

October 19, 2021

The Honorable Rohit Chopra, Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Re: Hidden Fees in International Remittances

Dear Director Chopra:

Congratulations on your recent confirmation as Director of the Consumer Financial Protection Bureau (“CFPB”). There are a number of consumer finance matters that require the CFPB’s attention under your leadership. We submit another for your consideration: **hidden remittance fees**.

This letter is from an unusual coalition of national and state consumer programs representing remittance senders, and one international provider of remittances: **Wise**. The national and state consumer groups are:

- **Americans for Financial Reform**
  - **Appleseed Foundation**
  - **Consumer Action**
  - **National Association of Consumer Advocates**
  - **National Coalition for Asian Pacific American Community Development**
  - **National Consumer Law Center on behalf of its low-income clients**
  - **National Consumers League**
  - **National Legal Aid and Defender Association**
  - **Public Citizen**
  - **UnidosUS**
  - **U.S. PIRG**
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- **Empire Justice Center of New York**
  - **Mississippi Center for Justice**
  - **Mountain State Justice, Charleston, WV**
  - **North Carolina Justice Center**
  - **South Carolina Appleseed**
  - **Texas Appleseed**
  - **Virginia Poverty Law Center**

**Our request:** Due to both market forces and regulatory changes, remittance senders are increasingly subject to a number of hidden fees, including significantly inflated exchange rates, undisclosed third-party fees, and fees triggered by recently expanded industry exemptions. For these reasons, consumers have neither a fully transparent means of understanding the real costs of international payments, nor a meaningful way of protecting themselves from hidden fees and costs. The result is that prices are allowed to be unnecessarily swollen. **In this letter, we are requesting that the CFPB take action to end hidden fees in the remittance market and bring to fruition the price transparency and comparison-shopping Congress originally envisioned in the law.**

As you know, in the 2010 *Wall Street Reform and Consumer Protection Act* (“Dodd-Frank”), Congress amended<sup>1</sup> the Electronic Fund Transfer Act (“EFTA”) to provide important protections for individuals who send money abroad. Subsequently, the CFPB promulgated the original Remittance Rule,<sup>2</sup> creating a comprehensive system of consumer protections for international remittance transfers that originated in the United States. However, market developments and a series of changes to the CFPB’s regulations over the past ten years have significantly reduced the efficacy of the original Rule.

We are requesting that the CFPB require clearer disclosures to ensure that consumers can determine the full price of the remittances, limit the use of estimates in remittances disclosures as required by Congress, and rollback the 2020 expansion of institutions considered exempt from the regulation.

Below, we first provide background on the law and the remittance market, and then explain how current regulations should be changed to protect remittance senders, as Congress intended, from unduly high costs.

## **1. Remittance Senders Need Better Protections from Swollen Costs**

One billion people globally are involved in remittance transfers, with one out of every nine people in the world supported by funds sent home by migrant workers. International remittances are key to helping hundreds of millions out of poverty. In total, remittance flows are three times more than the amount of international aid provided by all governments.<sup>3</sup>

Remittance senders are frequently immigrants, including those who now are citizens but maintain close family ties abroad, who are sending money to family members or others in their countries of origin. It is well known that immigrants and people who are from communities of color are more likely to be targeted for financial predation, and less likely to feel able to fully assert or access legal protections, than are others.<sup>4</sup> As a result, many immigrants are more vulnerable to both the inaccuracies and the deliberate malfeasance of those with whom they do business. Congress amended the EFTA<sup>5</sup> requiring consumer protections for remittances in a deliberate attempt to provide more protections to all remittance senders, specifically including immigrants.

Ensuring the affordable, transparent, and safe flow of remittances is also a global public policy objective. The United Nations (“UN”) has identified<sup>6</sup> a sustainable development goal of reducing remittance costs to 3% by 2030, and the G20 has prioritized making cross-border payments

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<sup>1</sup> 15 U.S.C. § 1693o-1; Pub. L. 111–203, title X, §§ 1073(a)(4), 1084(1), July 21, 2010, 124 Stat. 2060, 2081 (July 21, 2010)

<sup>2</sup> Reg. E, 12 C.F.R. § 1005.30-36.

<sup>3</sup> United Nations, “[Remittances matter: 8 facts you don’t know about the money migrants send back home](#)” (June 17, 2019).

<sup>4</sup> See generally, Ruben J. Garcia, *Marginal Workers: How Legal Fault Lines Divide Workers and Leave Them Without Protection*, NYU Press, Sept. 13, 2013; UnidosUs, *7 Ways Immigrants Enrich Our Economy and Society*, <https://scholars.law.unlv.edu/books/59/>

<sup>5</sup> 15 U.S.C. § 1693o-1; Pub. L. 111–203, title X, §§ 1073(a)(4), 1084(1), July 21, 2010, 124 Stat. 2060, 2081 (July 21, 2010).

<sup>6</sup> United Nations, “[Sustainable Development Goal 10: Reduce Inequality within and among countries](#)”

cheaper, faster, more transparent, and inclusive to benefit citizens and economies worldwide, support economic growth, international trade, global development, and financial inclusion<sup>7</sup>

The COVID-19 pandemic is increasing the need for policymaker attention to the remittance market. A G20 communiqué in July 2020 noted: “(t)he pandemic has reaffirmed the need to enhance global cross-border payment arrangements to facilitate lower-cost, faster, more accessible and more transparent payment transactions, including for remittances.”<sup>8</sup> Meanwhile, the Secretary-General of the UN issued a call to action for an urgent and coordinated response from the global community.<sup>9</sup>

Global remittance flows, defined by the World Bank as non-resident migrants sending money home to family and friends, reached \$714 billion<sup>10</sup> in 2019. The U.S. is the largest source of remittance outflows, sending \$71.6 billion.<sup>11</sup> However, the World Bank’s narrow definition of remittance flows significantly understates overall market volume. It may not include money sent by military service members, by international students, by U.S. residents for vacations, or funds sent to Americans temporarily living abroad, and does not capture international payments related to mortgages, rent, utilities, education, etc.

Despite this huge volume, even over a decade after passage of the EFTA’s reforms to the remittance market, the costs of remittances remain alarmingly high, with an average cost to U.S. senders of 4.88% on \$200 transfers.<sup>12</sup> Why are costs so high in the U.S.? The extra expense is caused by a lack of transparency in the disclosures for the costs as well as the complexity of the information provided. There are too many variables in the remittance disclosures for most consumers to evaluate the relevant factors. As the World Bank stated:

One of the most important factors leading to high remittance prices is a lack of transparency in the market. It is difficult for consumers to compare prices because there are several variables that make up remittance prices....<sup>13</sup>

Ensuring that remittance costs are kept reasonable and low will make a significant difference to many of the world’s poorest people. The World Bank pointed out that addressing the problem of inflated costs would mean “more money remaining in the pockets of migrants and their families, and would have a significant effect on the income levels of remittance families.”<sup>14</sup>

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<sup>7</sup> Financial Stability Board, “[Enhancing Cross-border Payments: Stage 3 Report](#)” (October 2020). And the international community, led by the International Fund for Agricultural Development (“IFAD”) at the UN, recently produced a seminal remittance policy report with recommendations for governments around the world to ensure accessible and affordable remittance flows. Remittance Community Task Force, “[Blueprint for Action: Remittances in times of crisis](#)” (November 2020).

<sup>8</sup> G20 Communiqué “[Virtual meeting of the G20 finance ministers and central bank governors](#)” (July 2020).

<sup>9</sup> Remittance Community Task Force, “[Blueprint for Action: Remittances in times of crisis](#)” (November 2020).

<sup>10</sup> Migration Policy Institute, “[Global Remittances Guide](#)” (April 2020).

<sup>11</sup> World Bank, “[Migration and Remittances Data](#)” (October 2020).

<sup>12</sup> World Bank, “[Remittance Prices Worldwide Quarterly](#)” (March 2021).

<sup>13</sup> World Bank, “[About Remittance Prices Worldwide](#)” (2015).

<sup>14</sup> *Id.* “The cost to consumers of these remittance transactions is expensive relative to the often low incomes of migrant workers, the amounts sent, and the income of remittance recipients.”

## **2. Congress Intended the Remittance Requirements to Provide Robust Protections**

Prior to enactment of Dodd-Frank, the price of international remittance transfers was unclear to consumers, as the payments fell outside the scope of all existing federal consumer protections.<sup>15</sup> The amendments to the EFTA created an entirely new federal regulatory regime that subjected “remittance transfer providers,” including banks, credit unions, and non-bank money transfer companies, to new important disclosures and meaningful error resolution procedures.<sup>16</sup>

The new disclosure requirements were created to increase price transparency and comparison shopping in the marketplace. As a result, price disclosures are now required<sup>17</sup> both *before* (“pre-payment”) and *after* (“receipt”), and the disclosures must include the: a) amount to be transferred; b) fees and taxes; c) total amount of the transaction; d) exchange rate; and e) transfer amount in received currency. Additionally, the statute and regulation provide senders with a critical substantive protection: the right to invoke error resolution procedures to enforce the promises made in the disclosures. These procedures are invaluable to senders whose funds are lost or not paid in full to the recipient.

## **3. Current Regulations Allow Fees to be Hidden in Remittances**

While remittance disclosures have undeniably improved due to the amendments to the EFTA and the CFPB’s regulations, there are significant gaps. Additionally, different industry pricing strategies limit the effectiveness of comparison shopping. The gaps and the lack of price transparency impact not only migrant workers sending money to family and friends in other countries, but also consumers paying for education, housing, and vacation, and sending money to members of the military serving abroad.

### ***a) Inflated exchange rates***

Banks and money transfer providers make a significant portion of their revenue from international payments—more than half—by marking up exchange rates.<sup>18</sup> And, the new law and the regulations issued by the CFPB over the last decade have done little to limit the problem of inflated exchange rates. Indeed, recent research indicates that of the \$16.3 billion in fees paid by American consumers and small businesses in 2019 on international payments, well over half - roughly \$8.7 billion - were hidden in inflated exchange rates.<sup>19</sup>

Of the \$8.7 billion lost by Americans in hidden fees annually from inflated exchange rates, \$2.2 billion was lost by migrant workers sending remittances, \$2.1 billion was lost by vacationers, \$151 million was lost on tuition payments, \$301 million was lost by service members stationed overseas, and \$2.3 billion was lost by small businesses in international trade.<sup>20</sup>

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<sup>15</sup> CFPB, “[Remittance Rule Assessment Report](#)” (as revised April 2019). *See* at 34.

<sup>16</sup> 77 Fed. Reg. at 6200 (Feb. 7, 2012).

<sup>17</sup> 77 Fed. Reg. at 6222 (Feb. 7, 2012).

<sup>18</sup> Capital Economics, “[Estimating the scale of foreign exchange transaction fees in the U.S.](#)” (2020).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

These losses are consistent with estimates that revenues for remittances are split evenly between transaction fees and foreign exchange mark-ups.<sup>21</sup> Additionally, while the revenue margin is only .1% on business-to-business cross-border payments, it's a staggeringly high 6% on consumer-to-consumer transactions,<sup>22</sup> indicating a lack of competitiveness in the retail market in part due to confusing and inconsistent pricing practices.

As noted in the CFPB's 2019 Assessment Report, while it can be difficult to measure and evaluate consumer shopping behaviour, the disclosed fees clearly are a major factor in the decision-making.<sup>23</sup> A 2016 Appleseed report on the effect of the Remittance Rule, found that 68% of customers who remembered receiving disclosures "always" or "sometimes" chose the service with the lowest fees. In total, the report found, "more than half of customers compare fees between money transfer services and always choose the service that has the lowest fee."<sup>24</sup>

Alarming, while most consumers mistakenly believe they understand how pricing works, the data indicates they do not. A survey found that while 55% of consumers said they understood the costs of sending money abroad, only 18% correctly identified exchange rates as one of the costs of a transfer.<sup>25</sup>

In a recent landmark remittance policy report,<sup>26</sup> the international community - led by the UN, IFAD, and the World Bank - called on industry and G20 governments to increase remittance price transparency with "***total cost (e.g., fees at both ends, foreign exchange rate margins) disclosed in a single upfront amount.***" And research commissioned by the United Kingdom found that nearly 66%<sup>27</sup> of first-time consumers were unable to choose the best option under common disclosures (though not identical to U.S. requirements as the disclosure did not include the recipient amount). Once fully transparent ("total cost") pricing was introduced, with upfront fees and the foreign exchange margin disclosed in a single amount, the percentage of first-time consumers choosing the best option doubled from 34.3% to 68.9%.<sup>28</sup>

Effective comparative shopping is virtually impossible in the U.S., because the CFPB's regulations do not require sufficiently precise disclosures to account for the different pricing strategies employed by the variety of remittance providers. The result is that the disclosures themselves—while perhaps technically in compliance with the CFPB's regulations—actually and often mislead consumers and prevent an apples-to-apples comparison of price.

For example, under current disclosure rules, there is an incentive for providers to show low-to-no fees, which gives the impression that the transfer is low-cost, even while the exchange rate is significantly inflated, meaning that the actual cost to sender can be much higher than that of another provider who may disclose higher upfront fees, but employ a lower exchange rate.

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<sup>21</sup> McKinsey, "[A vision for the future of cross-border payments](#)" (October 2018). *See* at 3.

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

<sup>23</sup> CFPB, "[Remittance Rule Assessment Report](#)" (as revised April 2019). *See* at 123.

<sup>24</sup> Appleseed: Annette LoVoi et al., "[Sending Money: The Path Forward](#)" (May 2016). *See* at 15.

<sup>25</sup> YouGov, [Consumer Survey](#) (2020).

<sup>26</sup> Remittance Community Task Force, "[Blueprint for Action: Remittances in times of crisis](#)" (November 2020). *See* Measure 13.

<sup>27</sup> Behavioural Insights Team, "[The impact of improved transparency of foreign money transfers for consumers and SMEs](#)" (March 2018).

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

In *example A* below, a consumer who makes decisions based primarily on the “fee” would believe they received a good deal, but in reality, the provider hid costs of nearly 4% in the exchange rate. “Total cost” pricing recommended by the international community would have brought transparency to the costs of the transaction.

*Example A*<sup>29</sup>

<b>Industry Pricing</b>		<b>“Total Cost” Pricing</b>	
<i>Note: This version uses the mid-market rate, with no asterisk and no fx markup.</i>			
<b>You send</b>	<b>They get</b>	<b>You send</b>	<b>They get</b>
\$200.00	\$3,870.64	\$200.00	\$3,870.64
USD	MXN >	USD	MXN >
1 USD = 19.3532 MXN		1 USD = 20.1026 MXN	
Sending to friends and family >		Sending to friends and family >	
<b>Amount in USD</b>	\$200.00 USD	<b>Amount in USD</b>	\$192.54 USD
<b>fee</b> ⓘ	\$0.00 USD	<b>fee</b> ⓘ	\$7.46 USD (3.73%)
<b>Total</b>	\$200.00 USD	<b>Total</b>	\$200.00 USD
<b>Payment received</b>	In seconds	<b>Payment received</b>	In seconds
<b>Exchange rate</b>	1 USD = 19.3532 MXN	<b>Exchange rate</b>	1 USD = 20.1026 MXN
In addition to the fee listed above, -- also makes money through this exchange rate when we convert your currency.			

Conversely, adding upfront fees on top of the amount to be transferred is another pricing strategy that serves to confuse consumers about the true cost of the remittance, so that the amount required to be paid by the sender is the transfer amount plus the fees. While the recipient deceptively receives a higher amount, the true cost of the transfer is masked because the consumer is unable to make a comparison between the transfer of identical sums.

In *example B* below, the recipient would have \$200 converted just as in the first disclosure, but there would be an additional charge of \$9.99, reflected in the total amount required to be paid by the sender. The elevated recipient amount may create the illusion of a good deal for consumers who make decisions based primarily on recipient amount, but it’s actually more costly than *example A*.

<sup>29</sup> The image on the left in *example A* displays a pre-transfer disclosure on August 30, 2021 from a remittance provider. The image on the right is adjusted to display the “total cost” disclosure to include the exchange rate markup as a fee. The difference between the mid-market rate (aka interbank rate) that appeared on Reuters, Bloomberg, etc. at the time and the exchange rate offered to consumers was determined with a simple “total cost” formula:  $(Fees + (Amount - Fees) * (1 - offered\ rate / mid-market\ rate))$ .

Example B<sup>30</sup>

Industry Pricing		"Total Cost" Pricing	
<b>Summary</b>		<b>Summary</b>	
Exchange Rate <sup>2</sup>		Exchange Rate	
1.00 USD = 19.7987 MXN		1.00 USD = 20.1026 MXN	
Transfer amount	200.00 USD	Transfer amount	186.99 USD
Transfer fee <sup>2</sup>	+ 9.99 USD	Transfer fee	13.01 USD (6.51%)
Promo discount	Apply promo	Promo discount	Apply promo
Transfer total	209.99 USD	Transfer total	200.00 USD
Total to receiver	3960.00 MXN	Total to receiver	3,758.99 MXN

Both pricing strategies highlighted above are insufficiently transparent to make comparison shopping possible. *Example A* is an industry pricing model attractive to consumers who make decisions based on fees. *Example B* is an industry pricing model attractive to consumers who make decisions based on how much the recipient receives.

The two previous examples demonstrate typical pricing strategies in use today, which illustrates how the current disclosure requirements are detrimental to comparison shopping and result in consumer harm. If a hypothetical consumer visited the websites of three different providers to find out how much it costs to send \$200 abroad, the results might look something like the options shown below.

Example C<sup>31</sup>

Different Pricing Strategies					
Examples of current industry practices					
<b>1</b> Strategy: "No fee"		<b>2</b> Strategy: Large recipient amount		<b>3</b> Strategy: "Total cost"	
Your total	200 USD	You are sending	200 USD	Your total	200 USD
Transaction fee*	0.00 USD	Transaction fee*	30.00 USD	Transaction fee	10 USD
You are sending	200 USD	Your total	230 USD	You are sending	190 USD
Exchange rate	1 USD = 19.5120 MXN	Exchange rate	1 USD = 21.7223 MXN	Exchange rate	1 USD = 21.8712 MXN
Recipient receives	3,902.40 MXN	Recipient receives	4,344.46 MXN	Recipient receives	4155.53 MXN

The aforementioned Applesed research<sup>32</sup> suggests *many consumers may choose option 1 because there is no fee, while others will choose option 2 because the recipient amount is highest*, a common factor in decisions. However, only the savviest of consumers would realize that the costs were shifted to

<sup>30</sup> *Id.*, from another remittance provider on August 30, 2021. The image on the right is adjusted so the transfer total becomes \$200 to enable apples-to-apple comparison, which reduces the recipient amount appropriately.

<sup>31</sup> The three options in *example C* were created for purposes of this letter as an illustration that demonstrates pricing practices commonly in use in the remittance marketplace. The examples mimic what a consumer might see currently, if, when comparison shopping, they indicate a "send" amount with three different remittance providers.

<sup>32</sup> Applesed: Annette LoVoi et al., "[Sending Money: The Path Forward](#)" (May 2016). *See* at 15.

the exchange rate margin in option 1, or that the large upfront fee was in addition to the \$200 in option 2 which results in a deceptively elevated recipient amount. And even for those who understood pricing nuances, it would still be extremely difficult to calculate which is the better deal as there are so many incongruous factors. This leads to consumers mistakenly choosing options that are costly and not in their best interest, without even realizing it because of these industry pricing tactics.

But, what if “total cost” pricing was in effect? Take those same three remittance options in *example C* and modify them as if “total cost” pricing was used. In *example D*, one can easily understand that consumers would no longer need to do any calculations themselves or be confused by different pricing strategies. With “total cost” pricing, comparison shopping becomes much simpler. Similar to the U.K.’s research, consumers would be more likely to choose the lowest cost option, which is clearly option 3. Suddenly, the providers behind options 1 and 2 would likely feel downward pressure on prices to stay competitive as newly empowered consumers would seek lower cost options. This would drive down prices across the entire remittance marketplace.

*Example D*<sup>33</sup>

Effective Comparison Shopping					
If “total cost” pricing was used by all					
1		2		3	
Your total	200 USD	Your total	200 USD	Your total	200 USD
<b>Total Cost</b>	<b>22.09 USD (10.8%)</b>	<b>Total Cost</b>	<b>31.36 USD (15.7%)</b>	<b>Total Cost</b>	<b>10 USD (5%)</b>
You are sending	177.91 USD	You are sending	168.64 USD	You are sending	190 USD
Real Exchange rate	1 USD = 21.8712 MXN	Real Exchange rate	1 USD = 21.8712 MXN	Exchange rate	1 USD = 21.8712 MXN
<b>Recipient receives</b>	<b>3,902.40 MXN</b>	<b>Recipient receives</b>	<b>3,687.70 MXN</b>	<b>Recipient receives</b>	<b>4155.53 MXN</b>

**Our Request:** The CFPB should eliminate the dramatic and confusing differences between pricing strategies that leads to consumers getting bad deals and bring transparent pricing to the remittance market. The CFPB can solve these significant problems with a simple fix by eliminating inflated exchange rates and requiring any foreign exchange margin to be disclosed as an upfront fee. In effect, the exchange rate shown by providers would be derived from a neutral mid-market exchange rate published by an independent source or government entity. There would be no more hidden foreign exchange spread.

This would enable clear apples-to-apples comparison shopping for the first time under the Remittance Rule, induce further competition, and put significant downward pressure on prices, helping achieve the UN sustainable development goal of 3% remittance costs by 2030 and potentially saving Americans billions of dollars.

<sup>33</sup> *Example D* modifies the three options in *example C* to demonstrate how “total cost” pricing would improve the remittance marketplace and enable apples-to-apples comparison shopping. Option 1 is adjusted to display the “total cost” disclosure to include the exchange rate markup as a fee. The difference between the mid-market rate (aka interbank rate) and the exchange rate offered to consumers in this transaction was \$22.09. The formula to determine “total cost” is  $(Fees + (Amount - Fees) * (1 - offered\ rate / mid-market\ rate))$ . Option 2 is adjusted to ensure both upfront fee and exchange rate margin are combined into one “total cost” amount and subtracted from the send amount, allowing consistency in the marketplace. The formula is  $(Fees + (Amount) * (1 - offered\ rate / mid-market\ rate))$ , resulting in the amount of \$31.36, which would now be subtracted from the original send amount. Option 3, which already transparently used the mid-market rate, remains the same.

b) ***Undisclosed third-party fees and bloated estimates***

Congress intended the disclosures of the costs made to remittance recipients to be specific and enforceable. The legislation authorized providers to use estimates in only two situations: 1) For a period of ten years, financial institutions were permitted to provide estimates of the amount to be received;<sup>34</sup> 2) For remittances sent to a prescribed list of nations whose infrastructure precludes providers from ascertaining costs imposed by the receiving providers, estimates are also permitted.<sup>35</sup>

Additionally, despite strong objections from consumer advocates<sup>36</sup> based on Congress's express intention to limit the use of estimates in disclosures for remittances and only permit estimates to be used by financial institutions for ten years, the CFPB has expanded their allowed use. In 2013, the CFPB created a permanent exception for the "optional disclosure of non-covered third party fees and taxes collected by a person other than the provider."<sup>37</sup> Non-covered third party fees<sup>38</sup> are fees imposed by the designated recipient's institution for receiving the transfer into an account. The statute does allow financial institutions to provide estimates rather than fixed costs when the institution "is unable to know, for reasons beyond its control" the amount of currency that will be made available to the designated recipient."<sup>39</sup> However, these estimates were expressly permitted only for ten years, to provide an incentive for financial institutions to make arrangements with recipient providers that would ensure certainty and lower costs in these transfers at the end of the ten year period.<sup>40</sup>

Additionally, in 2020 the CFPB provided two permanent exceptions for remittances initiated through a financial institution: the exchange rate is allowed to be estimated for institutions that made 1,000 or fewer remittances in the prior calendar year,<sup>41</sup> and "covered third party fees" are allowed to be estimated by financial institutions that made 500 or fewer remittance transfers in the prior year.<sup>42</sup> Disclosures of the remittances prices which include estimates are not considered incorrect so long as the "recipient receives the same, or greater, amount of funds than . . . disclosed."<sup>43</sup> This may provide an incentive to remittance providers to inflate their prices beyond the actual costs, and pocket the difference between the disclosed amount and the actual charges.

Given the near-instantaneous relay of information in this day and age, financial institutions should be required to make every effort possible, using all available modern technology, to determine the fees to be collected by other financial institutions. Yet because the CFPB's

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<sup>34</sup> 15 U.S.C. § 1693o-1(a)(4).

<sup>35</sup> 15 U.S.C. § 1693o-1(c).

<sup>36</sup> National Consumer Law Center (on behalf of its low-income clients), Public Citizen, and UnidosUS, "[CFPB-2019-0058-0085](#)" (January 21, 2020). *See* at 2.

<sup>37</sup> 12 C.F.R. § 1005.32(b)(3).

<sup>38</sup> Non-covered third party fees is defined to mean "fees imposed on the remittance transfer by a person other than the remittance transfer provider except for fees" which are imposed by the recipient's institution for receiving a remittance transfer into an account. 12 C.F.R. § 1005.30(h)(2).

<sup>39</sup> 15 U.S.C. § 1693o-1(a)(4)(A)(ii).

<sup>40</sup> 15 U.S.C. § 1693o-(a)(4)(B).

<sup>41</sup> 12 C.F.R. § 1005.32(b)(4).

<sup>42</sup> 12 C.F.R. § 1005.32(b)(5).

<sup>43</sup> 12 C.F.R. § 1005.32(c).

regulation allows them to continue to provide estimates, institutions have little incentive to determine this information. The Remittance Rule was designed to facilitate comparison shopping, to encourage meaningful competition, such that compliance with Rule would lead to decreased prices for senders. The allowance of estimates undermines these goals.

Many banks typically rely on SWIFT messaging and correspondent banking to facilitate cross-border payments. Although Dodd-Frank was enacted more than 11 years ago, in 2021 SWIFT generally still does not offer transparent pre-transfer pricing. However, the fact that SWIFT includes this service in its future roadmap<sup>44</sup> demonstrates that it is technologically feasible. The CFPB should use its influence and authority to ensure this is implemented in the very near future.

If the CFPB solved for the problems identified in subsections a) and b) above, and transparent pricing became the industry standard, it would allow the CFPB to consider a more streamlined disclosure that would be even more clear to all remittance senders. Past research has demonstrated that fewer pieces of information increase comprehension of the overall disclosure *and* facilitate meaningful comparison shopping.

**Our Request:** While the statute requires disclosure of several elements, including amount of fees to be charged and the exchange rate,<sup>45</sup> the CFPB could consider emphasizing the two key *numbers* needed for consumers to understand the full cost of the remittance transfer: 1) the total amount of the remittance (from which the provider would deduct all fees, any exchange rate margin, and taxes if applicable) and 2) the total amount to be received by the recipient (which would be the exact amount to be delivered to the recipient).

In fact, many of the leading remittance providers are now highlighting exactly these numbers in their remittance advertising.<sup>46</sup> However, because no regulations govern exactly what is included in these disclosures, consumers cannot be assured that the information provided is based on the same assumptions. Everyone would benefit from disclosures that were both simpler and required to be determined by the same rules.

This would be analogous to the Truth in Lending disclosures for the Annual Percentage Rate, Amount Financed and Total of Payments, which provide in a uniform way accurate and meaningful disclosure of the costs of consumer credit to enable consumers to make informed choices in the credit marketplace and avoid abusive lending.<sup>47</sup>

### ***c) Expanded safe harbors from coverage under the Remittance rule***

By statute, the EFTA's remittances protections apply only to transfers made by entities that provide remittances in the "normal course of [their] business."<sup>48</sup> The Remittance Rule's implementation of this limit includes a safe harbor from compliance with the Rule. Before 2020,

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<sup>44</sup> SWIFT "[Future of Payments](#)" (June 2019). *See* comments that include, "we'll expand the toolset further to enable upfront transparency on fees and schedules so that both originators and beneficiaries will have full predictability on costs and availability of funds."

<sup>45</sup> 15 USC 1693o-1(a)(2)(A).

<sup>46</sup> A quick scan of top remittance providers demonstrates this to clearly be the case by visiting [www.moneygram.com](#), [www.paypal.com](#), [www.remitly.com](#), [www.westernunion.com](#), and [www.wise.com](#).

<sup>47</sup> 15 U.S.C. § 1601(a) (congressional findings and declaration of purpose)

<sup>48</sup> 15 U.S.C. § 1693o-1(g)(3) (defining "remittance transfer provider").

the safe harbor only included entities that in the normal course of its business provided 100 or fewer remittance transfers in the prior year and provides 100 or fewer in the current year.<sup>49</sup> However, in its 2020 revisions the CFPB expanded the safe harbor immensely, by substituting 500 transfers for the previous limit of 100. It also changed its interpretation of the general definition of “normal course of business” such that making transfers “many times per month” is no longer part of an example of providing remittances in the normal course of business.<sup>50</sup>

The consequence of this expansion of the safe harbor from compliance with the Remittance Rule was to remove many more financial institutions from coverage under the Rule, resulting in an exclusion of about 90% of all depository institutions in the United States.<sup>51</sup>

The statutory language of the “normal course of its business” exemption shows that Congress intended the exemption to be narrow. An exemption that covers three-quarters of all banks and credit unions is hardly narrow or “limited in scope,” and is thus inconsistent with both Congress’s intent and the CFPB’s earlier conclusions.<sup>52</sup>

This broadening of the safe harbor harms consumers by essentially eliminating *any* protections for individuals sending money abroad through those exempted institutions. Indeed, the CFPB admitted that 141,900 remittances per year previously covered by the Rule would no longer be covered,<sup>53</sup> and for the individual consumers sending these transfers, the expanded safe harbor would mean the difference between having the Remittance Rule’s important consumer protections and having none.<sup>54</sup> For example, without the Rule’s protections, consumers sending these remittances may receive no remittance disclosures and will have a much more limited remedy if their transfer is lost, late or not paid in full.

**Our Request:** The CFPB should reverse the expanded exemptions allowed in 2020.

#### **4. There is International Support for Full Disclosure and Finality**

When originally enacted and implemented, Dodd-Frank and the subsequent Remittance Rule represented the global gold standard for remittance price disclosures and transparency. The Rule significantly improved the marketplace. In recent years, however, the international community has recognized that more improvements are still needed. As it has become increasingly clear that consumers are still often unable to effectively comparison shop because of the confusing nature of different industry pricing strategies, increased price transparency is strongly supported.

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<sup>49</sup> Reg. E, 12 C.F.R. § 1005.30(f)(2)(i).

<sup>50</sup> Comment 30(f)-2.i.

<sup>51</sup> See, Comments to the Consumer Financial Protection Bureau, 12 CFR Part 1005 Docket No. CFPB-2019 0058 RIN 3170-AA96, Proposed Rules on Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E) by the National Consumer Law Center on behalf of its low-income clients, Public Citizen, and UnidosUS, January 21, 2020, available at [https://www.nclc.org/images/pdf/banking\\_and\\_payment\\_systems/comments-remittance-2020.pdf](https://www.nclc.org/images/pdf/banking_and_payment_systems/comments-remittance-2020.pdf), Note 76.

<sup>52</sup> In 2012, the CFPB discussed its inability to identify the number of transfers sent by “typical” providers; the CFPB should ensure that the Remittance Rule *applies* to such entities, not exempt them. 77 Fed. Reg. at 50,252 (Aug. 20, 2012).

<sup>53</sup> 84 Fed. Reg. at 67,137 (Dec. 6, 2019).

<sup>54</sup> It is not clear how many consumers are affected. In studying the remittance market previously, the CFPB noted data showing that a significant portion of remittance consumers sends money infrequently, while a similar portion sends very frequently. See CFPB, [Report on Remittance Transfers](#) 4 (July 2011). For this reason, the 500 transfers sent in a year by a bank that the proposal would exempt from the Rule could represent 500 customers or 25.

As a result, the international community has consistently made key consumer protection recommendations in line with the original spirit of the Remittance Rule, calling for **“total cost (e.g., fees at both ends, foreign exchange rate margins) disclosed in a single upfront amount”** as both an industry best practice and a suggested requirement for governments to adopt. Similar recommendations and attention has come from other international bodies and governments, including the Financial Stability Board,<sup>55</sup> the World Bank,<sup>56</sup> European Union,<sup>57</sup> the United Kingdom’s Financial Conduct Authority,<sup>58</sup> and the Australian Competition and Consumers Commission (“ACCC”).<sup>59</sup> Uniformly these statements indicate, as noted by the ACCC, that “action is necessary to counter the high cost and lack of transparency in international payments, to ensure that consumers can easily understand and compare prices” and that “consumers stand to make the most savings by purchasing from the supplier that offers the most competitive total price compared with making purchase decisions based on fees alone.”<sup>60</sup>

## **5. Our Requests**

The CFPB should improve the remittance market for consumers by requiring more accurate, transparent pricing. It’s been a decade since the Dodd-Frank Act sought transparency on remittance disclosures and more work clearly needs to be done.

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<sup>55</sup> Financial Stability Board, [“Targets for Addressing the Four Challenges of Cross-Border Payments”](#) (May 2021). See at 2. which identifies “total transaction cost (showing FX rate and currency conversion charges)” as a target metric to improve cross-border payments.

<sup>56</sup> World Bank, [“Remittance Prices Worldwide: Find and compare prices”](#). The World Bank manages an online Remittance Prices Worldwide database, which provides a global benchmark on the costs of remittances over time in hundreds of corridors. It also enables periodic price comparisons of different providers in various markets. Importantly, the quarterly price comparison tool highlights “total cost” (upfront fees plus exchange rate margin in a single amount) as the key factor in determining how much consumers are charged by remittance providers.

<sup>57</sup> European Commission, [“Press release: A better deal for consumers: Commission welcomes agreement on cheaper cross-border payments and fairer currency conversions”](#) (December 2018). In 2020, new European Union rules, resulting from the revised Cross-Border Payments Regulation (known as “CBPR2”), went into effect mandating more transparent pricing on money transfers. As a result, online and card providers must show the total costs of sending money upfront, including the exact amount of any exchange rate margins (referred to as ‘currency conversion cost’ in the legal text), on transactions within the E.U.

<sup>58</sup> Financial Conduct Authority [Handbook](#). See BCOBS 2.3.7B and 2.3.7C. In 2019, the United Kingdom’s Financial Conduct Authority updated its Banking: Conduct of Business Sourcebook (“BCOBS”) to endorse, as a cost essential to be considered for price comparison, “the margin between the exchange rate that would be offered... and a currently applicable interbank exchange rate, calculated using an independently published interbank spot rate.”

<sup>59</sup> Australian Competition & Consumer Commission, [“Foreign currency conversion services inquiry”](#) (July 2019). In July 2019, the Australian Competition and Consumers Commission (“ACCC”) concluded action is necessary to counter the high cost and lack of transparency in international payments. The report encouraged providers to “take steps to ensure that consumers can easily understand and compare prices” and indicated that “consumers stand to make the most savings by purchasing from the supplier that offers the most competitive total price compared with making purchase decisions based on fees alone.” Subsequently, the Australian Senate Select Committee on Financial Technology and Regulatory Technology, in a September 2020 [report](#), recommended that “if the ACCC finds poor industry adherence to its best practice guidance for foreign currency conversion services and international transaction fees, the development of a market code of best practice to promote integrity and transparency within the foreign exchange market should be considered.” These reports came after a previous [analysis](#) by The Australian revealed that the big four banks have increased FX markups “fivefold since 2008 to between 4 and 5 per cent” of transactions and that FX markups made up 80 per cent of foreign currency fees.

<sup>60</sup> *Id.*

Following your Senate nomination hearing, U.S. Senator Elizabeth Warren submitted a written question<sup>61</sup> asking you to “describe how you will approach remittances and seek to eliminate hidden costs and fees for consumers and increase transparency in the remittance market.” As you noted in response, “when Americans send money using remittance transfers, it is important that they clearly understand the costs and fees associated with these transfers.”

**To accomplish these goals, we call on the CFPB to:**

- **Modify the Remittance Rule to require providers to disclose, in a single upfront amount, any exchange rate margin and all fees.** This single upfront amount would be shown as the transfer fee required on current disclosure forms. Banks and providers would display an exchange rate that is fair and consistent with actual market rates by requiring it to be derived from an active mid-market exchange rate published by an independent source or government entity.
- **Eliminate the use of estimates for third party fees except for the purpose Congress authorized to be applicable at this time.** The only allowable estimates for third party fees should be for remittance transfers to the prescribed list of nations whose infrastructure precludes providers from ascertaining costs on the receiving end.
- **Unwind the 2020 revisions to the Remittance Rule that expanded the remittance disclosure safe harbor and created permanent disclosure exemptions for many new financial institutions.** This will ensure that over 100,000 remittances a year are protected by the Rule’s requirements.

Action is needed to ensure there are sufficient consumer protections in place for low-income non-English speaking immigrants, who are often the target of predatory financial services. It is also needed for military service members stationed abroad, and for consumers sending money internationally for education, vacation, and housing. A revised rule will also benefit small businesses engaging in international trade, because they often receive the same disclosures even if the Rule only applies to consumer accounts.

The U.S. was once the global leader in pursuing remittance transparency. Other countries and the international community have since stepped up and are now going even further. Let’s reclaim our international leadership, heed the recommendations of the UN and World Bank, and ensure that Americans fully understand the costs of sending money abroad. We can help the U.S. achieve the UN sustainable development goal of 3% costs by 2030, while potentially saving consumers billions every year.

We appreciate the opportunity to share our views and appreciate the continual efforts of the CFPB to monitor the remittance market. Please do not hesitate to let us know if you have any questions regarding these comments or if we can be of any assistance. You may contact Margot Saunders of the National Consumer Law Center at [msaunders@nclc.org](mailto:msaunders@nclc.org) and Nick Catino of Wise at [nick.catino@wise.com](mailto:nick.catino@wise.com).

Sincerely,

Americans for Financial Reform  
Appleseed Foundation  
Consumer Action

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<sup>61</sup> United States Senate Committee on Banking, Housing, and Urban Affairs, “[Chopra responses to written questions](#)” March 2, 2021). *See* at 47.

National Association of Consumer Advocates  
National Coalition for Asian Pacific American Community Development  
National Consumer Law Center on behalf of its low-income clients  
National Consumers League  
National Legal Aid and Defender Association  
Public Citizen  
UnidosUS  
U.S. PIRG  
Empire Justice Center of New York  
Mississippi Center for Justice  
Mountain State Justice, Charleston, WV  
North Carolina Justice Center  
South Carolina Appleseed  
Texas Appleseed  
Virginia Poverty Law Center

Wise