

January 30, 2013

Ms. Monica Jackson
Office of the Executive Secretary
1700 G Street, NW
Washington, DC 20006

Re: Electronic Fund Transfers (Regulation E); RIN 3170-AA33

Dear Ms. Jackson:

The Indiana Credit Union League (ICUL) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's proposal addressing certain provisions of the international remittance rules. The ICUL member credit unions represent 95% of assets and members of Indiana's credit unions, with those memberships totaling more than two million members.

We were pleased and in agreement with the CFPB's announcement to delay the effective date of the international remittance transfers rule that was set to take effect February 7, 2013, until 90 days after the current proposal is adopted and published. The impact of the proposed regulations is significant, and we are pleased that the CFPB recognizes this, and has determined not to implement the regulation in a piecemeal fashion.

As we have stated in a previous comment letter, we continue to believe that some credit unions will decide they need to stop offering international remittances to their members. We firmly believe that the 100 transaction exemption level needs to be increased significantly in order for many credit unions to continue offering the service. The added expense and compliance burden is very difficult to justify, and for credit unions continuing the service, the costs will likely be passed through to the consumer. Should the proposed transaction limit be maintained, consumers will likely end up with fewer, and more costly options to meet their international remittance needs. We encourage the CFPB to revisit this exemption and increase the transaction exemption level significantly. We would recommend consideration be given to setting the exemption level no lower than 1,000 transactions per year. While the CFPB has not specifically requested comments regarding the exemption level, this is the most important issue to credit unions regarding international remittance transfers.

We believe the agency has sufficient exemption authority to carve out a broader exemption that focuses the rule on those providers that are truly abusing the process and generating excessive profits to the detriment of the consumer. Credit unions do not fit into this category. Most credit unions provide this service at breakeven, or in many cases at a loss, just to be able to provide the service their members expect.

This regulation is an example of the CFPB developing one-size-fits-all regulations that increase the regulatory burden on credit unions. There is no strong evidence that credit unions have been overly profiting from or taking advantage of consumers when offering international remittances. Our expectations were that the CFPB was going to focus on

unregulated entities where the problems exist, and would not be creating new regulations that credit unions would face. As stated above, these new regulations could very well result in many credit unions no longer offering international remittances to the detriment of the consumer.

More specific to the proposals that the CFPB was seeking comment, we offer the following:

In addition to postponing the effective date of the rule, the CFPB is proposing increased flexibility regarding three elements of the final rule: foreign tax and recipient fees, liability where the consumer provides an incorrect account number, and foreign taxes imposed at the national level by the central government. We appreciate the fact the CFPB has continued to seek comments and make adjustments to the proposed rules. However, we continue to have concerns with what is being proposed.

Under the proposal, the agency permits additional flexibility on foreign tax and recipient institution fees. The proposal permits remittance providers to base fee disclosures on published bank fee schedules and by providing further guidance on foreign tax disclosures where certain variables may affect tax rates, such as disclosing the highest tax amount. We support this approach but believe the CFPB is in the best position to compile and maintain a database of foreign taxes and recipient institution fees that can be relied upon by all remittance transfer providers, instead of requiring each remittance provider to find and maintain this information independently. While even with the CFPB collecting the information the process will still be cumbersome, a single database by the CFPB will help dramatically reduce regulatory burden on remittance transfer providers, especially for smaller credit unions and other smaller entities. Independently, each remittance provider will have great difficulty in obtaining and maintaining such information because the required information has many components that are unknown and subject to change. Without a central resource, compiling taxes and fees will be incredibly burdensome and costly. Also, credit unions may not have the foreign language resources that are required to interpret fee and tax information available only in a foreign language.

Consumers would benefit from a CFPB database because disclosures will include more consistent and transparent foreign tax and fee information. Under the current final rules, consumers will see disclosures that use different estimates – even for the same remittance transfer. In addition, consumers would benefit from lower prices for remittances because remittance providers would not have to pass on additional costs to independently find and maintain foreign tax and fee information.

We remain very concerned with the level of information that the CFPB would require remittance providers to obtain and maintain current foreign institutions' fee schedules and foreign country tax rates. We believe that the requirements place the remittance provider in a legally precarious position, and as proposed, will result in significant variations in the costs and tax estimates for the same transfer by different providers. Ultimately, the consumer receives more confusing information, not more accurate

information. Effectively, this proposal holds remittance providers in the United States responsible for the actions and pricing of foreign institutions and governments over which the provider has zero control. At a minimum, we believe the CFPB needs to make the following changes if the agency moves forward with this proposal.

Liability

We urge the CFPB to clarify that a remittance transfer provider is not liable for any information provided on a disclosure based on another source, such as another financial institution's fee schedule or a consumer sender's representation. We are also concerned that providing information from another source on the disclosure would be misleading for consumers who may believe that the remittance provider has some control over the information.

Sender's Representations

Under the proposal, if a remittance transfer provider does not have specific knowledge regarding variables that affect the amount of foreign taxes and fees imposed on the transfer, the proposal would permit a provider to rely on a sender's representations regarding these variables. We are concerned with the potential compliance burdens associated with documenting a sender's representations. Because of the compliance cost concerns, we do not believe a remittance provider should be required to obtain a sender's representation.

Fees

Under the proposal, a remittance provider may estimate recipient institution fees by disclosing the highest possible fees that could be imposed on the transfer regarding any unknown variable, as determined by fee schedules or prior transfers, or other reasonable sources of information. Many times, credit unions will not know all of the institutions that may be involved in the remittance transfer process. Because of this unknown, we encourage the CFPB to also permit providers to estimate fees from intermediary or correspondent institutions in addition to recipient institution fees as proposed.

If the agency permits fee schedules to be used on disclosures, we believe that a grace period of one year is a reasonable timeframe for a remittance provider to rely on a fee schedule. We remain concerned with the cost burden of remittance providers expending significant resources to try to maintain fee schedules and other information from numerous third-parties in foreign countries. We firmly believe that fee schedules are likely to be inaccurate or outdated, and remittance disclosures that incorporate different fee schedules would also be inconsistent among providers. We encourage the agency to clarify that while a remittance provider should take reasonable steps to obtain this information, it should not be expected to expend substantial resources in an effort to obtain such information.

Foreign Taxes

Under the proposal, a remittance provider may disclose the maximum possible foreign tax amount with respect to any unknown variable. Credit unions have indicated that it is often difficult to find any foreign tax information at all for certain

countries. The likely result is for consumers to receive inconsistent disclosures from multiple providers for the same remittance. Credit unions are not foreign tax law experts. The proposal creates a system that places the burden on credit unions to know the tax rates and tax laws of foreign countries in order to facilitate the remittance transfer need of their members. We are not clear on why this is necessary. Remittance providers in this country have no control over the tax laws of foreign countries, and do not control the frequency with which these laws can change. There are exceptions where “estimated” information can be used, but we do not feel this results in consistent disclosures to consumers.

Under the proposal, if the remittance provider can demonstrate that the consumer provided an incorrect account number, the provider must attempt to recover the funds that are deposited into another recipient institution but would not be liable for the funds if such efforts are unsuccessful. We are concerned that this does not go far enough.

We ask the CFPB to consider that the remittance transfer provider not be liable if any type of incorrect information (including account numbers or financial institution routing / identification numbers) provided by the consumer sender results in the non-delivery or mis-delivery of funds, as long as the sender receives notice and the provider makes a reasonable attempt to recover the funds. This proposed exception should apply in situations where a remittance provider is not able to determine whether funds have been received or credited.

Under the proposal, a remittance provider would disclose foreign taxes imposed on remittance transfers at the national level by the central government, and would not have to disclose taxes that may be imposed by regional, state, provincial, or local level jurisdictions. While this is an improvement, there remain difficulties even for national taxes to obtain and maintain information for all foreign countries that remittances may be sent to. As discussed above in the section regarding foreign taxes and fees, we believe the CFPB is in the best position to provide remittance providers with a centralized database of foreign national tax information.

Also, if the agency proceeds with the proposed rule, additional clarification is needed to clarify which entities are considered “central governments.” This is not always clear in foreign countries that may have taxes imposed by different entities.

On the proposed disclosure, we would support a simple statement such as “additional taxes by foreign regional and/or local governments may apply,” which would facilitate disclosures and the remittance transfer process.

Finally, we encourage the CFPB to utilize its statutory discretion, as the agency empowered to regulate in this area, and postpone the effective date of the final rule for at least 12 months from the finalization of this proposed rule. This is necessary to help facilitate compliance for credit unions, particularly those who work with corporate credit unions, vendors, and third-parties, while minimizing regulatory burdens on all credit unions.

Thank you for the opportunity to comment on the proposals addressing the international remittance rules. We are encouraged that the agency continues to review these proposals, and to make changes as deemed necessary. We believe that a higher transaction exemption level is very important in order for many credit unions to consider continuing to offer these services to their members. We continue to encourage the CFPB to focus new regulations on the entities that are the source of the problem, and not develop one-size-fits-all regulations that increase the regulatory burden on already overregulated institutions like credit unions. Feel free to contact me at (317) 594-5320 with any questions you may have regarding our comment letter.

Sincerely,
John McKenzie
President