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November 14, 2012

The Honorable Tim Johnson
Chairman
The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Spencer Bachus
Chairman
The Honorable Barney Frank
Ranking Member
Committee on Financial Services
House of Representatives

Subject: Bureau of Consumer Financial Protection: Electronic Fund Transfers
(Regulation E)

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Bureau of Consumer Financial Protection (Bureau), entitled “Electronic Fund Transfers (Regulation E)” (RIN: 3170-AA15). We received the rule on October 31, 2012. It was published in the *Federal Register* as a final rule; official interpretation on February 7, 2012. 77 Fed. Reg. 6194.

The final rule amends Regulation E, which implements the Electronic Fund Transfer Act, and the official interpretation to the regulation. The final rule modifies a final rule published in February 2012 implementing section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding remittance transfers. The final rule adopts a safe harbor with respect to the phrase “normal course of business” in the definition of “remittance transfer provider,” which determines whether a person is covered by the rule. The final rule also revises several aspects of the February 2012 final rule regarding remittance transfers that are scheduled before the date of transfer, including preauthorized remittance transfers. The final rule states that it will become effective February 7, 2013.

Enclosed is our assessment of the Bureau’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our

review of the procedural steps taken indicates that the Bureau complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Lea Mosena
Attorney, Legal Division
Bureau of Consumer Financial Protection

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
BUREAU OF CONSUMER FINANCIAL PROTECTION
ENTITLED
"ELECTRONIC FUND TRANSFERS (REGULATION E)"
(RIN: 3170-AA15)

(i) Cost-benefit analysis

The Bureau performed a cost-benefit analysis as required by section 1022(b)(2)(A) of the Dodd-Frank Act, which calls for the Bureau to consider the potential costs, benefits, and impacts of its regulations. Specifically, the law requires the Bureau to consider the potential benefits and costs of regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products and services; the impact of proposed rules on insured depository institutions and insured credit unions with less than \$10 billion in total assets; and the impact on consumers in rural areas.

The Bureau noted that there is a lack of data regarding the full universe or population of remittance transfers, or on the current provision, accuracy, and completeness of pre-payment disclosures and receipts across the remittance transfer market, and as a result most of the Bureau's analysis provided a qualitative discussion of the benefits, costs, and impacts of the final rule.

The Bureau states that consumers who have reliable information about how much they must spend in order to deliver a specific amount of foreign currency to a recipient are better able to manage all of their household income than are consumers who lack this information. In addition, the final rule enables consumers to engage in competitive shopping, may make consumers less susceptible to unfair and deceptive practices, and finally place competitive pressure on providers.

For closed network providers, the Bureau estimated that the disclosure requirements will impose some costs, to the extent that such institutions need to update systems, revise contracts, change communication protocols and business practices in order to receive the necessary information and comply with the disclosure requirements. Furthermore, closed network providers that currently offer "floating rate" products will need to adjust their business processes and relationships for setting exchange rates, and change the way they manage foreign exchange rate risk.

For open network providers, the Bureau stated that providers are required to disclose information about fees or taxes, and they may find it difficult to obtain

information that must be provided in the disclosures. These considerations are relevant for all open network providers, but the final rule provides insured depositories and credit unions with an exception to the requirements to provide accurate disclosures under certain circumstances until July 21, 2015.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Bureau prepared a final regulatory flexibility analysis in conjunction with the final rule. The Bureau stated that the total number of small entities that could be affected by the rule is approximately 74,000, based on the assumption that nearly 211 of the estimated 67,000 money transmitters and agents are small entities and adding that to the total number of depository institutions and credit unions that are small entities and that may engage in wire transfers.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Unfunded Mandates Reform Act does not apply to independent regulatory agencies, such as the Bureau of Consumer Financial Protection.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Bureau issued a notice of proposed rulemaking on May 23, 2011. 76 Fed. Reg. 29,902. The Bureau received more than 60 comments on the proposed rule. The Bureau responded to those comments in the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collection requirements under the Paperwork Reduction Act. The Bureau estimates that the total annual burden to comply with the final rule is 7,684,000 hours. The Bureau estimates that the total one-time annual burden of the final rule is 3,431,000 hours. The Bureau estimates that the one-time annual burden of the rule includes 31,000 hours for large depository institutions and credit unions (including their depository and credit union affiliates) supervised by the Bureau and 600,000 hours for money transmitters supervised by the Bureau. The Bureau estimates that the total ongoing burden of the rule is 4,253,000 hours. The ongoing burden of the rule includes 61,000 hours for large depository institutions and credit unions (including their depository and credit union affiliates) supervised by the Bureau and 1,407,000 hours for money transmitters supervised by the Bureau.

Statutory authorization for the rule

The final rule is authorized by section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Executive Order No. 12,866 (Regulatory Planning and Review)

The Executive Order does not apply to independent regulatory agencies, such as the Bureau of Consumer Financial Protection.

Executive Order No. 13,132 (Federalism)

The Executive Order does not apply to independent regulatory agencies, such as the Bureau of Consumer Financial Protection.