

May 23, 2017

**By electronic delivery to:**  
[www.regulations.gov](http://www.regulations.gov)

Monica Jackson  
Office of the Executive Secretary  
Bureau of Consumer Financial Protection  
1275 First Street, N.E.  
Washington, DC 20002

Re: Notice of Assessment of Remittance Rule and Request for Public Comment; 82  
Fed. Reg. 15009 (Mar. 24, 2017) [Docket No. CFPB-2017-0004]

Dear Ms. Jackson:

The American Bankers Association (ABA)<sup>1</sup> appreciates the opportunity to comment on the Bureau of Consumer Financial Protection's (Bureau) plan<sup>2</sup> to assess the final rule on consumer remittance transfers (the Final Rule or the Rule).<sup>3</sup> This is the Bureau's first opportunity to assess a significant rule under subsection 1022(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act).<sup>4</sup> As such, we recognize that it will set expectations for future reviews, and we urge the Bureau to engage in a transparent and evidence-based assessment of the Final Rule and to use the data and information collected to identify elements of the Rule that require modification or elimination.

The Rule, which amended the Electronic Fund Transfer Act, is intended to provide additional information to help consumers shop for remittances and establish error resolution procedures and protections. As the Bureau acknowledged in its request for comment,<sup>5</sup> the path to reach the Final Rule required multiple amendments and clarifications, both before and after it took effect on October 28, 2013.<sup>6</sup> While we appreciate the Bureau's responsiveness to feedback that ABA

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<sup>1</sup> The American Bankers Association is the voice of the nation's \$17 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$13 trillion in deposits and extend more than \$9 trillion in loans.

<sup>2</sup> Notice and Request for Comment Regarding Remittance Rule Assessment, 82 Fed. Reg. 15009 (Mar. 24, 2017).

<sup>3</sup> Final Rule and Official Interpretation, Electronic Fund Transfers (Regulation E), 78 Fed. Reg. 30662 (May 22, 2013). As observed below, the Final Rule reflects amendments the Bureau made subsequent to the publication of the Final Rule in May 2013. See *infra* note 12.

<sup>4</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act § 1022(d), Pub. L. No. 111-203, 124 Stat. 1376 (2010) (requiring the Bureau to conduct an assessment of each significant rule, within five years after the rule's effective date, to address "the effectiveness of the rule . . . in meeting the purposes and objectives of this title and the specific goals stated by the Bureau").

<sup>5</sup> Notice and Request for Comment Regarding Remittance Rule Assessment, 82 Fed. Reg. at 15009-10.

<sup>6</sup> The Bureau adopted an initial final rule in February 2012 and then modified that rule six times. Each time a new revision to the "Final" Rule was adopted, banks that provide remittance services were forced to stop and realign procedures to the new requirements, creating unnecessary costs. Some of these amendments reflected industry recommendations made during the initial comment period, indicating that

and others in the financial industry offered throughout the lengthy rulemaking process,<sup>7</sup> without the modifications made in response to industry concerns, there would have been significant disruption to the remittance transfer market. We encourage Bureau staff to be mindful of that experience during the assessment and to consider seriously industry recommendations for further reform of the Rule. To that end, ABA, The Clearing House, and the Consumer Bankers Association have submitted a joint letter that offers specific recommendations for further reform of the Rule to make the remittance process more efficient and cost-effective for consumers and less burdensome for providers (the joint letter).

In this letter, we focus primarily on the methodology the Bureau should use to assess the effectiveness of the Final Rule. As mandated by the Dodd-Frank Act, the Bureau must determine whether the Final Rule meets the “purposes and objectives” of Title X of the Dodd-Frank Act *and* the “specific goals stated by the Bureau” in the proposed rule.<sup>8</sup> Accordingly, under the first part of the test, the Bureau must examine whether: consumers, including consumers in rural areas, have access to remittance transfer services, consumers are given information about remittance services that inform rather than confuse, and regulation of remittances is not unnecessarily burdensome to the financial institutions that provide this service. The assessment must also address the Bureau’s specific goals for the Final Rule to: improve the predictability of remittance transfers, provide consumers with better information to facilitate comparison shopping, and limit potential market disruption.

To aid the Bureau in its assessment, ABA conducted a survey of 75 member banks of varying asset sizes on the impact of the Final Rule on the ability of these institutions to meet their customers’ remittance needs.<sup>9</sup> As described in greater detail below, the survey data and other feedback provided by ABA members show that the Final Rule has restricted consumers’ access to remittances, increased fees for use of the service, and unnecessarily delayed remittance requests. At the same time, there is little evidence that the Final Rule has improved consumer decision-making or facilitated comparison shopping.

## **I. Background**

The Final Rule was issued pursuant to section 1073 of the Dodd-Frank Act. That section requires that remittance transfer providers make certain disclosures when arranging a remittance transfer for a customer, and it establishes error resolution, cancellation, and refund

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it would have been far more efficient, less confusing, and less burdensome if the Bureau had not been dismissive of industry concerns expressed in response to the initial proposal.

<sup>7</sup> During the rulemaking process, ABA submitted comments at several junctures, both individually and together with The Clearing House and other financial trade associations. See, e.g., Letter from Robert G. Rowe, III, Am. Bankers Ass’n, to Monica Jackson, Bureau of Consumer Fin. Prot. (Apr. 9, 2012), *available at* <http://www.aba.com/Advocacy/commentletters/Documents/clRemittancesApril2012.pdf>; Letter from The Clearing House Ass’n, Am. Bankers Ass’n, et al. (Apr. 9, 2012), *available at* <http://www.aba.com/Advocacy/commentletters/Documents/clJointRemittanceApr2012.pdf>; Letter from Robert G. Rowe, III, Am. Bankers Ass’n, to Jennifer J. Johnson, Bd. of Govs. of the Fed. Reserve Sys. (July 22, 2011), *available at* <http://www.aba.com/Advocacy/commentletters/Documents/cl-RemittancesRowe2011Julyfinal.pdf>; Letter from The Clearing House Ass’n, Am. Bankers Ass’n, et al. to Jennifer J. Johnson, Bd. of Govs. of the Fed. Reserve Sys. (July 22, 2011), *available at* <http://www.aba.com/Advocacy/commentletters/Documents/joint-regulatione-amendments-dfa-72211.pdf>.

<sup>8</sup> Dodd-Frank Act § 1022(d)(1).

<sup>9</sup> The survey was sent to all banks in ABA’s Open Compliance Committee, which reflects a broad cross-section of banks that are ABA members; 75 banks that offered remittance transfers before the Final Rule took effect completed the survey.

rights for consumers.<sup>10</sup> It also authorized the Bureau to prescribe rules to implement the section.<sup>11</sup> In April 2013, after a series of initial final rules, amendments, and corrections, the Bureau published the Final Rule and set an effective date of October 28, 2013.<sup>12</sup>

The Bureau is conducting its assessment of the Final Rule pursuant to subsection 1022(d) of the Dodd-Frank Act. That subsection requires the Bureau to conduct an assessment of each significant rule the agency issues and publish a report of that assessment within five years of the rule's effective date.<sup>13</sup> Subsection 1022(d) requires the Bureau to conduct the assessment in accordance with the following directives:

- The assessment must address the effectiveness of the rule in meeting the “purposes and objectives” of Title X of the Dodd-Frank Act, which is the statutory provision that created the Bureau.<sup>14</sup> Most relevant to this assessment, Title X's purposes and objectives include “ensuring that all consumers have access to markets for consumer financial products and services,”<sup>15</sup> that markets for these products and services “operate transparently and efficiently to facilitate access and innovation,”<sup>16</sup> and that “burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burden.”<sup>17</sup>
- The assessment also must address the Bureau's “specific goals” for the rule.<sup>18</sup> In this case, the Bureau's specific goals for the Final Rule were to improve the predictability of remittance transfers, provide consumers with better information to facilitate comparison shopping, and limit potential market disruption.<sup>19</sup>
- The assessment must “reflect available evidence and any data that the Bureau reasonably may collect.”<sup>20</sup>
- The Bureau must “invite public comment on recommendations for modifying, expanding, or eliminating” the rule being assessed, prior to publishing the assessment.<sup>21</sup>

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<sup>10</sup> Dodd-Frank Act § 1073.

<sup>11</sup> *Id.* As a technical matter, this section of the Dodd-Frank Act authorized the Board of Governors of the Federal Reserve System to issue rules to implement the section. That authority was subsequently transferred to the Bureau.

<sup>12</sup> Final Rule and Official Interpretation, 78 Fed. Reg. at 30662. Subsequently, in August 2013 and October 2016, the Bureau made clarifying, clerical, and non-substantive amendments and technical corrections, which were incorporated into the Final Rule. Final Rule, Official Interpretation, and Correction, Electronic Fund Transfers (Regulation E), 78 Fed. Reg. 49365 (Aug. 14, 2013); Final Rule and Correcting Amendments, Electronic Fund Transfers (Regulation E), 81 Fed. Reg. 70319 (Oct. 12, 2016). In September 2014, the Bureau extended, until 2020, a temporary provision that permits insured financial institutions to estimate certain pricing disclosures. Final Rule and Official Interpretation, Electronic Fund Transfers (Regulation E), 79 Fed. Reg. 55970 (Sept. 18, 2014). This amendment is also subject to the assessment.

<sup>13</sup> Dodd-Frank Act § 1022(d)(1) & (2).

<sup>14</sup> *Id.* § 1022(d)(1).

<sup>15</sup> *Id.* § 1021(a).

<sup>16</sup> *Id.* § 1021(b)(5).

<sup>17</sup> *Id.* § 1021(b)(3).

<sup>18</sup> *Id.* § 1022(d)(1).

<sup>19</sup> See Notice and Request for Comment Regarding Remittance Rule Assessment, 82 Fed. Reg. at 15013.

<sup>20</sup> Dodd-Frank Act § 1022(d)(1).

<sup>21</sup> *Id.* § 1022(d)(3).

## **II. Bureau's Assessment of the Final Rule**

### **A. Procedural Requirements for the Bureau's Assessment**

As stated above, the Bureau's assessment of the Final Rule must comply with Dodd-Frank Act subsection 1022(d). In addition, any survey that the Bureau conducts as part of the assessment must conform with the Paperwork Reduction Act, which was enacted to enhance the utility of data collected by a federal agency by requiring that the survey instrument and collection plan be informed by public feedback.<sup>22</sup>

#### **1. Application of Dodd-Frank Act Subsection 1022(d)**

The crux of subsection 1022(d) of the Dodd-Frank Act is the requirement that the Bureau assess the effectiveness of the Final Rule. We support the Bureau's intent, as stated in its assessment plan, to gather information about remittance providers' and consumers' actions in response to the Rule, including how the Rule has impacted the number of providers in this market, the number of remittances sent, and the price charged for each transaction.<sup>23</sup> Indeed, we believe it is critical that the Bureau collect evidence and other data from two sets of industry participants: (a) consumers who actually use remittance services; and (b) remittance providers, including any that may have discontinued providing the service. Below is a preliminary list of questions that we urge the Bureau to ask these two groups of survey respondents.<sup>24</sup>

Survey of Consumers. The Bureau should survey a representative sample of consumers who used remittance transfer services prior to the Final Rule's effective date as well as consumers who continue to use the service and those consumers who have not used this service since the Rule became effective. (Surveys of consumers who are not familiar with remittances or who have never sent remittances will not be valuable to the assessment.) The Bureau also should ensure that consumers who are frequent users of remittance services and consumers who send remittances in high dollar amounts are adequately represented in the survey sample. The composition of the survey sample is critical to ensuring that the data obtained accurately reflects the Final Rule's impact on access to remittance services.

As discussed more fully in subsection II.B of this letter, the Bureau's survey of consumers should focus on:

- Whether consumers who use remittance services shop for these services (a critical assumption of the disclosure requirement), and if they do not shop for these services, why not;
- Whether consumers who use remittance services read and understand the longer disclosures required by the Rule and, if so, whether consumers use that information;
- Whether consumer who use remittance services have been inconvenienced or had their transaction delayed by having to listen to or read the required disclosures;
- Whether consumers have used the cancellation and error resolution rights created by the Rule by cancelling a remittance transfer request or reporting an error with a transaction; and

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<sup>22</sup> Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163.

<sup>23</sup> Notice of Assessment of Remittance Rule and Request for Public Comment, 82 Fed. Reg. at 15013.

<sup>24</sup> These lines of inquiry are developed in subsection II.B of this letter, which discusses how the Bureau should assess whether each aspect of the Final Rule has provided consumer benefit.

- Whether consumers who use remittance services have had transactions delayed as a consequence of the 30-minute cancellation period required by the Rule, and if so, whether those delays have caused inconvenience to the consumer.

Obtaining feedback from consumers who send remittances is particularly important. We note the lack of complaints alleging dissatisfaction with remittance services either before or after the Rule was adopted. According to the Bureau's latest "Monthly Complaint Report," complaints about money transfers comprised only 0.6% of all complaints submitted during the most recent reporting period (January to March 2017).<sup>25</sup> Prior to the rule's effective date of October 2013, complaints about money transfers comprised an even smaller percentage—0.3%—of the total number of complaints submitted up to that date.<sup>26</sup> In the absence of countervailing data, these figures suggest that the Final Rule was a solution in search of a problem.

Survey of Remittance Providers. The Bureau should also survey providers of remittance services, including banks and non-banks that provide these services, as the Bureau has indicated it will do.<sup>27</sup> As discussed more fully in subsection II.B of this letter and in the joint letter, the Bureau's survey of providers should focus on:

- Whether costs to provide remittance services have increased as a result of the final rule, and if so, whether remittance service providers have increased the fees to consumers that the providers charge for this service;
- Whether remittance service providers have turned away prospective remittance senders in order to remain below the 100-remittance threshold for being exempt from the Final Rule's requirements;
- Whether providers have limited the hours during which they accept a remittance transfer request or delayed processing remittance requests as a result of the 30-minute cancellation window mandated by the Final Rule;
- Whether providers have received from remittance senders (a) requests to cancel a remittance request or (b) claims of error in a remittance transfer; and
- Whether providers no longer offer or have restricted remittance service offerings, and if so, why that is the case.

Recommendations for Modifying Rule. Subsection 1022(d) also requires the Bureau to invite public comment on recommendations for modifying, expanding, or eliminating the rule. Despite this requirement, the Bureau stated in its assessment plan that it "does not anticipate that the assessment report will include specific proposals by the Bureau to modify any rules . . . ."<sup>28</sup>

The Bureau's intent to avoid considering modifications to the Final Rule contravenes subsection 1022(d). By requiring the Bureau to invite public comment on recommendations for modifying, expanding, or eliminating the Final Rule, subsection 1022(d) also requires the Bureau to consider fully these comments and thus be open to recommending changes to the Final Rule. The Bureau cannot disclaim these required actions.

<sup>25</sup> BUREAU OF CONSUMER FIN. PROT., MONTHLY COMPLAINT REPORT, Vol. 22, at 3 (Apr. 2017). Moreover, the number of complaints about money transfers received during January to March 2017 is 12% lower than the number received during the same three-month period in 2016. *Id.*

<sup>26</sup> *Id.* at 22.

<sup>27</sup> Notice and Request for Comment Regarding Remittance Rule Assessment, 82 Fed. Reg. at 15013 ("The Bureau intends to interview various market participants, including remittance transfer providers and potential remittance transfer providers . . . .").

<sup>28</sup> *Id.* 15010.



## 2. Requirements of the Paperwork Reduction Act

The Bureau is required to follow the requirements of the Paperwork Reduction Act (PRA) in surveying remittance service providers and their customers. The PRA was enacted to “maximize the utility of information” the federal government collects to ensure the information provides the “greatest possible public benefit.”<sup>29</sup> It requires that the Bureau provide the public with notice and two opportunities to provide comment on any survey the Bureau conducts of 10 or more persons or other entities. Clearly, any survey of remittance providers or their customers would fall within the ambit of the PRA.<sup>30</sup>

The comments submitted by the public on the Bureau’s proposed survey(s) regarding remittance transfers will be critically important to ensuring that the data obtained is meaningful and not distorted. The design of a survey is a particularly complex undertaking, in which methodology, sampling, structure, and question design choices are interrelated and interdependent. The public’s comments will assist the Bureau in developing a methodologically sound instrument that is distributed to a representative sample of consumers.<sup>31</sup>

To promote accountability and transparency, the Bureau should make the aggregate, de-identified data it collects available to the public. Full public disclosure of this data will allow members of the public to test the Bureau’s analysis of the data. If the underlying data is not published, the public must accept the Bureau’s conclusions without an opportunity to scrutinize the data and the analysis underpinning those conclusions.

### **B. The Bureau Must Assess Whether the Final Rule Has Truly Provided a Consumer Benefit**

As noted above, the most important required element of the Bureau’s analysis is to determine whether consumers who are remittance senders have benefitted from—or been harmed by—the requirements imposed on remittance providers by the Final Rule.

#### 1. Access to Remittance Transfers

Section 1021 of the Dodd-Frank Act requires the Bureau to “ensur[e] that all consumers have access to markets for consumer financial products and services . . . .”<sup>32</sup> Accordingly, in conducting this assessment, the Bureau must evaluate whether consumers have equivalent access to remittance services now as they did prior to the Final Rule’s effective date. To be meaningful, any assessment should compare (a) the number of remittance transfers conducted before and after the Rule took effect; (b) the average price paid by consumers to send a remittance; (c) the number of banks and other financial service companies that provide remittance services; and (d) the distance consumers must travel to send a remittance.

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<sup>29</sup> 44 U.S.C. § 3501(2).

<sup>30</sup> We believe the Bureau should not submit any survey to fewer than 10 entities, which would permit the Bureau to forego compliance with the PRA’s requirements.

<sup>31</sup> Federal guidelines implementing the PRA also require that the agency provide a draft survey to the public when first providing notice of the collection request. JOHN D. GRAHAM, ADMIN., OFFICE OF INFO. & REGULATORY AFFAIRS, OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, QUESTIONS & ANSWERS WHEN DESIGNING SURVEYS FOR INFO. COLLECTIONS 3 (Jan. 2006), *available at* [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/infoeg/pmc\\_survey\\_guidance\\_2006.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/infoeg/pmc_survey_guidance_2006.pdf).

<sup>32</sup> Dodd-Frank Act § 1021(a).

The data obtained for depository institutions, which use an open system for transmittal, should be segregated (and analyzed separately) from the data obtained for non-depository institutions, which are more likely to use a closed system.<sup>33</sup> The assessment should also examine whether the Final Rule's cancellation, error resolution, and refund provisions have restricted access to remittance transfers by reducing the hours during which a remittance transfer can be placed or delaying the processing of a remittance transfer request, as discussed in subsections II.B.3 and II.B.4 below.

The results of ABA's survey of its members show that the Final Rule has restricted consumers' access to remittance services. Among surveyed banks that provide remittance transfers, 60% reported that their costs have increased due to the Rule, including 22% whose costs have increased "significantly." While some banks have been willing to absorb those costs *thus far*, 39% of responding banks have already increased fees charged for remittance transfers due in whole or in part to the Rule. Higher fees for this service means less money is received by family members living abroad who depend on the remittance transfer. In addition, higher fees may drive consumers to less expensive, unregulated entities to send money overseas.

## 2. Utility of Disclosures Required by the Final Rule

The Final Rule requires a remittance transfer provider to furnish two sets of disclosures to the sender, one before sending the remittance and one after the remittance has been sent, and to include in the disclosures specific information about the costs and fees associated with the transfer. In conducting its assessment, the Bureau must determine whether each of these disclosures benefits consumers.

We understand that the intent of the disclosure requirement is to promote the predictability and transparency of the pricing of remittances and to allow consumers to compare prices. In its assessment, the Bureau should survey consumers who send remittances to determine whether they read and understand the longer disclosures and use the information provided through those disclosures to comparison shop. As ABA has observed in prior comment letters,<sup>34</sup> banks offer remittance transfer services as a convenience to their customers, and many ABA members offer these services only to existing customers, which limits a consumer's ability to shop among banks that offer remittances.<sup>35</sup> The Bureau should assess whether remittance-sending consumers use the required disclosures to shop between their bank and non-banks that provide this service.

The Bureau also should assess whether the requisite delivery mechanisms for disclosures truly serve consumer needs. Increasingly, technology offers new channels for consumers to conduct transactions, and requiring a lengthy oral disclosure over the telephone merely frustrates the consumer and the provider. Where possible, consumer needs should be met in the manner that is most effective. For example, the Bureau should consider whether a short-form disclosure for

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<sup>33</sup> A "closed system" is generally a system where the sending company controls the network through which the funds are transmitted. In an "open system," the sender transmits instructions but the funds are transmitted through a network involving a series of different providers over which the original sender may have no control.

<sup>34</sup> See, e.g., Letter from Robert G. Rowe III, Am. Bankers Ass'n, to Monica Jackson, Bureau of Consumer Fin. Prot. 4 (Apr. 9, 2012), *available at* <http://www.aba.com/Advocacy/commentletters/Documents/clRemittancesApril2012.pdf>.

<sup>35</sup> Bankers report restricting remittance services to established customers to comply with expectations under the USA Patriot Act.

transactions conducted by mobile devices, telephone, or over the Internet could be provided more effectively. And, the Bureau should assess whether the existing disclosure requirements are restricting access to alternative delivery channels. Some bankers report that in order to deliver the disclosures, they restrict consumers to in-person, in-branch transactions only.

In addition, the Bureau should determine whether the disclosure requirement has resulted in increased fees to send a remittance. ABA members report that they have retained third parties (or made significant in-house infrastructure upgrades) to create and implement new systems to provide the disclosures and to document that the disclosures were provided to the remittance sender, such as by maintaining (in the case of a remittance transfer initiated by phone) an audio recording of the phone call with the sender. Banks also have revised their policies and procedures for accepting remittance requests. All of these steps create additional costs, and these costs are ultimately paid by consumers.

### 3. Utility of the Final Rule's Cancellation Provision

The Final Rule provides consumers with the right to cancel a transfer within 30 minutes of payment. The Bureau should determine whether this cancellation provision has benefitted or harmed consumers by determining the frequency with which consumers seek to cancel the transaction, whether this requirement has led providers to delay execution of remittance transfers or reduced the hours during which consumers can initiate a transfer, and whether the requirement has resulted in higher prices charged for a remittance transfer.

The Final Rule's 30-minute cancellation period has led banks to delay processing remittances and has reduced the hours during which a remittance may be placed, according to ABA's survey data. Thirty-seven percent of banks have changed their policies regarding remittances because of the cancellation provision. Nearly all of those banks stated they have limited the hours during which the bank will accept a remittance transfer or have delayed, by 30 or more minutes, sending the remittance, in order to comply with the rule. In certain instances, the delay has created significant burden for both the senders and recipients of a remittance, such as when a transfer request received on a late Friday afternoon is not processed until the following Monday, delaying by three days the transfer of needed funds.

As our financial systems become increasingly mobile and inter-connected, consumers demand "real-time" access to financial services. Yet, the cancellation provision impairs the ability of banks and other financial institutions to execute remittance transfer requests quickly and efficiently. Consumers who need to send remittances immediately but are prevented from doing so through regulated financial institutions will turn to unregulated entities to meet their needs. That result benefits neither consumers nor banks.

The lack of consumer benefit from the cancellation provision is underscored by the fact that very few consumers are availing themselves of their rights under this provision. According to ABA's survey data, 79% of banks reported they have received *no* cancellation requests since the Final Rule took effect. Thus, very few consumers are utilizing the 30-minute cancellation period, but all consumers have lost access to prompt and efficient remittance transfer services due to the requirement. We suggest the Bureau consider permitting consumers to waive their right to a 30-minute cancellation period. Such a waiver system would maintain the 30-minute cancellation window for those consumers who need or desire it, while permitting consumers who do not need or desire it—such as consumers who have an urgent need to send money or who have no doubt about their intention to send the remittance—to waive the 30-minute window.



#### 4. Utility of the Final Rule's Refund and Error Resolution Rights

The Final Rule imposes specific requirements for resolving claims of errors, including specifying the period of time during which an error must be resolved. Banks are committed to remedying any errors they commit while serving their customers' remittance transfer needs. However, data from ABA's survey indicate that banks commit very few errors while processing remittance transfer requests: 74% of banks received no error claims in connection with a remittance transfer since the Final Rule took effect. These data strongly suggest that the error resolution right in the Rule has not benefitted remittance transfer senders, while the establishment and implementation of error resolution policies and procedures have increased the costs to remittance providers.

#### 5. The Final Rule's Impact on Customers of Remittance Transfer Providers Subject to the Safe Harbor

The Final Rule excludes from the definition of a remittance transfer provider those providers that transact 100 or fewer remittance transfers in each of the current and preceding calendar years. Therefore, they are not subject to the Final Rule's requirements. Nevertheless, even low-volume providers incur costs under the Rule. These providers must track the number of remittance transfers they process each year to demonstrate they have stayed below the 100-transfer threshold. Some institutions limit the number of transfer requests they accept to stay below that threshold. These limits may also reduce consumers' access to remittance transfer services.

Therefore, in conducting the assessment, the Bureau should analyze the impact of the 100-transfer safe harbor on consumer access to remittances. Specifically, the Bureau should determine the number of institutions that have limited the number of remittance transfer requests they accept and the number of denied transfer requests. The Bureau should also determine whether those consumers whose remittance request was so denied were able to send the remittance through a separate provider and, if so, the cost to the consumer in fees paid and time expended. In particular, the Bureau should assess the impact of the 100-transfer safe harbor on consumers living in rural areas, as the Dodd-Frank Act places a special priority on protecting these consumers' access to financial products.<sup>36</sup> Finally, the Bureau should analyze whether a higher threshold would better serve consumers without detracting from the protections to which they are entitled under other provisions of the rule.

### **III. Conclusion**

As the Bureau's first evaluation of a major rule under the Dodd-Frank Act, the assessment of the Final Rule on remittance transfers will establish fundamental precedent for future assessments. Accordingly, it is critical that the Bureau conduct an evidence- and data-based assessment of the effectiveness of the Final Rule, as measured against the purposes and objectives of the Dodd-Frank Act and the Bureau's specific goals for the Rule. The assessment must determine whether the Rule has maintained or restricted consumer access to remittances; whether the required disclosures have informed or confused remittance senders; and whether the cancellation, error resolution, and refund procedures have been utilized by consumers and provided benefit or instead caused delays. An ABA survey of 75 banks that provide remittance services suggests that the Rule has harmed, not benefitted, consumers.

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<sup>36</sup> See Dodd-Frank Act § 1022(b)(2)(ii) (requiring the Bureau, in prescribing a rule, to consider the prospective rule's "impact on consumers in rural areas").

ABA urges the Bureau to conduct a rigorous assessment of the Final Rule and to propose amendments to that Rule to mitigate its harmful consequences.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert G. Rowe, III". The signature is fluid and cursive, with a horizontal line extending from the end.

Robert G. Rowe, III  
Vice President & Associate Chief Counsel, Regulatory Compliance