether the provider corrects the error within one business day, or as soon as reasonably practicable, applying the same exchange rate, fees, and taxes stated in the disclosure provided in connection with the remittance transfer with respect to which the error was made;
 - iv. If the remedy is a refund, determine whether the provider refunds the appropriate amount within one business day or as soon as reasonably practicable thereafter.
- b. If the provider determines that an error occurred that relates to:
- i. An incorrect amount paid by the sender;
 - ii. A computational or bookkeeping error made by the remittance transfer provider; or
 - iii. Failure to make the amount of currency stated in the disclosures available to the designated recipient.

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Remedies – 12 CFR 1005.33(c)(2)

33. Determine whether the provider either:

- a. Refunds the amount of funds provided by the sender (in case of a transaction that was not properly transmitted), or the amount appropriate to resolve the error; or
- b. Makes available to the designated recipient, the amount appropriate to resolve the error without additional cost to the sender or the designated recipient.
- c. If the error relates to the failure to make funds available to the designated recipient by the disclosed date of availability (other than an error resulting from incorrect or insufficient information provided by the sender), determine whether the provider:
 - i. Either:
 - 1. Refunds the amount of funds that was not properly transmitted, or the amount appropriate to resolve the error to the sender; or

2. Makes available to the designated recipient the amount appropriate to resolve the error; and
 - ii. Refunds to the sender any fees and, to the extent not prohibited by law, taxes collected on the remittance transfer.
 - d. In the case of errors involving incorrect or insufficient information provided by the sender for the transfer:
 - i. Determine whether the provider refunds to the sender the amount of funds that was not properly transmitted, or the amount appropriate to resolve the error, the fees and taxes paid by the sender in connection with the remittance transfer, and only deducts those fees actually deducted by a person other than the provider and (where not prohibited by law) taxes actually collected for the original unsuccessful transaction, within three business days of providing the written explanation of findings; or
 - ii. Alternatively, if the provider has not yet processed a refund and agrees to the sender's request to apply the funds towards a new remittance transfer, instead of a refund, determine whether the provider treats the request as a new remittance transfer, provides the appropriate disclosures, and only deducts those fees actually deducted by a person other than the provider and (where not prohibited by law) taxes actually collected for the original unsuccessful transaction.

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Record Retention – 12 CFR 1005.33(g) & 12 CFR 1005.13

34. Determine that the provider is maintaining records of compliance for a period of not less than two years from the date a notice of error was submitted to the provider or action was required to be taken by the provider.

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Module 4: Cancellation and Refunds**Procedures for Cancellation and Refund of Remittance Transfers – 12 CFR 1005.34 and 12 CFR 1005.36(c)**

35. Review and assess the provider's policies and procedures regarding cancellation and refund of remittance transfer transactions, including:

- a. The procedures for receiving requests of cancellation from branches, agents, or other locations where a consumer may request cancellation;
- b. The procedures for identifying which transactions are eligible for cancellation; and
- c. The procedures for issuing refunds.

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36. Determine the extent of the provider's compliance with its own policies and procedures on cancellation and refund.

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37. Determine the provider's compliance with the regulatory requirements regarding senders' requests for cancellation and refund.

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38. Determine whether the provider complies with any oral or written request to cancel any remittance transfer scheduled by the sender at least three business days before the date of the remittance transfer.

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Module 5: Agents

Acts of Agents – 12 CFR 1005.35

NOTE: Complete this section if the provider uses agent(s) to conduct any element of remittance transfer transactions.

39. Review the provider's agreements with agents used for remittance transfers to determine whether they are appropriate for the activities delegated.

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40. Determine whether the provider has established appropriate internal controls and review procedures in relation to the work done by agents on its behalf to ensure compliance with the regulatory requirements. Consider:

- a. The extent to which the provider has established and maintained policies or procedures for compliance, including policies, procedures, or other appropriate oversight measures designed to assure compliance by an agent or authorized delegate acting for such provider including:
 - i. The degree of control the agent exercises over the remittance transfer activities performed on the provider's behalf;
 - ii. The quality and frequency of training provided to ensure that agents are aware of the regulatory requirements and the provider's internal policy guidelines; and
 - iii. The adequacy of the provider's oversight of agents' activities.

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41. Select a sample of agents used by the provider and review their records in addition to relevant records held by the provider directly to determine that the activities performed by the agent on the provider's behalf are in compliance with the regulatory requirements.

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Module 6: Pre-scheduled Transfers

Transfers Scheduled Before the Date of Transfer – 12 CFR 1005.36

42. Review and assess the adequacy of the provider's policies and procedures regarding transfers scheduled before the date of transfer.

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43. As appropriate, select a sample of records of transfers scheduled before the date of transfer to determine whether the provider complies with the timing of disclosures, the accuracy of disclosures (and estimates pursuant to 1005.32(b)(2)) and the sender's request for cancellation. Use the same methods identified in the sections above, regarding other disclosures. Consider the following:

- a. For one-time transfers scheduled five or more business days before the date of transfer or for the first in a series of preauthorized remittance transfers, determine whether the provider offers either a pre-payment disclosure and a receipt or a combined disclosure at the time the sender requests the transfer but prior to payment;

NOTE: If any of the disclosures provided contain estimates as permitted by 12 CFR 1005.32(b)(2), the provider must mail or deliver an additional receipt no later than one business day after the date of the transfer. If the transfer involves the transfer of funds from the sender's account held by the provider, this additional receipt may be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided.

- b. For each subsequent preauthorized remittance transfer, determine whether the provider gives an updated receipt if any of the information (other than temporal disclosures or disclosures that are permitted to be estimated) on the most recent receipt is no longer accurate;

NOTE: The receipt must clearly and conspicuously indicate that it contains updated disclosures and must be mailed or delivered to the sender within a reasonable time prior to the scheduled date of the next subsequent preauthorized remittance transfer. A disclosure that is mailed no later than ten business days or hand or electronically delivered no later than five business days is deemed to have been provided within a reasonable time.

- c. If there is no updated information and the remittance transfer does not involve the transfer of funds from the sender's account held by the provider, determine whether the provider mails or delivers a receipt to the sender no later than one business day after the date of the transfer for each subsequent preauthorized transfer;

- d. If there is no updated information and the remittance transfer involves the transfer of funds from the sender's account held by the provider, determine whether the receipt is provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided; and
- e. For any subsequent transfer in a series of preauthorized remittance transfers, determine whether the provider discloses the information required by 12 CFR 1005.36(d)(1) no more than 12 months and no less than five business days prior to the date of the subsequent preauthorized remittance transfer.

[Click&type]

NOTE: While the rule generally provides flexibility as to when and where future transfer dates may be disclosed, for any subsequent preauthorized remittance transfer for which the date of transfer is four or fewer business days after the date payment is made, the disclosure must generally be provided on or with the receipt for the initial transfer in that series.

Module 7: Other Risks to Consumers

To carry out the objectives set forth in the Examination Objectives section, examiners also should assess the other consumer risks described below.

44. Determine whether the entity's privacy and information-sharing practices are consistent with the requirements of Sections 502 to 509 of the Gramm-Leach-Bliley Act (15 USC 6802-09) and Regulation P (12 CFR Part 1016), to the extent they apply. Refer to the Privacy of Consumer Financial Information examination procedures for more information.

[Click&type]

45. Determine whether any agreement or writing between the consumer and institution contains language that may constitute a waiver of any right or cause of action created by EFTA (15 USC 1693) or Regulation E (12 CFR Part 1005). Consider the institution's account agreement with consumers.

[Click&type]

46. Using the examination procedures that address unfair, deceptive, or abusive acts or practices (UDAAPs), consider whether any aspect of the provider's remittance practices and operations constitute unfair, deceptive or abusive acts or practices. The particular facts and circumstances in a case are crucial to the determination of UDAAPs. Examiners should consult with headquarters to determine whether the applicable legal standards have been met before a UDAAP violation is cited.

[Click&type]

Module 8: Examination Conclusions and Wrap-Up

To conclude this supervisory activity, examiners must complete all steps under this section, regardless of the entity's risk profile.

47. Summarize the findings, supervisory concerns, and regulatory violations.

[Click&type]

48. For the violations noted, determine the root cause by identifying weaknesses in internal controls, audit and compliance reviews, training, management oversight, or other factors. Determine whether the violation(s) are pattern or practice, or isolated.

[Click&type]

49. Identify action needed to correct violations and weaknesses in the institution's compliance management system, as appropriate.

[Click&type]

50. Discuss findings with the institution's management and, if necessary, obtain a commitment for corrective action.

[Click&type]

51. Record violations according to agency policy in the Report of Examination/Supervisory Letter and the CFPB's electronic database system to facilitate analysis and reporting.

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52. Determine if enforcement action is appropriate. If so, contact appropriate agency personnel for guidance.

[Click&type]

53. Prepare a memorandum for inclusion in the workpapers and CFPB's official system of record that outlines planning and strategy considerations for the next examination and, if appropriate, interim follow-up.

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SUPPLEMENTAL INFORMATION

Subpart B of Regulation E – Requirements for Remittance Transfers

Subpart B of Regulation E provides disclosures, error resolution, and cancellation and refund rights to consumers who send remittance transfers to be received by other consumers or businesses in a foreign country.

I. Definitions – 12 CFR 1005.2 and 30

The definitions in Subpart A of Regulation E (12 CFR 1005.2) also apply to Subpart B unless specifically modified or limited by Subpart B.

Key Definitions in Subpart A – 12 CFR 1005.2

Access device is a card, code, or other means of access to a consumer’s account or a combination of these used by the consumer to initiate EFTs. Access devices include debit cards, personal identification numbers (PINs), telephone transfer and telephone bill payment codes, and other means to initiate an EFT to or from a consumer account (12 CFR 1005.2(a)(1) and 12 CFR Part 1005, Supp. I, Comment 2(a)-1).

Access devices do not include either of the following:

- a. Magnetic tape or other devices used internally by a financial institution to initiate electronic transfers; or
- b. A check or draft used to capture the MICR (Magnetic Ink Character Recognition) encoding or routing, account, and serial numbers to initiate a one-time ACH debit (Comments 2(a)-1 and 2(a)-2).

Accepted access device is an access device that a consumer:

- a. Requests and receives, signs, or uses (or authorizes another to use) to transfer money between accounts or to obtain money, property, or services;
- b. Requests to be validated even if it was issued on an unsolicited basis;
- c. Receives as a renewal or substitute for an accepted access device from either the financial institution that initially issued the device or a successor (12 CFR 1005.2(a)(2)).

Account includes the following:

- a. A demand deposit (checking), savings, or other consumer asset account (other than an occasional or incidental credit balance in a credit plan) held directly or indirectly by a financial institution and established primarily for personal, family, or household purposes (12 CFR 1005.2(b)(3)(ii)(A)).

- b. The term includes a prepaid account which includes the following:
- i. A “payroll card account,” which is an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer’s wages, salary, or other employee compensation (such as commissions) are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution, or any other person (1005.2(b)(3)(A)); or
 - ii. A “government benefit account,” which is an account established by a government agency for distributing government benefits to a consumer electronically, such as through automated teller machines or point-of-sale terminals, but does not include an account for distributing needs-tested benefits in a program established under state or local law or administered by a state or local agency (1005.2(b)(3)(B), 1005.15(a)(2)); or
 - iii. An account that is marketed or labeled as “prepaid” and that is redeemable upon presentation at multiple, unaffiliated merchants for goods or services or usable at automated teller machines (1005.2(b)(3)(C)); or
 - iv. An account:
 1. That is issued on a prepaid basis in a specified amount or not issued on a prepaid basis but capable of being loaded with funds thereafter;
 2. Whose primary function is to conduct transactions with multiple, unaffiliated merchants for goods or services, or at automated teller machines, or to conduct person-to-person transfers; and
 3. That is not a checking account, share draft account, or negotiable order of withdrawal account.

NOTE: There are a number of exceptions to the third and fourth tests (1005.2(b)(3)(ii)). A product that meets one of these exceptions may instead be subject to 1005.20, which contains requirements for gift cards and gift certificates as defined in that section.

An account does not include:

- a. An account held by a financial institution under a bona fide trust agreement (12 CFR 1005.2(b)(2);
- b. Profit-sharing and pension accounts established under a bona fide trust agreement (12 CFR 1005.2(b), Comment 2(b)-2.i);
- c. Escrow accounts such as for payments of real estate taxes, insurance premiums, or completion of repairs (12 CFR 1005.2(b), Comment 2(b)-2.ii); or

- d. Accounts for purchasing U.S. savings bonds (12 CFR 1005.2(b), Comment 2(b)-2.iii).

A *payroll card account* does not include a card used:

- a. Solely to disburse incentive-based payments (other than commissions when they represent the primary means through which a consumer is paid) that are unlikely to be a consumer's primary source of salary or other compensation;
- b. Solely to make disbursements unrelated to compensation, such as petty cash reimbursements or travel per diem payments; or
- c. In isolated instances to which an employer typically does not make recurring payments (Comment 2(b)(3)(i)-2).

Activity means any action that results in an increase or decrease of the funds underlying a certificate or card, other than the imposition of a fee, or an adjustment due to an error or a reversal of a prior transaction (12 CFR 1005.20(a)(7)).

ATM operator is any person that operates an ATM at which a consumer initiates an EFT or a balance inquiry and that does not hold the account to or from which the transfer is made or about which the inquiry is made (12 CFR 1005.16(a)).

Dormancy fee and inactivity fee mean a fee for non-use of or inactivity on a gift certificate, store gift card, or general-use prepaid card (12 CFR 1005.20(a)(5)).

Electronic check conversion (ECK) transactions are transactions where a check, draft, or similar paper instrument is used as a source of information to initiate a one-time electronic fund transfer from a consumer's account. The consumer must authorize the transfer (12 CFR 1005.3(b)(2)).

Electronic fund transfer (EFT) is a transfer of funds initiated through an electronic terminal, telephone, computer (including online banking) or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit a consumer's account. EFTs include, but are not limited to, point-of-sale (POS) transfers; automated teller machine (ATM) transfers; direct deposits or withdrawals of funds; transfers initiated by telephone; and transfers resulting from debit card transactions, whether or not initiated through an electronic terminal (12 CFR 1005.3(b)).

Electronic terminal is an electronic device, other than a telephone call by a consumer, through which a consumer may initiate an EFT. The term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash-dispensing machines (12 CFR 1005.2(h)).

Exclusions from gift card definition. The following cards, codes, or other devices are excluded and not subject to the substantive restrictions on imposing dormancy, inactivity, or service fees, or on expiration dates, if they are: (12 CFR 1005.20(b))

- a. Useable solely for telephone services;
- b. Reloadable and not marketed or labeled as a gift card or gift certificate. For

purposes of this exception, the term “reloadable” includes a temporary non-reloadable card issued solely in connection with a reloadable card, code, or other device;

- c. A loyalty, award, or promotional gift card (except that these must disclose on the card or device itself, information such as the date the funds expire, fee information and a toll-free number) (12 CFR 1005.20(a)(4) and (c)(4));
- d. Not marketed to the general public;
- e. Issued in paper form only; or
- f. Redeemable solely for admission to events or venues at a particular location or group of affiliated locations, or to obtain goods or services in conjunction with admission to such events or venues, at the event or venue or at specific locations affiliated with and in geographic proximity to the event or venue.

General-use prepaid card is a card, code, or other device:

- a. Issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded, in exchange for payment; and
- b. That is redeemable upon presentation at multiple, unaffiliated merchants for goods or services, or that may be usable at automated teller machines (12 CFR 1005.20(a)(3)). See “*Exclusions from gift card definition*.”

Gift certificate is a card, code, or other device issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount that may not be increased or reloaded in exchange for payment and redeemable upon presentation at a single merchant or an affiliated group of merchants for goods or services (12 CFR 1005.20(a)(1)). See “*Exclusions from gift card definition*.”

Loyalty, award, or promotional gift card is a card, code, or other device (1) issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in connection with a loyalty, award, or promotional program; (2) that is redeemable upon presentation at one or more merchants for goods or services, or usable at automated teller machines; and (3) that sets forth certain disclosures, including a statement indicating that the card, code, or other device is issued for loyalty, award, or promotional purposes (12 CFR 1005.20(a)(4)). See “*Exclusions from gift card definition*.”

Overdraft Services. A financial institution provides an overdraft service if it assesses a fee or charge for paying a transaction (including a check or other item) when the consumer has insufficient or unavailable funds in the account to pay the transaction. However, an overdraft service does not include payments made from the following:

- a. A line of credit subject to Regulation Z, such as a credit card account, a home equity line of credit, or an overdraft line of credit;

- b. Funds transferred from another account held individually or jointly by the consumer; or
- c. A line of credit or other transaction from a securities or commodities account held by a broker-dealer registered with the Securities and Exchange Commission (SEC) or the Commodity Futures Trading Commission (CFTC) (12 CFR 1005.17(a)).

Preauthorized electronic fund transfer is an EFT authorized in advance to recur at substantially regular intervals (12 CFR 1005.2(k)).

Service fee means a periodic fee for holding or use of a gift certificate, store gift card, or general-use prepaid card. A periodic fee includes any fee that may be imposed on a gift certificate, store gift card, or general-use prepaid card from time to time for holding or using the certificate or card (12 CFR 1005.20(a)(6)). For example, a service fee may include a monthly maintenance fee, a transaction fee, an ATM fee, a reload fee, a foreign currency transaction fee, or a balance inquiry fee, whether or not the fee is waived for a certain period of time or is only imposed after a certain period of time. However, a service fee does not include a one-time fee or a fee that is unlikely to be imposed more than once while the underlying funds are still valid, such as an initial issuance fee, a cash-out fee, a supplemental card fee, or a lost or stolen certificate or card replacement fee (Comment 20(a)(6)-1).

State means any state, territory, or possession of the U.S.; the District of Columbia; the Commonwealth of Puerto Rico; or any of their political subdivisions (12 CFR 1005.2(l)).

Store gift card is a card, code, or other device issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded, in exchange for payment, and redeemable upon presentation at a single merchant or an affiliated group of merchants for goods or services (12 CFR 1005.20(a)(2)). See “*Exclusions from gift card definition.*”

Unauthorized electronic fund transfer is an EFT from a consumer’s account initiated by a person other than the consumer without authority to initiate the transfer and from which the consumer receives no benefit. This does not include an EFT initiated in any of the following ways:

- a. By a person who was furnished the access device to the consumer’s account by the consumer, unless the consumer has notified the financial institution that transfers by that person are no longer authorized;
- b. With fraudulent intent by the consumer or any person acting in concert with the consumer; or
- c. By the financial institution or its employee (12 CFR 1005.2(m)).

The following definitions in Subpart B (12 CFR 1005.30) are applicable only to Subpart B.

Agent is an agent, authorized delegate, or person affiliated with a remittance transfer provider, as defined under state or other applicable law, when that person acts for a remittance transfer provider. A person is not deemed a remittance transfer provider when that person performs activities as an agent on behalf of a remittance transfer provider (Comment 30(f)-1).

A business day is any day that the offices of a remittance transfer provider are open to the public for carrying on “substantially all business functions.”

Pre-authorized remittance transfer is a remittance transfer authorized in advance to recur at substantially regular intervals.

Remittance transfer is an electronic transfer of funds requested by a consumer in a state to a designated recipient that is sent by a remittance transfer provider. The term applies whether or not the consumer holds an account and whether or not the transfer is an electronic fund transfer.

An electronic transfer of funds occurs when:

- a. A provider makes an electronic book entry between different settlement accounts to make the remittance transfer.
- b. A payment is made under a bill-payment service available to a consumer via computer or other electronic means, except in certain circumstances where a check, draft or similar paper instrument drawn on a consumer’s account under the bill-payment service is mailed abroad.

An electronic transfer of funds does not occur where a sender mails funds directly to a recipient, or funds are provided to a courier for delivery to a foreign country (Comment 30(e)-(1)).

Transactions of \$15 or less and certain transactions in connection with securities and commodities transfers that are excluded from the definition of an EFT are not remittance transfers (12 CFR 1005.30(e)(2) and 12 CFR 1005.3(c)(4)).

Remittance transfers include:

- a. Transfers in cash or by another method conducted through a money transmitter or a financial institution;
- b. Consumer wire transfers conducted by a financial institution upon a sender’s request to wire money from the sender’s account to a designated recipient;
- c. An addition of funds to a prepaid card by a participant in a prepaid card program, such as a prepaid card issuer or its agent, that is directly engaged with the sender to add these funds, where the prepaid card is sent or was previously sent by a

participant in the prepaid card program to a person in a foreign country, even if a sender retains the ability to withdraw such funds;

- d. International ACH transactions sent by the sender's financial institution at the sender's request; and
- e. Online bill payments and other electronic transfers that a sender schedules in advance, including preauthorized remittance transfers, made by the sender's financial institution at the sender's request to a designated recipient (Comment 30(e)-3).

Sender is a consumer in a state, who requests a remittance transfer primarily for personal, family, or household purposes. For account-based transfers, the location of the consumer's account will determine whether the consumer is located in a state. A sender located on a U.S. military installation that is physically located in a foreign country is located in a State. For transfers not made from an account that are requested by telephone or electronically, the remittance transfer provider may make the determination of whether a consumer is located in a state based on information provided by the consumer and any records associated with the consumer (Comment 30(g)-1).

A designated recipient is any person identified by the name provided by a sender to receive a remittance transfer at a location in a foreign country. A designated recipient can be either a natural person or an organization such as a corporation (Comment 30(c)-1). Similar to the definition of "sender," for transfers to a designated recipient's account where funds are to be received depends on where the recipient's account is located. If the funds will be received at a location on a U.S. military installation that is physically located in a foreign country, the transfer will be received in a State.

Remittance transfer provider or provider is any person that provides remittance transfers for a consumer in the normal course of business, regardless of whether the consumer holds an account with such person (12 CFR 1005.30(f)(1)).

Whether a person provides remittance transfers in the "normal course of business" depends on the facts and circumstances, including the total number and frequency of remittance transfers sent by the provider. The rule also provides a safe harbor for a person that provided 500 or fewer remittance transfers in the previous calendar year and provides 500 or fewer remittance transfers in the current calendar year (a total via all channels). Such a person is deemed not to be providing remittance transfers in the normal course of business and is therefore not subject to the rule's requirements. In determining whether a person qualifies for the safe harbor, any transfers that are excluded from the definition of "remittance transfer" such as small value transactions or certain securities and commodities transfers are excluded. If a person exceeds the safe harbor criteria and is providing remittance transfers for consumers in the normal course of business, that person has a reasonable period of time, not to exceed six months, to begin complying with Subpart B (12 CFR 1005.30(f)(2) and Comment 30(f)-2).

Covered third-party fees means any fees that are imposed on the remittance transfer by a person other than the remittance transfer provider that are not non-covered third-party fees.

Fees imposed on the remittance transfer include only those fees that are charged to the designated recipient and are specifically related to the remittance transfer (Comment 30(h)-1). Examples include fees imposed on a remittance transfer by intermediary institutions in connection with a wire transfer (sometimes referred to as “lifting fees”) and fees imposed on a remittance transfer by an agent of the provider at pick-up for receiving the transfer (Comment 30(h)-2).

Non-covered third-party fees means any fees imposed by the designated recipient’s institution for receiving a remittance transfer into an account except if the institution acts as an agent of the remittance transfer provider. For example, a fee imposed by the designated recipient’s institution for receiving an incoming transfer into an account is a non-covered third-party fee, if the institution is not acting as the agent of the remittance transfer provider. A designated recipient’s account does not include a credit card, prepaid card, or a virtual account held by an Internet-based or mobile telephone company that is not a bank, savings association, credit union or equivalent institution (Comment 30(h)-3).

II. Disclosures — 12 CFR 1005.31

Providers must give senders disclosures at certain stages of the remittance transfer process. The rule requires providers to give senders a pre-payment disclosure when a transfer request is made, but prior to payment for the transfer. Providers must also provide a receipt when payment is made for the transfer. Model disclosure forms are provided in Appendix A.

General Form of Disclosures — 12 CFR 1005.31(a)

Required disclosures or optional disclosures permitted by 12 CFR 1005.31(b)(1)(viii) or 12 CFR 1005.33(h)(3) must be clear and conspicuous and generally be provided to the sender in writing. Disclosures may contain commonly accepted or readily understandable abbreviations or symbols. Disclosures are clear and conspicuous if they are readily understandable and, in the case of written and electronic disclosures, the location and type size are readily noticeable to senders. Oral disclosures are clear and conspicuous when they are given at a volume and speed sufficient for a sender to hear and comprehend them (12 CFR 1005.31(a); Comments 31(a)(1)-1 and 31(a)(2)-2).

Pre-payment disclosures may be provided electronically without E-SIGN consent if the sender electronically requests the provider to send the transfer. However, the receipt for the transaction may be provided electronically only with E-SIGN consent (12 CFR 1005.31(a)(2); Comment 31(a)(2)-1).

Written and electronic disclosures generally must be made in a retainable form. Pre-payment disclosures provided via mobile application or text message (to the extent permitted by the rule) need not be retainable. In some cases, disclosures may be disclosed orally. For example, pre-payment disclosures may be disclosed orally if the transaction is conducted orally and entirely by telephone and the remittance transfer provider complies with certain other disclosure requirements. 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

and thus may comply with oral disclosure requirements instead of the written requirements discussed above (12 CFR 1005.31(a)(2), (a)(3), and (a)(3)-2).

For purposes of disclosures required to be provided pursuant to 1005.31 or 1005.36, disclosures provided by facsimile transmission (i.e., fax) are considered to be provided in writing (12 CFR 1005.31(a)(2)-5).

Additional requirements apply for certain transfers scheduled at least three days before the date of transfer that are conducted orally over the telephone or by mobile application or text messaging (12 CFR 1005.31(a)(3)(iv) and (a)(5)(iv)).

Disclosure Requirements — 12 CFR 1005.31(b)

Disclosures are provided as applicable. The required disclosures need to be provided only to the extent applicable. A remittance transfer provider may choose to omit an item of information if it is inapplicable to a particular transaction. Alternatively, a provider may disclose a term and state that an amount or item is “not applicable,” “N/A,” or “None” (Comment 31(b)-1).

Substantially similar terms, language, and notices. Certain disclosures must be described using the terms set forth in 12 CFR 1005.31(b) or substantially similar terms. Terms may be more specific than those provided. For example, a remittance transfer provider sending funds may describe fees imposed by an agent at pick-up as “Pick-up Fees” in lieu of describing them as “Other Fees.” Foreign language disclosures must contain accurate translations of the required terms, language, and notices as well as the disclosures permitted by 1005.31(b)(1)(viii) and 1005.33(h)(3) (Comment 31(b)-2).

Pre-payment Disclosures — 12 CFR 1005.31(b)(1)

A remittance transfer provider must provide the pre-payment disclosure when the sender requests the remittance transfer, but prior to payment for the transfer. The provider must disclose:

- a. The amount to be transferred (transfer amount);
- b. Front-end fees imposed by the provider and any taxes collected on the remittance transfer by the provider (transfer fees and transfer taxes);
- c. Total amount of the transaction (the sum of the transfer amount and front-end fees and taxes);
- d. The exchange rate;
- e. Any covered third-party fees (other fees);
- f. The total amount to be received by the designated recipient (total amount of the transaction minus covered third-party fees); and
- g. A statement that non-covered third-party fees or taxes collected on the remittance transfer by a third person may apply to the remittance transfer and result in the

designated recipient receiving less than the amount disclosed. In this statement, a provider also may, but is not required to, disclose in the currency in which the funds will be received, any applicable non-covered third-party fees or taxes collected by a person other than the provider.

Transfer amount. Two transfer amount disclosures are required in the pre-payment disclosures.

1. The transfer amount in the currency in which the sender funds the remittance transfer to show the calculation of the total amount of the transaction.
2. The transfer amount in the currency in which the funds will be made available to the designated recipient. This second transfer amount need not be disclosed if covered third-party fees are not imposed on the remittance transfer. The terms used to describe each transfer amount should be the same (Comment 31(b)(1)-2).

Fees and taxes. Fees imposed and taxes collected on the remittance transfer by a provider must be disclosed in the currency in which the transaction is funded, as applicable. Taxes collected on the remittance transfer by the provider include taxes imposed on the remittance transfer by a state or other governmental body (Comment 31(b)(1)-1(i)).

The fees and taxes required to be disclosed by 12 CFR 1005.31(b)(1)(ii) include all fees imposed and all taxes collected on the remittance transfer by the provider and include only those that are specifically related to the remittance transfer. For example, a provider must disclose any service fees imposed by an agent at the time of the transfer, and any state taxes collected on the remittance transfer (Comment 31(b)(1)-1(ii)).

Applicable exchange rate. If the designated recipient will receive funds in a currency other than the currency in which the remittance transfer is funded, a remittance transfer provider must disclose the exchange rate to be used by the provider for the remittance transfer (Comment 31(b)(1)(iv)-1).

Rounding. The exchange rate disclosed for the remittance transfer is required to be rounded on the disclosure. The provider may round to two, three, or four decimal places, at its option, but this must be done consistently for each currency (Comment 31(b)(1)(iv)-2). However, the exchange rate used to calculate: (a) the transfer amount; (b) the fees and taxes imposed on the remittance transfer by a person other than the provider; and (c) the amount received by the designated recipient, is prior to any rounding. If an exchange rate need not be rounded, a provider must use that exchange rate to calculate these disclosures (Comment 31(b)(1)-3).

Exchange rate used. The exchange rate used by the provider for the remittance transfer need not have been set by the provider. For example, an exchange rate set by an intermediary institution and applied to the remittance transfer would be the exchange rate used for the remittance transfer and must be disclosed by the provider (Comment 31(b)(1)(iv)-3).

Disclosure of Covered Third-Party Fees. Covered third-party fees must be disclosed in the currency in which the funds will be received by the designated recipient, using the applicable exchange rate, or an estimated exchange rate to the extent permitted, prior to any rounding of the exchange rate. If a provider does not have specific knowledge regarding the currency in which the funds will be received, the provider may rely on a sender's representation as to the currency in which funds will be received. If a sender does not know the currency in which funds will be received, the provider may assume that the currency in which funds will be received is the currency in which the remittance transfer is funded (Comment 31(b)(1)(vi)-1).

Amount Received. The remittance transfer provider is required to disclose the amount that will be received by the designated recipient in the currency in which the funds will be received. The amount received must reflect the exchange rate, all fees imposed and all taxes collected on the remittance transfer by the remittance transfer provider, as well as any covered third-party fees required to be disclosed. The disclosed amount received must be reduced by the amount of any fees or taxes (except non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider) imposed on the remittance transfer that affects the amount received even if that amount is imposed or itemized separately from the transaction amount (Comment 31(b)(1)(vii)-1).

Required disclaimer when non-covered third-party fees and taxes collected by a person other than the provider may apply. The provider is required to include a disclaimer that non-covered third-party fees or taxes may apply to the remittance transfer if such taxes and fees apply to a particular transfer or the provider does not know whether they apply. This disclosure may only be provided to the extent applicable. For example, if the designated recipient's institution is an agent of the provider and thus, non-covered third-party fees cannot apply to the transfer, the provider must disclose all fees imposed on the remittance transfer and may not provide the disclaimer regarding non-covered third-party fees (Comment 31(b)(1)(viii)-1).

Optional disclosure of non-covered third-party fees and taxes collected by a person other than the provider. The provider is permitted to disclose any non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider that will apply to a particular transaction if it knows the amount of such fees and taxes. Additionally, the provider is permitted to disclose an estimate of such fees and taxes, provided any estimates are based on a reasonable source of information (Comment 31(b)(1)(viii)-2; 12 CFR 1005.32(b)(3) and Comment 32(b)(3)-1).

Receipt – 12 CFR 1005.31(b)(2)

When payment is made, a remittance transfer provider must provide a receipt to a sender disclosing all applicable information required in the pre-payment disclosure. The receipt must also disclose, as applicable:

- a. The date of availability of the funds (date available);
- b. The name and, if provided by the sender, the telephone number and/or address of the designated recipient (recipient);

- c. A statement about the sender's error resolution and cancellation;
- d. Specified contact information for the remittance transfer provider; and
- e. The transfer date for remittance transfers scheduled at least three business days in advance, or the first transfer in a series of preauthorized transfers.

The provider must also provide a statement that the sender can contact the state agency that licenses or charters the remittance transfer provider with respect to the particular transfer (if there is such a state agency), and the Consumer Financial Protection Bureau (CFPB) for questions or complaints about the remittance transfer provider. The statement must include the name of the agency(ies), telephone number(s), and website address(es).

Date funds will be available. The provider must disclose the date in the foreign country on which the funds will be available to the designated recipient, using the term “Date Available” or a substantially similar term. If a provider does not know the exact date on which funds will be available, the provider may disclose the latest date on which the funds will be available. The provider may also disclose that funds “may be available sooner” or use a substantially similar term to inform senders that funds may be available to the designated recipient on a date earlier than the date disclosed (Comment 31(b)(2)-1).

Agencies required to be disclosed. The provider must disclose information about a state agency that licenses or charters the provider with respect to the particular remittance transfer. If a financial institution is solely regulated by a federal agency, the institution does not need to disclose information about a state agency. However, information about the CFPB must be provided whether or not the CFPB is the provider’s primary federal regulator (Comment 31(b)(2)-2). If a provider is licensed in multiple states, and the state agency that licenses the provider with respect to the remittance transfer is determined by the sender’s location, a provider may make the determination of the sender’s state based on information provided by the sender and on any records associated with the sender. A state-chartered bank must disclose information about the state agency that granted its charter, regardless of the location of the sender (Comment 31(b)(2)-3).

Date of transfer on receipt. For remittance transfers scheduled at least three business days in advance, or the first transfer in a series of preauthorized transfers, the date of transfer for the remittance transfer must be disclosed on the receipt. Additional disclosures apply to subsequent preauthorized remittance transfers, as described below regarding 12 CFR 1005.36(d) (Comments 31(b)(2)-4).

Cancellation Disclosure. The provider may provide the three-business-day right to cancel notice (for transfers scheduled three or more business days before the transfer date) and the 30-minute right to cancel notice (for transfers scheduled fewer than three business days in advance), on the same disclosure, with a checkbox or other method to clearly designate the applicable cancellation period. For transfers scheduled three or more business days before the transfer date, the cancellation disclosure should be phrased and formatted in such a way that it is clear to the sender which cancellation period is applicable to the date of transfer disclosed on the receipt (Comment 31(b)(2)-6).

Combined Disclosure — 12 CFR 1005.31(b)(3)

As an alternative to providing separate pre-payment and receipt disclosures, a remittance transfer provider may provide the information in the receipt in a single disclosure when the sender requests the remittance transfer, but prior to payment for the transfer. If this combined disclosure is provided and the sender completes the transfer, the remittance transfer provider must provide the sender with proof of payment when payment is made for the remittance transfer. For one-time transfers scheduled at least five business days in advance, or for the first in a series of preauthorized transfers, the provider may provide confirmation that the transaction has been scheduled in lieu of the proof of payment if payment is not processed at the time the remittance transfer is scheduled. No further proof of payment is required when payment is later processed.

Proof of payment/confirmation of scheduling. The proof of payment or confirmation of scheduling must be clear and conspicuous, provided in writing or electronically, and provided in a retainable form. The proof of payment for the transaction may be provided on the same piece of paper as the combined disclosure or on a separate piece of paper. A provider may also provide this additional information to a sender on a separate piece of paper when payment is made (12 CFR 1005.31(b)(3)(ii) and Comment 31(b)(3)-1).

Long-Form Error Resolution and Cancellation Notice — 12 CFR 1005.31(b)(4)

At the sender's request, a remittance transfer provider is required promptly to provide a notice describing the sender's error resolution and cancellation rights, using the language set forth in Model Form A-36 of Appendix A or substantially similar language. For any remittance transfer scheduled by the sender at least three business days before the date of the transfer, the description of the rights of the sender regarding cancellation must instead reflect the requirements of 12 CFR 1005.36(c).

Specific Format of Disclosures — 12 CFR 1005.31(c)

Grouping of disclosed information. Disclosures related to transfer amount, transfer fees and taxes imposed by the provider, and the total amount of the transaction generally must be grouped together. Similarly, disclosures related to the transfer amount in the currency to be made available to the designated recipient, covered third-party fees, taxes collected on the remittance by the provider, the total amount to be received by the designated recipient, and the disclaimer statement generally must be grouped together. Information is grouped together if multiple disclosures are in close proximity to one another and a sender can reasonably calculate the total amount of the transaction and the amount that will be received by the designated recipient (12 CFR 1005.31(c)(1) and Comment 31(c)(1)-1).

Proximity of disclosed information. The exchange rate used for the remittance transfer generally must be disclosed in close proximity to the other information required in the pre-payment disclosure. Disclosures on error resolution and cancellation rights generally must be disclosed in close proximity to the other disclosures required on the receipt (12 CFR 1005.31(c)(2)).

Prominence and size of disclosures. Disclosures required by Subpart B or permitted by 12 CFR 1005.31(b)(1)(viii) that are provided in writing or electronically, other than disclosures permitted to be provided via mobile application or text message, must be in a minimum of eight-point font and in equal prominence to each other. They must be provided on the front of the page on which the disclosures are printed (12 CFR 1005.31(c)(3)).

Segregation of disclosures from other information. Disclosures that are provided in writing or electronically, other than disclosures permitted to be provided via mobile application or text message, must be segregated from everything else and must contain only information that is “directly related” to the disclosures (12 CFR 1005.31(c)(4)). The following is “directly related” information:

- a. The date and time of the transaction;
- b. The sender’s name and contact information;
- c. The location at which the designated recipient may pick up the funds;
- d. The confirmation or other identification code;
- e. A company name and logo;
- f. An indication that a disclosure is or is not a receipt or other indicia of proof of payment;
- g. A designated area for signatures or initials;
- h. A statement that funds may be available sooner;
- i. Instructions regarding the retrieval of funds, such as the number of days the funds will be available to the recipient before they are returned to the sender;
- j. A statement that the provider makes money from foreign currency exchange; and
- k. Disclosure of any non-covered third-party fees and any taxes collected by a person other than the provider (Comment 31(c)(4)-2).

Terms used in the case of estimated disclosures. A remittance transfer provider may provide estimates of the amounts required to be disclosed in the pre-payment disclosure, receipt, and combined disclosure to the extent permitted by 12 CFR 1005.32. An estimate must be described using the term “Estimated” or a substantially similar term in close proximity to the estimated term or terms. For example, a remittance transfer provider could describe an estimated disclosure as “Estimated Transfer Amount,” “Other Estimated Fees and Taxes,” or “Total to Recipient (Est.)” (12 CFR 1005.31(d) and Comment 31(d)-1).

Request to send a remittance transfer. Determining whether a consumer has requested a remittance transfer depends on the facts and circumstances. A sender that asks a provider to send a remittance transfer, and provides transaction-specific information to the provider in order to send funds to a designated recipient, has requested a remittance transfer. On the other hand, a

consumer who solely inquires about that day's rates and fees to send to a particular country has not requested the provider to send a remittance transfer (Comment 31(e)-1).

When payment is made. Payment is made when a sender provides cash to the remittance transfer provider or when payment is authorized (Comment 31(e)-2).

Disclosures related to mobile application and text message transactions. If a transaction is conducted entirely by telephone via mobile application or text message, a receipt may be mailed or delivered to the sender pursuant to the timing requirements for transfers conducted entirely by telephone (Comment 31(e)-4).

Accuracy of disclosures - when payment is made. Disclosures required by Subpart B or permitted by 12 CFR 1005.31(b)(1)(viii) must be accurate when a sender makes payment for the remittance transfer, except to the extent estimates are permitted. A remittance transfer provider is not required to guarantee the terms of the remittance transfer in the pre-payment disclosures for any specific period of time. However, if any of these disclosures are not accurate when a sender makes payment for the remittance transfer, the provider must give new disclosures before accepting payment (12 CFR 1005.31(f) and Comment 31(f)-1).

Foreign Language Disclosures

Written and electronic disclosures required by Subpart B or permitted by 12 CFR 1005.31(b)(1)(viii) generally must be provided in English and in each foreign language principally used to advertise, solicit, or market remittance transfer services at the office in which a sender conducts a transaction or asserts an error. Alternatively, written and electronic disclosures can be provided in English and in the foreign language primarily used by the sender with the remittance transfer provider, provided such foreign language is principally used to advertise, solicit, or market remittance transfers at the office in which a sender conducts a transaction or asserts an error. For transfers requested orally, by text message, or mobile application, the disclosures must be in the language primarily used by the sender to communicate with the transfer provider (12 CFR 1005.31(g)).

Number of foreign languages used in the written disclosure. There is no limit to the number of languages that may be used on a single document, but such disclosures must be clear and conspicuous. If the remittance transfer provider chooses to provide written and electronic disclosures in English and in the foreign language primarily used by the sender with the remittance transfer provider, it may provide disclosures in a single document with both languages or in two separate documents with one document in English and the other document in the applicable foreign language (Comment 31(g)-1).

Language “primarily used.” The language primarily used by the sender with the remittance transfer provider to conduct the transaction is the primary language used by the sender with the remittance transfer provider to convey the information necessary to complete the transaction. Similarly, the language primarily used by the sender with the remittance transfer provider to assert the error is the primary language used by the sender with the remittance transfer provider to provide the information required to assert an error (Comment 31(g)-2).

Language “principally” used. Whether a foreign language is principally used by the remittance transfer provider to advertise, solicit, or market is determined from all relevant facts and circumstances, including:

- a. The frequency with which the foreign language is used in advertising, soliciting, or marketing of remittance transfer services at that office;
- b. The prominence of the advertising, soliciting, or marketing of remittance transfer services in that foreign language at that office; and
- c. The specific foreign language terms used in the advertising, soliciting, or marketing of remittance transfer services at that office (Comment 31(g)(1)-1(i)).

Language used to advertise, solicit, or market. Any commercial message in a foreign language, appearing in any medium, that promotes directly or indirectly the availability of remittance transfer services constitutes advertising, soliciting, or marketing in such foreign language (Comment 31(g)(1)-2).

Office. An office includes any physical location, telephone number, or website of a remittance transfer provider where a sender may conduct a remittance transfer or assert an error for a remittance transfer (Comment 31(g)(1)-3).

At the office. Any advertisement, solicitation, or marketing is considered to be made at the office in which a sender conducts a transaction or asserts an error if it is posted, provided, or made: at a physical office; on a website of a remittance transfer provider that may be used by senders to conduct remittance transfers or assert errors; during a telephone call with a remittance transfer provider that may be used by senders to conduct remittance transfers or assert errors; or via mobile application or text message if the mobile application or text message may be used by senders to conduct remittance transfers or assert errors (Comment 31(g)(1)-4).

III. Estimates – 12 CFR 1005.32

Disclosures for which estimates may be used. Estimates may be used in certain circumstances for certain information required in pre-payment disclosures, receipts, and combined disclosures.

Temporary Exception for Insured Institutions – 12 CFR 1005.32(a)

The temporary exception provision of the regulation expired on July 21, 2020.

Insured Institution – 12 CFR 1005.32(a)(3)

The term “insured institution” means insured depository institutions (which includes uninsured U.S. branches and agencies of foreign depository institutions) as defined in Section 3 of the Federal Deposit Insurance Act (12 USC 1813), and insured credit unions as defined in Section 101 of the Federal Credit Union Act (12 USC 1752).

**Permanent Exception for Transfers to Certain Countries — 12 CFR
1005.32(b)(1)**

Estimates may be provided in pre-payment disclosures, receipts, or combined disclosures for transfers to certain countries if a remittance transfer provider cannot determine the exact amounts at the time the disclosure is required either because:

- a. The laws of the recipient country do not permit such a determination, or
- b. The method by which transactions are made in the recipient country does not permit such determination.

Laws of the recipient country. The laws of the recipient country do not permit a remittance transfer provider to determine exact amounts required to be disclosed when a law or regulation of the recipient country (e.g., currency exchange or certain privacy laws) do not allow the person making funds directly available to the designated recipient to determine the exact amounts at the time the disclosure is required. A typical example is where the law requires an exchange rate to be either:

- a. Set by the government of the recipient country after the remittance transfer provider sends the remittance transfer; or
- b. Set when the designated recipient receives the funds (Comment 32(b)(1)-1).

Method by which transactions are made in the recipient country. The method by which transactions are made in the recipient country does not permit a remittance transfer provider to determine exact amounts required to be disclosed when transactions are sent via international ACH on terms negotiated between the U.S. government and the recipient country's government, under which the exchange rate is a rate set by the recipient country's central bank or other governmental authority after the provider sends the remittance transfer (Comment 32(b)(1)-3).

Safe harbor list. The remittance transfer provider may rely on a list of countries published by the CFPB to determine whether estimates may be provided for the exchange rate, the transfer amount, covered third-party fees and total amount to the recipient. If a country is on the CFPB's list, the provider may give estimates under this section, unless it has information that a country on the list legally permits the provider to determine exact disclosure amounts. If a country does not appear on the CFPB's list, the provider may give estimates if it determines that the recipient country does not legally permit or the method by which transactions are conducted in that country does not permit the provider to determine exact disclosure amounts (Comments 32(b)(1)-5 and 32(b)(1)-6).

Change in laws of the recipient country. If the laws of a recipient country change such that a remittance transfer provider can determine exact amounts, the remittance transfer provider must begin providing exact amounts for the required disclosures as soon as reasonably practicable. If the laws of a recipient country change such that the provider cannot determine

exact disclosure amounts, the provider may give estimates even if that country does not appear on the list published by the CFPB (Comment 32(b)(1)-7).

Permanent Exception for Transfers Scheduled Before the Date of Transfer — 12 CFR 1005.32(b)(2)

For remittance transfers scheduled five or more business days before the date of the transfer, estimates may be provided for the exchange rate, transfer amount, covered third-party fees (where the exchange rate is also estimated and affects such fees) and the total amount to the recipient, if at the time the sender schedules such a transfer, the provider agrees to a sender's request to fix the amount to be transferred in the currency in which the remittance transfer will be received and not the currency in which it is funded. For example, if a sender schedules a wire transfer to be sent from the sender's bank account denominated in U.S. dollars but to be paid to the recipient in Euro, the provider is allowed to estimate the transfer amount, front-end fees or taxes collected by the provider (if based on the amount transferred), and the total amount of the transaction. The provider is also allowed to estimate any covered third-party fees if the exchange rate is also estimated and the estimated exchange rate affects the amount of fees (12 CFR 1005.32(b)(2) and Comment 32(b)(2)-1).

Permanent Exception for Optional Disclosure of Non-Covered Third-Party Fees and Taxes Collected on the Remittance Transfer by a Person Other Than the Provider — 12 CFR 1005.32(b)(3)

The remittance transfer provider may provide estimates (as part of the required disclaimer statement) for applicable non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider if such estimates are based on reasonable sources of information. Reasonable sources of information may include, for example: information obtained from recent transfers to the same institution or the same country or region; fee schedules from the recipient institution; fee schedules from the recipient institution's competitors; surveys of recipient institution fees in the same country or region as the recipient institution; information provided or surveys of recipient institutions' regulators or taxing authorities; commercially or publicly available databases, services or sources; and information or resources developed by international nongovernmental organizations or intergovernmental organizations (Comment 32(b)(3)-1).

Permanent Exception for Estimation of the Exchange Rate by an Insured Institution — 12 CFR 1005.32(b)(4)

A remittance transfer provider that is an insured institution (as defined in Section 1005.32(a)(3)), may estimate the exchange rate for a remittance transfer to a particular country if all of the following conditions are met:

- a. the designated recipient will receive funds in the country's local currency;
- b. the insured institution cannot determine the exact exchange rate for that particular remittance transfer at the time the Rule requires it to provide the

- applicable exchange rate;
- c. the insured institution made 1,000 or fewer remittance transfers in the prior calendar year to that country when the designated recipient received funds in the country's local currency; and
 - d. the remittance transfer is sent from the sender's account with the insured institution, excluding prepaid accounts unless the prepaid account is a payroll card account or a government benefit account.

Determining the exact exchange rate. An insured institution meets the requirements in (b)(4)(i)(B) for being unable to determine the exact exchange rate if a person other than the insured institution sets the exchange rate for that transfer, except where that person has a correspondent relationship with the insured institution, that person is a service provider for the insured institution, or that person acts as an agent of the insured institution (Comment 32(b)(4)-1).

Threshold. Determining whether an insured institution made 1,000 or fewer remittance transfers in the prior calendar year to a particular country requires inquiring into what currency the recipient obtained the transfer. The number of remittance transfers does include those received in the country's local currency, regardless of whether the exchange rate was estimated for those transfers. Conversely, the number of remittances transfers does not include transfers made to a country when the recipient did not receive the funds in the country's local currency (Comments 32(b)(4)-2.i and 32(b)(4)-2.ii).

Transition Period. If an insured institution did not exceed the 1,000 transfer threshold in the previous calendar year, but does in the current calendar year, the insured institution has a reasonable amount of time after exceeding 1,000 transfers to begin providing exact exchange rates in disclosures. The reasonable time must not exceed the later of six months or January 1 of the next year (Comment 32(b)(4)-3).

Permanent Exception for Estimation of Covered Third-party Fees by an Insured Institution – 12 CFR 1005.32(b)(5)

A remittance transfer provider that is an insured institution (as defined in Section 1005.32(a)(3)), may estimate covered third-party fees (and other amounts affected by the estimation of such fees) when the following conditions are met:

- a. the insured institution cannot determine the exact covered third-party fees for a transfer to a particular designated recipient's institution at the time the Rule requires it to provide the disclosures;
- b. the insured institution made 500 or fewer remittance transfers to that designated recipient's institution in the prior calendar year or a United States Federal statute or regulation prohibits the insured institution from being able

- to determine the exact covered third-party fees; and
- c. the remittance transfer is sent from the sender's account with the insured institution, excluding prepaid accounts unless the prepaid account is a payroll card account or a government benefit account.

Determining the Exact Covered Third-Party Fees. An insured institution meets the requirements under (b)(5)(i)(B) for being unable to determine the exact covered third-party fees when 1) the insured institution does not have a correspondent relationship with the designated recipient's institution; 2) the designated recipient's institution does not act as an agent of the insured institution; 3) the insured institution does not have an agreement with the designated recipient's institution with respect to the imposition of covered third-party fees on the remittance transfer; and 4) the insured institution does not know at the time disclosures are given that the only intermediary financial institutions that will impose covered third-party fees on the transfer are those institutions that have a correspondent relationship with or act as an agent for the insured institution, or have otherwise agreed upon the covered third-party fees with the insured institution. The insured institution may not use the exception if any of the above conditions are not met (Comments 32(b)(5)-1 and 32(b)(5)-2).

Threshold. Determining whether an insured institution made 500 or fewer remittance transfers in the prior calendar year should include transfers regardless of whether the covered third-party fees were estimated for those transfers. Moreover, the number of remittance transfers includes transfers regardless of whether the amount was received in the country's local currency (unlike Section 1005.32(b)(4)). Further the number includes transfers provided to the designated recipient's institution and any of its branches in the country to which the particular transfer is being sent (Comment 32(b)(5)-3).

United States Federal Statute or Regulation. Even if the insured institution has sent more than 500 transfers to the designated recipient's institution in the prior calendar year, an insured institution may still estimate covered third-party fees if a United States Federal statute or regulation prohibits it. The statute or regulation may either directly prohibit the insured institution from disclosing exact covered third-party fees in disclosures for transfers to a designated recipient's institution or make it infeasible for the insured institution to form a relationship with the designated recipient's institution and that relationship is necessary for the insured institution to be able to determine, at the time it must provide the applicable disclosures, exact covered third-party fees (Comment 32(b)(5)-4).

Transition Period. If an insured institution did not exceed the 500 transfer threshold to a particular designated recipient's institution in the previous calendar year, but does in the current calendar year, the insured institution has a reasonable amount of time after exceeding 500 transfers to begin providing exact exchange rates in disclosures. The reasonable time must not exceed the later of six months or January 1 of the next year. This reasonable period assumes there is no United States Federal statute or regulation

that prohibits the insured institution from determining the exact covered third-party fees (Comment 32(b)(5)-5).

Bases for Estimates – 12 CFR 1005.32(c) and (d)

If a remittance transfer provider qualifies for either the temporary or permanent exception, the rule allows two bases for estimating information in the disclosures:

1. The estimates must generally be based on any of the approaches listed in the rule (12 CFR 1005.32 (c)(1)).
2. Alternatively, the estimates may be based on an approach that is not listed, provided that the designated recipient receives the same or greater amount of funds than the remittance transfer provider disclosed.

For remittance transfers scheduled five or more business days before the date of the transfer, estimates must be based on the exchange rate or where applicable the estimated exchange rate that the provider would have used or did use that day to provide disclosures to a sender requesting such a remittance transfer to be made on the same day.

Approaches Listed in the Rule

Estimates of the exchange rate. For remittance transfers sent via international ACH, the estimate must be based on the most recent exchange rate set by the recipient country's central bank or other governmental authority and reported by a Federal Reserve Bank. For any remittance transfers for which estimates are permitted, the exchange rate may be estimated based on the most recent publicly available wholesale exchange rate and any applicable spread that the remittance transfer provider or its correspondent typically applies for remittance transfers for that currency or the most recent exchange rate offered or used by the person making funds available directly to the designated recipient or by the person setting the exchange rate (12 CFR 1005.32(c)(1)).

Where the exchange rate for a remittance transfer sent via international ACH that qualifies for the permanent exception is set the following business day, the most recent exchange rate available for a transfer is the exchange rate set for the day that the disclosure is provided, i.e., the current business day's exchange rate (Comment 32(c)(1)-1).

Publicly available. Examples of publicly available sources of information containing the most recent wholesale exchange rate for a currency include U.S. news services, such as Bloomberg, the Wall Street Journal, and the New York Times; a recipient country's national news services; and a recipient country's central bank or other government agency (Comment 32(c)(1)-2).

Spread applied to the wholesale exchange rate. An estimate for disclosing the exchange rate based on the most recent publicly available wholesale exchange rate must also reflect any spread the remittance transfer provider typically applies to the wholesale exchange rate for remittance transfers for a particular currency (Comment 32(c)(1)-3).

Most recent exchange rate. If the exchange rate with respect to a particular currency is published or provided multiple times throughout the day because the exchange rate fluctuates throughout the day, a remittance transfer provider may use any exchange rate available on that day to determine the most recent exchange rate (Comment 32(c)(1)-4).

Estimates of the transfer amount and covered third-party fees in the currency in which funds will be received by the designated recipient. Estimates of the transfer amount in the currency in which the funds will be received by the designated recipient as well as covered third-party fees imposed as a percentage of the amount transferred must be based on the estimated exchange rate, prior to any rounding (12 CFR 1005.32(c)(2) and (3)(i)).

Estimates of the fees imposed by the intermediary or final institution. Estimates for covered third-party fees imposed by intermediary or final institutions that act as intermediaries or by the designated recipient's institution must be based on the remittance transfer provider's most recent remittance transfer to the designated recipient's institution, or a representative transmittal route identified by the remittance transfer provider (12 CFR 1005.32(c)(3)(ii)).

Estimates of the amount of currency that will be received by the designated recipient. Estimates for the amount of currency that will be received by the designated recipient must be based on the estimates provided in accordance with 12 CFR 1005.31(c)(1) through (3) as applicable for the transaction (12 CFR 1005.32(c)(4)).

IV. Procedures for Resolving Errors — 12 CFR 1005.33

Definition of Error — 12 CFR 1005.33(a)

In connection with an error asserted under 12 CFR 1005.33, the term error means:

- a. Generally, an incorrect amount paid by a sender in connection with a remittance transfer;
- b. A computational or bookkeeping error made by the remittance transfer provider relating to the remittance transfer;
- c. The failure, generally, to make available to a designated recipient the amount of currency required to be disclosed under 12 CFR 1005.31(b)(vii) and stated in the disclosure provided to the sender unless the disclosure stated an estimate of the amount paid and the difference results from application of the actual exchange rate, fees, and taxes, rather than any estimated amount;
- d. The failure, generally, to make funds available to a designated recipient by the date of availability stated in the disclosure provided to the sender; or

- e. The sender's request for documentation required by 12 CFR 1005.31 or for additional information or clarification concerning a remittance transfer, including a request a sender makes to determine whether an error exists. (See more detailed discussion of errors and exceptions below.)

Error due to incorrect amount of currency paid by sender. This type of error covers circumstances in which a sender pays an amount that differs from the total amount of the transaction, including fees imposed in connection with the transfer, stated in the receipt or combined disclosure provided. However, there is no error if the disclosure appropriately stated an estimate of the amount paid by the sender and the difference results from application of the actual exchange rate, fees, and taxes, rather than any estimated amounts (12 CFR 1005.33(a)(1)(i) and Comment 33(a)-1).

Error due to incorrect amount of currency received. This type of error covers circumstances in which the designated recipient receives an amount of currency that differs from the amount of currency identified on the disclosures provided to the sender. It also covers circumstances in which the remittance transfer provider transmits an amount that differs from the amount requested by the sender. There are three general exceptions to this. There is no error if:

- a. The disclosure appropriately, under one of the two exceptions in 12 CFR 1005.32, stated an estimate of the amount of currency to be received and the difference results from application of the actual exchange rate, fees, and taxes, rather than any estimated amounts;
- b. The failure was caused by extraordinary circumstances outside the remittance transfer provider's control; or
- c. The difference results from the application of non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider and the provider provided the required disclaimer.

A designated recipient may receive an amount of currency that differs from the amount of currency disclosed and an error has occurred if, for example:

- 1. An exchange rate other than the disclosed rate is applied to the remittance transfer; or
- 2. The provider gives the sender a receipt stating an amount of currency that will be received by the designated recipient, which does not reflect additional covered third-party fees that are imposed by the receiving agent in the destination country. However, if the designated recipient will receive less than the amount of currency disclosed on the receipt due solely to the additional foreign taxes that the provider was not required to disclose, no error has occurred (Comment 33(a)-3(ii)).

Exception for extraordinary circumstances outside the remittance transfer provider's control. If the provider fails to make the amount of currency disclosed available to the

designated recipient, such an occurrence is not an error if such failure was caused by extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated. Examples include, war or civil unrest, natural disaster, garnishment or attachment of some of the funds after the transfer is sent, and government actions or restrictions that could not have been reasonably anticipated by the remittance transfer provider, such as the imposition of foreign currency controls or foreign taxes unknown at the time the receipt or combined disclosure is provided (Comment 33(a)-4). Note that foreign taxes are not required to be disclosed. However, if a provider, believing that there is no applicable foreign tax, elects not to provide a disclaimer pursuant to 1005.31(b)(1)(viii), no error has occurred if a new tax is imposed that could not have been reasonably anticipated at the time the receipt or combined disclosure was required to be given.

Error due to failure to make funds available by disclosed date of availability. This error generally covers disputes about the failure to make remittance transfer funds available to a designated recipient by the disclosed date of availability. Examples of errors for failure to make funds available by the disclosed date of availability include, late or non-delivery of a remittance transfer, delivery of funds to the wrong account, the fraudulent pick-up of a remittance transfer in a foreign country by a person other than the designated recipient, and the recipient agent or institution's retention of the remittance transfer, instead of making the funds available to the designated recipient.

There is no error if funds were not made available by the disclosed date due to:

- a. Extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated;
- b. Delays related to the remittance transfer provider's fraud screening procedures or in accordance with the Bank Secrecy Act, Office of Foreign Assets Control requirements, or similar laws or requirements;
- c. The remittance transfer was made with fraudulent intent by the sender or any person acting in concert with the sender (i.e., friendly fraud); or
- d. The sender provided the remittance transfer provider an incorrect account number or recipient institution identifier for the designated recipient's account or institution, and the remittance transfer provider:
 - i. can demonstrate that the sender provided an incorrect account number or recipient institution identifier to the provider in connection with the remittance transfer;
 - ii. prior to or when sending the transfer, used reasonably available means to verify (for recipient institution identifier errors only) that the recipient institution identifier provided by the sender corresponded to the recipient institution name provided by the sender;
 - iii. provided notice to the sender (prior to payment for the remittance transfer)

that, in the event the sender provided an incorrect account number or recipient institution identifier, the sender could lose the transfer amount;

- iv. the incorrect account number or recipient institution identifier resulted in the deposit of the remittance transfer into a customer's account that is not the designated recipient's account; and
- v. promptly used reasonable efforts to recover the amount that was to be received by the designated recipient.

Account number or recipient institution identifier. Account number and recipient institution identifier refer to alphanumerical account or institution identifiers other than names or addresses, such as account numbers, routing numbers, Canadian transit numbers, International Bank Account Numbers, Business Identifier Codes, and other similar account or institution identifiers used to route a transaction. Designated recipient's account refers to an asset account but does not include a credit card, prepaid card, or a virtual account held by an Internet-based or mobile telephone company that is not a bank, savings association, credit union or equivalent institution (Comment 33(a)-8).

Reasonable methods of verification. Reasonably available means may include accessing a directory of Business Identifier Codes and verifying that the code provided by the sender matches the provided institution name, and if possible the specific branch or location provided by the sender. A provider may also rely on other commercially available databases or directories to check other recipient institution identifiers. The requirement to verify would be met if no reasonably available means exist to verify the accuracy of the recipient institution identifier if the other conditions are satisfied (Comment 33(h)-1).

Reasonable efforts. Whether a provider has used reasonable efforts does not depend on whether the provider is ultimately successful in recovering the amount that was to be received by the designated recipient. If the remittance transfer provider is requested to provide documentation or other supporting information in order for the pertinent institution or authority to obtain the proper authorization for the return of the incorrectly credited amount, reasonable efforts to recover the amount include the timely provision of any such documentation to the extent that it is available and permissible under law (Comment 33(h)-2).

Promptness of Reasonable Efforts. Whether a provider acts promptly to use reasonable efforts depends on the facts and circumstances. For example, if before the disclosed date of availability the sender informs the provider that the sender provided a wrong account number, the provider will have acted promptly if it attempts to contact the recipient's institution before the date of availability (Comment 33(h)-3).

Failure to make funds available by disclosed date of availability due to circumstances outside the remittance transfer provider's control. A remittance transfer provider's failure to deliver or transmit a remittance transfer by the disclosed date of availability is not an error if such failure was caused by extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated. Examples of such circumstances include war or civil

unrest, natural disaster, garnishment or attachment of funds after the transfer is sent, and government actions or restrictions that could not have been reasonably anticipated by the remittance transfer provider, such as the imposition of foreign currency controls (Comment 33(a)-6).

Failure to make funds available by disclosed date of availability - fraud and other screening procedures. A remittance transfer provider's failure to deliver funds by the disclosed date of availability is not an error if such delay is related to the provider's or any third party's investigation necessary to address potentially suspicious, blocked or prohibited activity, and the provider did not and could not have reasonably foreseen the delay so as to enable it to timely disclose an accurate date of availability when providing the sender with a receipt or combined disclosure. However, if a delay could have been reasonably foreseen, the exception in § 1005.33(a)(1)(iv)(B) would not apply (Comment 33(a)-7).

Issues that are not considered errors under Subpart B

The following are not errors:

- a. An inquiry about the status of a remittance transfer except where the funds from the transfer were not made available to a designated recipient by the disclosed date of availability;
- b. A request for information for tax or other recordkeeping purposes;
- c. A change requested by the designated recipient that the remittance transfer provider or others involved in the remittance transfer decide to accommodate; or
- d. A change in the amount or type of currency received by the designated recipient from the amount or type of currency stated in the disclosure provided to the sender if the remittance transfer provider relied on information provided by the sender (12 CFR 1005.33(a)(2) and Comment 33(a)-10)).

Notice of Error from Sender — 12 CFR 1005.33(b)

Person asserting or discovering error. The error resolution procedures apply only when a notice of error is received from the sender (Comment 33(b)-1).

Timing of error notice. The notice of error must be received by the remittance transfer provider within 180 days of the disclosed date of availability of the remittance transfer (12 CFR 1005.33(b)(1)). But if the notice of error is based on documentation, additional information, or clarification provided by the remittance transfer provider, then notice is timely if it is received by the remittance transfer provider the later of:

- a. 180 days after the disclosed date of availability of the remittance transfer, or
- b. 60 days after the provider sent the documentation, information, or clarification that had been requested (12 CFR 1005.33(b)(2)).

Content of error notice. Errors may be reported orally or in writing. The notice of error is effective so long as the remittance transfer provider is able to identify:

- a. The sender's name and telephone number or address (or email address);
- b. The recipient's name and, if known, telephone number and address;
- c. The remittance transfer to which the notice of error applies; and
- d. Why the sender believes an error exists and if possible the type, date, and amount of the error, except for errors involving requests for documentation, additional information or clarification.

For example, the sender could provide the confirmation number or code that would be used by the designated recipient to pick up the transfer, or other identification number or code supplied by the remittance transfer provider in connection with the transfer, if the number or code is sufficient for the remittance transfer provider to identify the sender (and contact information), designated recipient, and the transfer in question (Comment 33(b)-2 and 3).

Effect of late notice. A remittance transfer provider is not required to comply with the error resolution requirements for any notice of error from a sender that is received more than 180 days from the disclosed date of availability of the remittance transfer or, if applicable, more than 60 days after a provider sent documentation, additional information, or clarification requested by the sender (Comment 33(b)-4).

Notice of error provided to the agent. A notice of error provided by a sender to an agent of the remittance transfer provider is deemed to be received by the provider when the agent receives it (Comment 33(b)-5).

Consumer notice of error resolution rights. In addition to the requirement to provide an abbreviated notice of the consumer's error resolution rights on the receipt or combined notice, the remittance transfer provider must make available to a sender, upon request, a notice providing a full description of the sender's error resolution rights, using the language set forth in Appendix A (Model Form A-36) or substantially similar language (Comment 33(b)-6).

Time Limits and Extent of Investigation — 12 CFR 1005.33(c)

A remittance transfer provider must investigate promptly and determine whether an error occurred within 90 days of receiving a notice of error. The remittance transfer provider must report the results to the sender within three business days after completing its investigation and include notice of any remedies available for correcting any error that the provider determines has occurred. If the remittance transfer provider determines during its investigation that an error occurred as described by the sender, the remittance provider may inform the sender of its findings either orally or in writing. However, if the provider determines that no error or a different error occurred, the provider must provide a written explanation of the findings and note the sender's right to request the documents on which the provider relied in making its determination (Comment 33(c)-1).

Remedies. If the remittance transfer provider determines an error (as defined in Subpart B) occurred and the error relates to:

- a. an incorrect amount paid by the sender;
- b. a computational or bookkeeping error made by the remittance transfer provider; or
- c. failure to make the amount of currency stated in the disclosures available to the designated recipient;

then the provider must either:

- a. refund the amount of funds provided by the sender in connection with a remittance transfer which was not properly transmitted, or the amount appropriate to resolve the error; or
- b. make available to the designated recipient, the amount appropriate to resolve the error without additional cost to the sender or the designated recipient (12 CFR 1005.33(c)(2)(i)).

If the error relates to a sender's request for documentation or additional information or clarification to determine whether an error exists, the remittance transfer provider must provide the requested information (12 CFR 1005.33(c)(2)(iv)).

Remedy in the case of failure to make funds available by the disclosed date of availability.

1. Where failure to make funds available by the disclosed date of availability occurred due to incorrect or insufficient information provided by the sender:

The remittance transfer provider is required to refund to the sender the amount of funds that was not properly transmitted, or the amount appropriate to resolve the error and any fees and taxes paid by the sender in connection with the remittance transfer, within three business days of providing the written explanation of findings. However, the provider may agree to the sender's request, upon receiving the results of the error investigation, to apply the funds towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund.

The provider may deduct from the amount refunded or applied towards a new transfer any fees actually deducted by a person other than the provider (except those that will ultimately be refunded to the provider) on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt and inform the sender of the deduction and reason. The agreement to apply the funds towards a new transfer is treated as a new remittance transfer and the provider must provide new disclosures in accordance with 12 CFR 1005.31 and all other applicable provisions of Subpart B (12 CFR 1005.33(c)(2)(iii)) and Comments 33(c)-11 and -12).

2. All other instances of failure to make funds available by the disclosed date of availability: As applicable, the remittance transfer provider must either:
 - i. Refund to the sender, the amount of funds which was not properly transmitted or the amount appropriate to resolve the error; or
 - ii. Make available to the designated recipient the amount appropriate to resolve the error without additional cost to the sender or to the designated recipient; and

Refund to the sender any fees imposed and, to the extent not prohibited by law, taxes collected on the remittance transfer (12 CFR 1005.33(c)(2)(ii)).

Designation of requested remedy. The provider may request that the sender indicate the preferred remedy when providing the notice of the error. If the provider does so, it should indicate that a resend remedy may be unavailable if the error occurred because the sender provided incorrect or insufficient information. If the sender does not indicate the desired remedy at the time of providing notice of error, the remittance transfer provider must notify the sender of any available remedies in the written explanation of findings (Comment 33(c)-3).

Default remedy (except where the sender provided incorrect or insufficient information). The provider may set a default remedy that the remittance transfer provider will use if the sender does not designate a remedy within a reasonable time after receiving the written explanation of findings. If a default remedy is provided, the remittance transfer provider must correct the error within one business day or as soon as reasonably practicable, after the reasonable time for the sender to designate the remedy has passed. For purposes of designating a remedy, 10 days is deemed a reasonable time (Comment 33(c)-4).

Amount appropriate to resolve the error. The amount appropriate to resolve the error is the specific amount of transferred funds that should have been received if the remittance transfer had taken place without error. It does not include consequential damages (Comment 33(c)-5).

Form of refund. Where a refund may be issued, a remittance transfer provider may generally, at its discretion, issue a refund either in cash or in the same form of payment that was initially provided by the sender for the remittance transfer (Comment 33(c)-6).

Remedies for the incorrect amount paid. If an error relates to the payment of an incorrect amount, the sender may request a refund of the amount necessary to resolve the error or request that the remittance transfer provider make the amount necessary to resolve the error available to the designated recipient at no additional cost (Comment 33(c)-7).

Correction of an error if funds were not available by disclosed date. If the remittance transfer provider determines an error related to failure to make funds available by the disclosed date occurred, it must correct the error and refund any fees imposed by the provider or a third party involved in sending the transfer, such as an intermediary bank involved in

sending a wire transfer or the institution from which the funds are picked up (unless the sender provided incorrect or insufficient information to the remittance transfer provider in connection with the remittance transfer) (Comment 33(c)-8).

Charges for error resolution. If an error occurred, whether as alleged or in a different amount or manner, the remittance transfer provider may not impose a charge related to any aspect of the error resolution process (including charges for documentation or investigation) (Comment 33(c)-9).

Correction without investigation. A remittance transfer provider may correct an error, without investigation, in the amount or manner alleged by the sender, or otherwise determined, to be in error, but must comply with all other applicable requirements (Comment 33(c)-10).

Procedures if Remittance Transfer Provider Determines No Error or Different Error Occurred — 12 CFR 1005.33(d)

If the remittance transfer provider determines that no error occurred or that an error occurred in a manner or amount different from that described by the sender, its report of the results of the investigation must include a written explanation of the provider's findings and shall note the sender's right to request the documents on which it relied in making its determination. The explanation should also address the specific complaint of the sender. Upon the sender's request, the remittance transfer provider must also promptly provide copies of the documents on which it relied to make its error determination (12 CFR 1005.33(d)).

Error different from that alleged. If a remittance transfer provider determines that an error occurred in a manner or amount different from that described by the sender, it must comply with the requirements of both 12 CFR 1005.33(c) (concerning the investigation) and (d) (procedures if remittance transfer provider determines no error or different error occurred), as applicable. The provider may give the notice of correction and the explanation separately or in a combined form (Comment 33(d)-1).

Reassertion of Error — 12 CFR 1005.33(e)

A remittance transfer provider that has fully complied with the error resolution requirements of this section generally has no further responsibilities should the sender later reassert the same error, except in the case of an error asserted by the sender following receipt of additional information requested from the provider (12 CFR 1005.33(e)).

Withdrawal of error; right to reassert. The remittance transfer provider has no further error resolution responsibilities if the sender voluntarily withdraws the notice alleging an error. A sender who has withdrawn an allegation of error has the right to reassert the allegation unless the remittance transfer provider had already complied with all of the error resolution requirements before the allegation was withdrawn. The sender must do so, however, within the original 180-day period from the disclosed date of availability or, if applicable, the 60-day period for a notice of error based on documentation or clarification that the sender previously requested (Comment 33(e)-1).

Relation to Other Laws — 12 CFR 1005.33(f)

Relation to Regulation E for incorrect EFTs from a sender's account – 12 CFR 1005.11. If an alleged error involves an incorrect electronic fund transfer from a sender's account in connection with a remittance transfer, and the sender provides a notice of error to the account-holding institution, the requirements of 12 CFR 1005.11 governing error resolution apply if the account-holding institution is not also the remittance transfer provider. However, if the remittance transfer provider is also the account holding institution, then the error-resolution provisions of 12 CFR 1005.33 apply when the sender provides such notice of error (12 CFR 1005.33(f)(1)).

Concurrent error obligations. A remittance transfer provider that holds the sender's account may have error obligations under both 12 CFR 1005.11 and 1005.33, depending on the relationship with the sender and the nature of the error. For example, if a sender asserts an error under 12 CFR 1005.11 with a remittance transfer provider that holds the sender's account, and the error is not also an error under 12 CFR 1005.33 (such as the omission of an EFT on a periodic statement), then the error-resolution provisions of 12 CFR 1005.11 exclusively apply to the error. However, if a sender asserts an error under 12 CFR 1005.33 with a remittance transfer provider that holds the sender's account, and the error is also an error under 12 CFR 1005.11 (such as when the amount the sender requested to be deducted from the sender's account and sent for the remittance transfer differs from the amount that was actually deducted from the account and sent), then the error-resolution provisions of 12 CFR 1005.33 exclusively apply to the error (Comment 33(f)-1).

Relation to Truth in Lending Act and Regulation Z. If an alleged error involves an incorrect extension of credit in connection with a remittance transfer, an incorrect amount received by the designated recipient that is an extension of credit for property or services not delivered as agreed, or the failure to make funds available by the disclosed date of availability that is an extension of credit for property or services not delivered as agreed, and the sender provides a notice of error to the creditor extending the credit, the error resolution provisions of Regulation Z, 12 CFR 1026.13 apply to the creditor, rather than the requirements of 12 CFR 1005.33, even if the creditor is the remittance transfer provider. However, if the creditor is the remittance transfer provider, the error resolution requirements of 12 CFR 1005.33(b) will apply instead of 12 CFR 1026.13(b). If the sender instead provides a notice of error to the remittance transfer provider that is not also the creditor, then the error-resolution provisions of 12 CFR 1005.33 apply to the remittance transfer provider (12 CFR 1005.33(f)(2)).

Unauthorized remittance transfers. If an alleged error involves an unauthorized electronic fund transfer for payment in connection with a remittance transfer, 12 CFR 1005.6 and 1005.11 apply with respect to the account-holding institution. If an alleged error involves an unauthorized use of a credit account for payment in connection with a remittance transfer, the provisions of Regulation Z, 12 CFR 1026.12(b), if applicable, and 12 CFR 1026.13, apply with respect to the creditor (12 CFR 1005.33(f)(3)).

Holder in due course. The error resolution provisions in Subpart B do not affect a sender's rights to assert claims and defenses against a card issuer concerning property or services purchased with a credit card under Regulation Z, 12 CFR 1026.12(c)(1), as applicable (Comment 33(f)-2).

Assertion of the same error with multiple parties. If a sender receives credit to correct an error of an incorrect amount paid in connection with a remittance transfer from either the remittance transfer provider or account-holding institution (or creditor), and subsequently asserts the same error with another party, that party has no further responsibilities to investigate the error if the error has been corrected. In addition, nothing prevents an account-holding institution or creditor from reversing amounts it has previously credited to correct an error if a sender receives more than one credit to correct the same error (Comment 33(f)-3).

Error Resolution Standards and Recordkeeping Requirements – 12 CFR 1005.33(g)

Compliance program. A remittance transfer provider must develop and maintain written policies and procedures that are designed to ensure compliance with the error resolution requirements applicable to remittance transfers.

Policies and procedures must address the retention of records related to error investigations (12 CFR 1005.33(g)(1) and (2)).

Record retention requirements. Remittance transfer providers are subject to the record retention requirements under Subpart A (12 CFR 1005.13 and Comment 33(g)-1). See also, section XVIII below.

V. Procedures for Cancellation and Refund of Remittance Transfers – 12 CFR 1005.34

Sender's Right of Cancellation and Refund

Except for certain remittance transfers scheduled in advance subject to 12 CFR 1005.36(c), a remittance transfer provider generally must comply with any oral or written request to cancel a remittance transfer from the sender that is received by the provider no later than 30 minutes after the sender makes payment in connection with the remittance transfer if:

- a. The request to cancel enables the provider to identify the sender's name and address or telephone number and the particular transfer to be cancelled; and
- b. The transferred funds have not been picked up by the designated recipient or deposited into an account of the designated recipient (12 CFR 1005.34(a)).

Content of cancellation request. A request to cancel a remittance transfer is valid so long as the remittance transfer provider is able to identify the remittance transfer in question (Comment 34(a)-1).

Notice of cancellation right. A remittance transfer provider is required to include an abbreviated notice of the sender's right to cancel a remittance transfer on the receipt or combined disclosure provided to the sender. In addition, the remittance transfer provider must make available to a sender upon request, a notice providing a full description of the right to cancel a remittance transfer (Comment 34(a)-2). See also Model Form 36 in Appendix A.

Thirty-minute cancellation right. Except for certain remittance transfers scheduled in advance subject to 12 CFR 1005.36(c), a remittance transfer provider must comply with the cancellation and refund requirements if the cancellation request is received no later than 30 minutes after the sender makes payment (Comment 34(a)-3).

Cancellation request provided to agent. A cancellation request provided by a sender to an agent of the remittance transfer provider is deemed to be received by the provider when received by the agent (Comment 34(a)-4).

Time Limits and Refund Requirements

If a sender provides a timely request to cancel a remittance transfer, a remittance transfer provider must, within three business days of receiving the request, refund all funds provided by the sender in connection with the remittance transfer, including any fees and, to the extent not prohibited by law, taxes that have been imposed for the transfer, whether the fee or tax was assessed by the provider or a third party, such as an intermediary institution, the agent or bank in the recipient country, or a state or other governmental body (12 CFR 1005.34(b) and Comment 34(b)-2).

Form of refund. A remittance transfer provider generally may issue a refund either in cash or in the same form of payment that was initially provided by the sender for the remittance transfer (Comment 34(b)-1).

VI. Acts of Agents — 12 CFR 1005.35

A remittance transfer provider is strictly liable for a violation by an agent when such agent acts on its behalf. Remittance transfer providers must comply with the requirements of Subpart B, even if an agent or other person performs functions for the remittance transfer provider, and regardless of whether the provider has an agreement with a third party that transfers or otherwise makes funds available to a designated recipient (12 CFR 1005.35 and Comment 35-1).

Agencies responsible for enforcing the requirements of EFTA Section 919 and Subpart B of Regulation E may consider, in any action or other proceeding against a remittance transfer provider, the extent to which the provider had established and maintained policies or procedures for compliance, including policies, procedures, or other appropriate oversight measures designed to assure compliance by an agent or authorized delegate acting for such provider (EFTA Section 919(f)(2)).

VII. Transfers Scheduled Before the Date of Transfer – 12 CFR 1005.36

Applicability of Subpart B. The requirements set forth in Subpart B apply to remittance transfers scheduled before the transfer date, unless modified by 12 CFR 1005.36. For example, the foreign language disclosure requirements apply to disclosures provided in connection with transfers scheduled in advance (Comment 36-1).

Timing – 12 CFR 1005.36(a)

For one-time transfers scheduled five or more business days in advance or for the first in a series of transfers authorized in advance to recur at substantially regular intervals (preauthorized remittance transfers), the remittance transfer provider must provide either a pre-payment disclosure and a receipt or a combined disclosure at the time the sender requests the transfer but prior to payment. If any of the disclosures provided contain estimates, the provider must mail or deliver an additional receipt no later than one business day after the date of the transfer. If the transfer involves the transfer of funds from the sender’s account held by the provider, this additional receipt may be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided.

Subsequent Preauthorized Remittance Transfers. For each subsequent preauthorized remittance transfer, the provider must provide an updated receipt if any of the information (other than temporal disclosures) on the most recent receipt is no longer accurate for reasons other than as permitted in the estimates provision of 12 CFR 1005.32. The receipt must clearly and conspicuously indicate that it contains updated disclosures and must be mailed or delivered to the sender within a reasonable time prior to the scheduled date of the next subsequent preauthorized remittance transfer. If the disclosure is mailed no later than ten business days or delivered by hand or electronically no later than five business days before the scheduled date of the transfer, the provider is deemed to have provided the disclosure within a reasonable time (12 CFR 1005.36(a)(2)(i) and Comments 36(a)(2)-1, -2, and -3).

For each subsequent preauthorized transfer, the remittance transfer provider must mail or deliver to the sender a receipt no later than one business day after the date of the transfer. This is not required in situations where an updated receipt that contained no estimates was provided prior to the scheduled date of the next subsequent preauthorized remittance transfer. If the remittance transfer involves the transfer of funds from the sender’s account held by the provider, the receipt may be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided (12 CFR 1005.36(a)(2)(ii)).

Accuracy – 12 CFR 1005.36(b)

For a one-time transfer scheduled five or more business days in advance or for the first in a series of preauthorized remittance transfers, disclosures provided must be accurate when a sender makes payment except to the extent estimates are permitted. Unless estimates are

permitted, for each subsequent preauthorized remittance transfer, the most recent receipt provided must generally be accurate as of when such transfer is made except to the extent estimates are permitted. Temporal elements in the disclosures like the date of availability and the transfer date must only be accurate if the transfer is the first transfer after the disclosure was provided (12 CFR 1005.36(b)).

Cancellation — 12 CFR 1005.36(c)

Cancellation of transfers scheduled at least three days in advance. A remittance transfer provider must comply with any oral or written request to cancel any remittance transfer scheduled by the sender at least three business days before the date of the remittance transfer if the request to cancel:

- a. Enables the provider to identify the sender's name and address or telephone number and the particular transfer to be cancelled; and
- b. Is received by the provider at least three business days before the scheduled date of the remittance transfer (12 CFR 1005.36(c)).

The right of cancellation applies when a remittance transfer is scheduled by the sender at least three business days before the date of the transfer, regardless of whether the sender schedules a preauthorized remittance transfer or a one-time transfer. For transfers scheduled less than three business days before the date of transfer the 30-minute cancellation deadline in 12 CFR 1005.34 applies (Comment 36(c)-1).

Cancelled preauthorized remittance transfers. For preauthorized remittance transfers, the provider must assume the request to cancel applies to all future preauthorized remittance transfers, unless the sender specifically indicates that it should apply only to the next scheduled transfer (Comment 36(c)-2).

Concurrent cancellation obligations. A financial institution that is also a remittance transfer provider may have both stop payment obligations under 12 CFR 1005.10 and cancellation obligations under 12 CFR 1005.36. If a sender cancels a remittance transfer under 12 CFR 1005.36 with a remittance transfer provider that holds the sender's account, and the transfer is a preauthorized transfer, 12 CFR 1005.36 applies exclusively (Comment 36(c)-3).

Additional Requirements for Subsequent Preauthorized Remittance Transfers — 12 CFR 1005.36(d)

Disclosure requirement. For any subsequent transfer in a series of preauthorized remittance transfers, the remittance transfer provider must disclose:

- a. The date of the subsequent transfer using the term "Future Transfer Date" or a substantially similar term;
- b. A statement of the sender's cancellation rights; and

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- c. The name, telephone number(s), and website of the remittance transfer provider (12 CFR 1005.36(d)(1)).

The disclosures must be provided no more than 12 months, and no less than five business days prior to, the date of the subsequent preauthorized remittance transfer. For any subsequent preauthorized remittance transfer for which the date of transfer is four or fewer business days after the date payment is made, the disclosure must generally be provided on or with the receipt for the initial transfer in that series (12 CFR 1005.36(d)(2)).

A remittance transfer provider has some flexibility in determining how and when the disclosures required by 12 CFR 1005.36(d)(1) may be provided to senders. They may be provided as a separate disclosure, or on or with any other disclosure required by Subpart B related to the same series of preauthorized remittance transfers, provided that the disclosure and timing requirements in 12 CFR 1005.36(d)(2) and other applicable provisions in Subpart B are satisfied (Comment 36(d)-1).

If any of the information provided in these disclosures change, the provider must provide an updated disclosure with the revised information that is accurate as of when the transfer is made (12 CFR 1005.36(d)(1) and (4) and Comments 36(d)-2, 3 and 4).

For any subsequent preauthorized remittance transfer, the future date of transfer must be provided on any receipt provided for the initial transfer in that series of preauthorized remittance transfers. If the provider discloses the dates of subsequent preauthorized remittance transfers and the applicable cancellation period on either the receipt provided when payment is made or on a second receipt, the disclosure must be phrased and formatted in such a way that it is clear to the sender which cancellation period is applicable to any date of transfer on the receipt (Comments 31(b)(2)-4 and -5).

VIII. Preemption

The EFTA and Regulation E preempt inconsistent state laws, but only to the extent of the inconsistency. The CFPB is given the authority to determine whether or not a state law is inconsistent. An entity, state, or other interested party may request the CFPB to make such a determination. A state law will not be deemed inconsistent if it is more protective of the consumer than the EFTA or Regulation E. Upon application, the CFPB has the authority to exempt any state from the requirements of the EFTA or the regulation for any class of EFTs within a state, with the exception of the civil liability provision. (EFTA Section 922 and 12 CFR 1005.12(b) and (c)).

IX. Administrative Enforcement and Record Retention – 12 CFR 1005.13

Section 918 of the EFTA sets forth the federal agencies responsible for enforcing compliance with the provisions of the law and its implementing regulation.

Record retention. Any person subject to the EFTA and Regulation E must maintain evidence of compliance with the EFTA and Regulation E for at least two years from the date the

disclosures are required to be made or action is required to be taken. The agency supervising the person may extend this period. The period may also be extended if the person is subject to an action filed under Sections 910, 915 or 916(a) of the EFTA, which generally apply to the person's liability under the EFTA and Regulation E. Persons subject to the EFTA who have actual notice that they are being investigated or subject to an enforcement proceeding must retain records until disposition of the proceeding (12 CFR 1005.13 and 1005.33(g)).

Records may be stored on microfiche, microfilm, magnetic tape, or in any other manner capable of accurately retaining and reproducing the information.

X. Miscellaneous

The EFTA contains several additional provisions that are not directly reflected in the language of Regulation E. Most significantly, 15 USC 1693l provides that the consumer may not waive by agreement any right conferred, or cause of action created, by the EFTA. However, the consumer and another person may provide by agreement greater consumer protections or additional rights or remedies than those provided by the EFTA. In addition, the consumer may sign a waiver in settlement of a dispute.

If a third-party payee has agreed to accept payment by EFT, the consumer's obligation to pay is suspended during any period in which a system malfunction prevents an EFT from occurring (15 USC 1693j). However, the payee may avoid that suspension by making a written request for payment by means other than EFT.

Failure to comply with the requirements of the EFTA can result in civil and criminal liability, as outlined in 15 USC 1693m and 15 USC 1693n. Financial institutions may also be liable for damages under 15 USC 1693h due to failure to complete an EFT or failure to stop a preauthorized transfer when instructed to do so.

XI. Other Risks to Consumers

1. The Gramm-Leach-Bliley Act (GLBA) and its implementing regulations, subject to certain exceptions, prohibit financial institutions from disclosing nonpublic personal information about a consumer to nonaffiliated third parties, unless the institution satisfies various notice and opt-out requirements, and provided that the consumer has not elected to opt out of the disclosure. They further require financial institutions to provide notice of their privacy policies and practices to their customers.
2. The Dodd-Frank Act prohibits unfair, deceptive, or abusive acts or practices (UDAAPs) including those that involve remittance transfer providers' interactions with consumers. To assess such practices, the CFPB will apply the following standards:
 - a. A representation, omission, act, or practice is deceptive when:
 - I. The representation, omission, act, or practice misleads or is likely to mislead the consumer;

- II. The consumer's interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and
 - III. The misleading representation, omission, act, or practice is material.
- b. An act or practice is unfair when:
- I. It causes or is likely to cause substantial injury to consumers;
 - II. The injury is not reasonably avoidable by consumers; and
 - III. The injury is not outweighed by countervailing benefits to consumers or to competition.
- c. An abusive act or practice:
- I. Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or
 - II. Takes unreasonable advantage of:
 - i. a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;
 - ii. the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or
 - iii. the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

Examiners should refer to CFPB's examination procedures regarding UDAAPs for more information about these legal standards and the CFPB's approach to examining for UDAAPs. The particular facts in a case are crucial to a determination of unfair, deceptive, or abusive acts or practices. Consequently, examiners should consult with headquarters to determine whether the applicable legal standards have been met before a UDAAP violation is cited.

Model Disclosure Clauses and Forms — 12 CFR 1005, Appendix A

Appendix A of Regulation E contains model clauses and forms that entities may use to comply with the requirement disclosure requirements of Regulation E. Use of the model forms is optional and an entity may make certain changes to the language or format of the model forms without losing the protection from civil and criminal liability under Sections 915 and 916 of the EFTA.

The model forms for remittance transfers are:

A-30(a) – Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency including a disclaimer where non-covered third-party fees and foreign taxes may apply (12 CFR 1005.31(b)(1))

A-30(b) – Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency including a disclaimer with estimate for non-covered third-party fees (12 CFR 1005.31(b)(1) and 12 CFR 1005.32(b)(3))

A-30(c) – Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency including a disclaimer with estimate for foreign taxes (12 CFR 1005.31(b)(1) and 12 CFR 1005.32(b)(3))

A-30(d) – Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency, including a disclaimer with estimates for non-covered third-party fees and foreign taxes (12 CFR 1005.31(b)(1) and 12 CFR 1005.32(b)(3))

A-31 – Model Form for Receipts for Remittance Transfers Exchanged into Local Currency (12 CFR 1005.31(b)(2))

A-32 – Model Form for Combined Disclosures for Remittance Transfers Exchanged into Local Currency (12 CFR 1005.31(b)(3))

A-33 – Model Form for Pre-Payment Disclosures for Dollar-to-Dollar Remittance Transfers (12 CFR 1005.31(b)(1))

A-34 – Model Form for Receipts for Dollar-to-Dollar Remittance Transfers (12 CFR 1005.31(b)(2))

A-35 – Model Form for Combined Disclosures for Dollar-to-Dollar Remittance Transfers (12 CFR 1005.31(b)(3))

A-36 – Model Form for Error Resolution and Cancellation Disclosures (Long) (12 CFR 1005.31(b)(4))

A-37 – Model Form for Error Resolution and Cancellation Disclosures (Short) (12 CFR 1005.31(b)(2)(iv) and (b)(2)(vi))

A-38 – Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency – Spanish (12 CFR 1005.31(b)(1))

A-39 – Model Form for Receipts for Remittance Transfers Exchanged into Local Currency – Spanish (12 CFR 1005.31(b)(2))

A-40 – Model Form for Combined Disclosures for Remittance Transfers Exchanged into Local Currency – Spanish (12 CFR 1005.31(b)(3))

A-41 – Model Form for Error Resolution and Cancellation Disclosures (Long) – Spanish (12 CFR 1005.31(b)(4))

References

Laws

15 USC 1693 et seq.	Electronic Fund Transfer Act
15 USC 7001 et seq.	Electronic Signatures in Global and National Commerce
15 USC Sections 6802-6809	Sections 502 through 509 of the Gramm-Leach-Bliley Act, except for Section 505 as it applies to Section 501(b)
12 USC Sections 5531 and 5536	Unfair, deceptive, or abusive acts or practices

Consumer Financial Protection Bureau Regulations (12 CFR)

Part 1005	Electronic Fund Transfers (Regulation E)
Part 1016	Privacy of Consumer Financial Information (Regulation P)

This checklist can be used to review audit workpapers, evaluate the entity's policies, perform transaction testing, and train as appropriate. Complete only those aspects of the checklist that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the workpapers.

When reviewing audits, evaluating the entity's policies, or performing transaction testing, a "No" answer indicates a possible exception/deficiency, and you should explain it in the workpapers. If a line item is not applicable within the area you are reviewing, indicate by using "NA."

Requirements for Remittance Transfers

	Yes	No	NA
1. Does the provider offer remittance transfers in the normal course of business?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. If the provider deems itself to not offer remittance transfers in the normal course of business as a result of the 500-transfer safe harbor, are the provider's methods for counting transfers appropriate and properly documented?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Complete the rest of the checklist if the provider offers remittance transfers in the normal course of business</i>			
3. Does the provider have written policies and operating procedures that govern its remittance transfer operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Do these policies and procedures adequately address the requirements of Subpart B?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Are the provider's personnel who are involved in remittance transfer operations knowledgeable about the requirements of Subpart B?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Disclosures – 12 CFR 1005.31

(Unless otherwise indicated, the disclosure requirements apply to all remittance transfer transactions, including those scheduled before the date of transfer.)

6. Does the provider provide pre-payment disclosures and receipts or combined disclosures to its remittance transfer customers (12 CFR 1005.31(b)(1), (2), and (3))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>NOTE: specific content of disclosures is addressed below</i>			
7. Are written disclosures:			
<input type="checkbox"/> in the appropriate form (12 CFR 1005.31(c));	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> clear and conspicuous (12 CFR 1005.31(a)(1));	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> in retainable form (12 CFR 1005.31(a)(2))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No	NA
8.	Are written and electronic disclosures provided in compliance with the foreign language requirements of 12 CFR 1005.31(g)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	If the provider uses scripts to provide oral disclosures for remittance transfer transactions and error resolution procedures conducted over the telephone, do the contents of the scripts comply with the requirements of 12 CFR 1005.31(a)(3) and (a)(4)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Do disclosures related to telephone, mobile application, or text message transactions comply with the disclosure requirements with respect to foreign languages and notice of cancellation rights (12 CFR 1005.31(g)(2) and 12 CFR 1005.31(b)(2)(iv))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	Does information in written or electronic disclosures comply with the grouping requirements of 12 CFR 1005.31(c)(1)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12.	Is the exchange rate used for the remittance transfer generally disclosed in close proximity to the other information in the pre-payment disclosures (12 CFR 1005.31(c)(2))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13.	In case of a disclosure that includes the disclaimer statement under 12 CFR 1005.31(b)(1)(viii), is the disclaimer in close proximity to the total to recipient (12 CFR 1005.31(c)(2))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14.	Are disclosures on error resolution and cancellation rights generally disclosed in close proximity to the other disclosures on the receipt (12 CFR 1005.31(c)(2))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15.	Are disclosures that are provided in writing or electronically provided in a minimum of eight-point font, in equal prominence to each other, and on the front of the page on which the disclosures are printed (12 CFR 1005.31(c)(3))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.	For disclosures that are provided in writing or electronically:			
	□ do they contain only information directly related to the disclosures; and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	□ are they segregated from other items that may be disclosed (12 CFR 1005.31(c)(4))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17.	Are estimated amounts in the disclosures appropriately described using the term “estimated” or a substantially similar term in close proximity to the term described (12 CFR 1005.31(d))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18.	Are disclosures provided in compliance with the timing requirements of 12 CFR 1005.31(e)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No	NA
19. Do disclosures comply with the accuracy requirements of 12 CFR 1005.31(f)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: For a one-time transfer scheduled five or more business days in advance or for the first in a series of preauthorized remittance transfers, disclosures must be accurate when a sender makes payment except to the extent estimates are permitted. For any subsequent transfer in a series of preauthorized remittance transfers, disclosures must be accurate as of the date the preauthorized remittance transfer to which it pertains is made. (12 CFR 1005.36(b)).

Pre-payment Disclosures – 12 CFR 1005.31(b)(1)

20. Does the provider appropriately distinguish between covered and non-covered third-party fees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Do the provider's pre-payment disclosures appropriately disclose to the recipient the following information as applicable, using the terms in quotes (or substantially similar terms) listed below:			
□ “Transfer Amount” both in the currency in which transaction is funded and in the currency in which the funds will be made available to the recipient;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
□ “Transfer Fees” and “Transfer Taxes;”	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
□ “Other Fees;”	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
□ “Exchange Rate;”	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
□ “Total to Recipient;” and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
□ If applicable, a disclaimer statement that non-covered third- party fees or taxes collected on the remittance transfer by a third person may apply, resulting in the designated recipient receiving less than the amount disclosed (12 CFR 1005.31(b)(1))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
□ If the provider includes in the disclaimer statement required by 12 CFR 1005.31(b)(1)(viii), an optional estimated disclosure of applicable non-covered third-party fees or taxes, are the estimates based on reasonable sources of information? (12 CFR 1005.32(b)(3))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Receipt – 12 CFR 1005.31(b)(2)

Yes No NA

22. Do the provider's receipts appropriately calculate and disclose to the recipient the following information as applicable, using the terms in quotes (or substantially similar terms) listed below, as applicable:

- All the information required to be provided in the pre-payment disclosure;
- “Date Available”;
- “Recipient”
- A statement about the sender’s error resolution and cancellation rights, using language set forth in Model Form A-37 of Appendix A or substantially similar language;

NOTE: If the transfer is scheduled at least three business days before the date of the transfer, the statement about the sender’s cancellation rights should reflect the requirements of 12 CFR 1005.36(c);

- Name, telephone number(s) and if applicable, the website of the provider;
- A statement that the sender can contact the state agency that licenses or charters the remittance transfer provider with respect to the particular transfer (if applicable) and the Consumer Financial Protection Bureau, for questions or complaints about the remittance transfer provider using language set forth in Model Form A-37 of Appendix A or substantially similar language; and

NOTE: The statement must include the name, telephone number(s) and website of the state agency and the name, toll-free telephone number(s) and website of the CFPB.

- The transfer date (only for transfers scheduled at least three business days in advance, or the first transfer in a series of preauthorized remittance transfers)?

Combined Disclosure — 12 CFR 1005.31(b)(3)

Complete this section only if the provider gives combined disclosures as an alternative to separate pre-payment disclosures and receipts.

		Yes	No	NA
23.	Does the combined disclosure contain all the information required to be provided on the receipt?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24.	Does the provider offer the combined disclosure when the sender requests the remittance transfer, but prior to payment for the transfer; and provide proof of payment when payment is made for the transfer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE:

1. *The proof of payment must be clear and conspicuous, provided in writing or electronically, and provided in a retainable form.*
2. *For one-time transfers scheduled five or more business days in advance or for the first in a series of preauthorized transfers, the provider may give confirmation that the transaction has been scheduled in lieu of the proof of payment if payment is not processed at the time the remittance transfer is scheduled. No further proof of payment is required when payment is later processed.*

Long-form Error Resolution and Cancellation Notice — 12 CFR 1005.31(b)(4)

25.	Does the provider promptly give, at the sender's request, a notice describing the sender's error resolution and cancellation rights, using the language set forth in Model Form A-36 of Appendix A or substantially similar language? (12 CFR 1005.31(b)(4)).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NOTE: For a remittance transfer scheduled at least three business days before the date of the transfer, the description of the rights of the sender regarding cancellation must instead reflect the requirements of 12 CFR 1005.36(c).

Estimates – 12 CFR 1005.32**Permanent Exception for Transfers to Certain Countries –
12 CFR 1005.32(b)(1)**

	Yes	No	N/A
26. Does the provider appropriately rely on the most recent list provided by the CFPB when using estimates under the permanent exception set forth under 12 CFR 1005.32(b)(1) for transactions to those countries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. If the provider offers estimates for transactions in a country that does not appear on the safe harbor list published by the CFPB, does the entity appropriately determine that the laws of or the method by which transactions are conducted in the recipient country do not permit the determination of exact amounts. (12 CFR 1005.32(b)(1)(ii) and Comment 32(b)-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: A provider cannot rely on the CFPB list if it has information that the laws of a country on the list permit exact disclosures.

Permanent Exception for Transfers Scheduled Before the Date of Transfer – 12 CFR 1005.32(b)(2)

28. For transfers scheduled five or more business days before the date of the transfer for which estimates may be provided, does the provider comply with the requirements of 12 CFR 1005.32(b)(2)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Permanent Exception for Transfers Scheduled Before the Date of Transfer – 12 CFR 1005.32(b)(2)

29. If the remittance transfer provider is an insured institution (as defined by 12 CFR 1005.32(a)(3)), does the institution use estimates in its disclosures for transactions sent from the sender's account with the institution, except for a prepaid account unless that prepaid account is a payroll card account or a government benefit account?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30. If so, is the provider using the exception only in	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

situations where it cannot determine the exact amounts for reasons beyond its control because a person other than the institution or with which the institution has no correspondent relationship sets the exchange rate required to be disclosed or imposes a fee required to be disclosed? (12 CFR 1005.32(b)(4) and Comment 32(b)(4)-1.i)

31. Did the provider make 1,000 or fewer transfers
- in the prior calendar year?
 - counting only transfers that were received in the local currency? (Comments 32(b)(4)-2.i, 32(b)(4)-2.ii)

Permanent Exception for Insured Institutions for Covered Fees Estimates – 12 CFR 1005.32(b)(5)

	Yes	No	NA
32. If the remittance transfer provider is an insured institution (as defined by 12 CFR 1005.32(a)(3)), does the institution use estimates in its disclosures for transactions sent from the sender's account with the institution, except for a prepaid account unless that prepaid account is a payroll card account or a government benefit account?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33. If so, is the provider using the exception only in situations where it cannot determine the exact amounts for reasons beyond its control because a person other than the institution or with which the institution has no correspondent relationship and is not acting as agent of the institution, sets the third-party fees required to be disclosed and has no agreement with the insured institution? (Comments 32(b)(5)-1.i, 32(b)(5)-1.ii, 32(b)(5)(iii))	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. Did the provider make 500 or fewer transfers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> in the prior calendar year? <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> including non-estimated transfers to the recipient <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- institution? (Comment 32(b)(5)-3.i)
- including to any branches of the recipient institution within that country? (Comment 32(b)(5)-3.iii)
35. Does a Federal Statute or Regulation prevent the institution from determining the exact amount of covered third-party fees?

Bases for Estimates – 12 CFR 1005.32(c)

36. Are the bases used to derive the estimates under 12 CFR 1005.32(a), (b)(1), and (b)(2) in compliance with the method for disclosing estimates set forth in 12 CFR 1005.32(c)?

NOTE: For transfers scheduled five or more business days before the date of the transfer for which estimates may be provided, the requirements of 12 CFR 1005.32(d) apply.

- | | Yes | No | NA |
|---|--------------------------|--------------------------|--------------------------|
| 37. Does the provider use the approaches listed in the rule to estimate: | | | |
| <input type="checkbox"/> exchange rate; | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> transfer amount in which funds will be received; | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> covered third-party fees; and | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> the amount of currency that will be received by the designated recipient? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. If estimates are based on an approach that is not one of those listed, does the designated recipient receive the same, or greater, amount of funds than the remittance transfer provider disclosed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Procedures for Resolving Errors – 12 CFR 1005.33

39. Does the provider have adequate policies and procedures to address the error resolution requirements applicable to remittance transfers (12 CFR 1005.33(g))?
40. Do the policies and procedures adequately state what constitutes an error and what does not as defined in 12

CFR 1005.33(a)?

		Yes	No	NA
41.	Do the policies and procedures specifically address:			
	<ul style="list-style-type: none"> <input type="checkbox"/> timing and content of the sender's notice of error (12 CFR 1005.33(b)(1)); <input type="checkbox"/> provider's request for additional information or clarification (12 CFR 1005.33(b)(2)); <input type="checkbox"/> time limits for investigation, reporting results, and correcting an error (12 CFR 1005.33(c)); <input type="checkbox"/> sender's request for documentation that the provider relied on to make a decision (12 CFR 1005.33(d)); and <input type="checkbox"/> the retention of records related to error investigations (12 CFR 1005.33(g)(2) and (12 CFR 1005.13))? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42.	Does the provider complete its investigation of alleged errors and determine whether an error occurred within 90 days of receiving notice of the error (12 CFR 1005.33(c))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: Discussions on the quality, or lack thereof, of an investigation can be had with your OSP counterparts.

There is not a specific requirement that an error investigation must be reasonable in the regulation, unlike Regulation Z. Evaluate whether a determination was made at the first instance.

		Yes	No	NA
43.	Does the provider report investigation results to the sender within three business days after completing its investigation and include notice of any remedies available for correcting any error determined to have occurred and provide remedy within one business day (12 CFR 1005.33(c))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: The provider can ask the sender to designate a preferred remedy at the time the sender provides notice of the error but must indicate that a resend remedy may be unavailable if the error occurred because the sender provided incorrect or insufficient information.

		Yes	No	NA
44.	If the sender provided an incorrect account number or recipient institution identifier, does the provider comply with the requirements of 12 CFR 1005.33(h) before determining that no error occurred?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45.	If the provider determines that no error or a different error occurred, does it provide a written explanation of the findings, and note the sender's right to request the documents upon which the provider relied in making its determination (12 CFR 1005.33(d))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
46.	If the provider offers a default remedy, does it correct the error within one business day or as soon as reasonably practicable, after the reasonable time (deemed to be ten business days) or the sender designates that the remedy has passed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>NOTE: A default remedy is not applicable where the sender provided incorrect or insufficient information.</i>				
47.	If the sender requests a refund (for errors other than those related to failure to deliver by the disclosed date where the sender provided incorrect or insufficient information), does the provider refund within one business day or as soon as reasonably practicable thereafter (12 CFR 1005.33(c)(2)(A))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>NOTE: The provider may generally, at its discretion, issue a refund either in cash or in the same form of payment that was initially provided by the sender for the remittance transfer.</i>				
48.	If the sender requests delivery of the amount appropriate to correct the error and the error did not occur because the sender provided incorrect or insufficient information, does the provider correct the error within one business day, or as soon as reasonably practicable, applying the same exchange rate, fees, and taxes stated in the disclosure provided in connection with the unsuccessful remittance transfer attempt (Comment 33(c)-3)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
49.	In the case of errors involving incorrect or insufficient information provided by the sender for the transfer, does the provider comply with the requirements of 12 CFR 1005.33(c)(2)(iii)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Yes No NA

50. If the provider determines that an error occurred that relates to:
- an incorrect amount paid by the sender;
 - a computational or bookkeeping error made by the remittance transfer provider; or
 - failure to make the amount of currency stated in the disclosures available to the designated recipient;
- does the provider either:
- refund the amount of funds provided by the sender (in case of a transaction that was not properly transmitted);
 - refund the amount appropriate to resolve the error; or
 - make available to the designated recipient the amount appropriate to resolve the error without additional cost to the sender or the designated recipient (12 CFR 1005.33(c)(2)(i))?
51. If the error relates to the failure to make funds available to the designated recipient by the disclosed date of availability (except in cases where the sender provided incorrect or insufficient information), does the provider:
- either (i) refund the amount of funds that was not properly transmitted or the amount appropriate to resolve the error to the sender; or (ii) make available to the designated recipient the amount appropriate to resolve the error
- and
- refund to the sender any fees and, to the extent not prohibited by law, taxes imposed for the remittance transfer (12 CFR 1005.33(c)(2)(ii))?
52. If an error occurred, does the provider impose a charge related to any aspect of the error resolution process (including charges for documentation or investigation) (Comment 33(c)-9)? (12 CFR 1005.33(c))?

		Yes	No	NA
53.	Does the provider retain policies and procedures and documentation, including those related to error investigations, for a period of not less than two years from the date a notice of error was submitted to the provider or action was required to be taken by the provider (12 CFR 1005.33(g) and 1005.13)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Procedures for Cancellation and Refund of Remittance Transfers – 12 CFR 1005.34

54.	Does the provider comply with any oral or written request to cancel a remittance transfer (except for transfers scheduled three or more business days before the date of transfer) from the sender that is received no later than 30 minutes after the sender makes payment in connection with the remittance transfer (12 CFR 1005.34(a))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NOTE: The request to cancel must enable the provider to identify the sender's name and address or telephone number and the particular transfer to be cancelled; and the transferred funds must not have been picked up by the designated recipient or deposited into an account of the designated recipient (12 CFR 1005.34(a)(1) and (2)).

55.	If a sender provides a timely request to cancel a remittance transfer, does the provider refund all funds provided by the sender in connection with the remittance transfer at no additional cost to the sender, within three business days of receiving the request (12 CFR 1005.34(b))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NOTE: The funds to be refunded include any fees and, to the extent not prohibited by law, taxes that have been imposed for the transfer, whether the fee or tax was assessed by the provider or a third party, such as an intermediary institution, the agent or bank in the recipient country, or a state or other governmental body (12 CFR 1005.34(b)).

Acts of Agents – 12 CFR 1005.35

56.	Has the provider established and maintained policies or procedures, including policies, procedures for	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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compliance, or other appropriate oversight measures designed to assure compliance by an agent or authorized delegate acting for such provider?

Yes No NA

Consider:

- the degree of control the agent exercises over the remittance transfer activities performed on the provider's behalf;
- the quality and frequency of training provided to ensure that agents are aware of the regulatory requirements and the provider's internal policy guidelines; and
- the adequacy of the provider's oversight of agents' activities.

Transfers Scheduled Before the Date of Transfer – 12 CFR 1005.36

57. For one-time transfers scheduled five or more business days in advance or for the first in a series of preauthorized remittance transfers, does the provider provide either a pre-payment disclosure and a receipt or a combined disclosure at the time the sender requests the transfer but prior to payment (12 CFR 1005.36(a)(1)(i))?

NOTE: If any of the disclosures provided contain estimates, the provider must mail or deliver an additional receipt no later than one business day after the date of the transfer. If the transfer involves the transfer of funds from the sender's account held by the provider, this additional receipt may be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided. (12 CFR 1005.36(a)(1)(ii)).

58. For each subsequent preauthorized remittance transfer, does the provider give an updated receipt if any of the information (other than temporal disclosures or disclosures that are permitted to be estimated) on the most recent receipt is no longer accurate (12 CFR 1005.36(a)(2)(i))?

NOTE: The receipt must clearly and conspicuously indicate that it contains updated disclosures and must be

mailed or delivered to the sender within a reasonable time prior to the scheduled date of the next subsequent preauthorized remittance transfer. A disclosure that is mailed no later than ten business days or hand or electronically delivered no later than five business days is deemed to have been provided within a reasonable time (12 CFR 1005.36(a)(2)(i) and Comment 36(a)(2)-3).

- | | Yes | No | NA |
|--|--------------------------|--------------------------|--------------------------|
| 59. If there is no updated information and the remittance transfer does not involve the transfer of funds from the sender's account held by the provider, does the provider mail or deliver to the sender a receipt no later than one business day after the date of the transfer for each subsequent preauthorized transfer (12 CFR 1005.36(a)(2)(ii))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 60. If there is no updated information and the remittance transfer involves the transfer of funds from the sender's account held by the provider, is the receipt provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided (12 CFR 1005.36(a)(2)(ii))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 61. For any subsequent transfer in a series of preauthorized remittance transfers, does the provider disclose the date of the subsequent transfer using the term "Future Transfer Date" or a substantially similar term, a statement of the sender's cancellation rights, and the name, telephone number(s), and website of the remittance transfer provider no more than 12 months and no less than five business days prior to the date of the subsequent preauthorized remittance transfer (12 CFR 1005.36(d))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <p><i>NOTE: While the rule generally provides flexibility as to when and where future transfer dates may be disclosed, for any subsequent preauthorized remittance transfer for which the date of transfer is four or fewer business days after the date payment is made, the disclosure must generally be provided on or with the receipt for the initial transfer in that series (12 CFR 1005.36(d)(2)(ii)).</i></p> | | | |
| 62. Does the provider comply with any oral or written request to cancel any remittance transfer scheduled by the sender at least three business days before the date of | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

the remittance transfer (12 CFR 1005.36(c))?

NOTE: The request to cancel must:

- enable the provider to identify the sender's name and address or telephone number and the particular transfer to be cancelled; and*
- be received by the provider at least three business days before the scheduled date of the remittance transfer (12 CFR 1005.36(c)).*

	Yes	No	NA
63. As applicable, are the entity's privacy and information-sharing practices consistent with the requirements of Sections 502 to 509 of the Gramm-Leach-Bliley Act (15 USC 6802-09) and Regulation P (12 CFR Part 1016)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
64. Do all aspects of the entity's practices and operations involving remittance transfers and other financial products not raise concerns about unfair, deceptive, or abusive acts or practices?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Examination Conclusions

[Click&type]