AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 78 Wednesday,
No. 99 May 22, 2013

Part III

Bureau of Consumer Financial Protection

12 CFR Part 1005
Electronic Fund Transfers (Regulation E); Final Rule

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1005

[Docket No. CFPB–2012–0050]

RIN 3170–AA33

Electronic Fund Transfers (Regulation E)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending its regulation which implements the Electronic Fund Transfer Act, and the official interpretation to the regulation. This final rule (the 2013 Final Rule) modifies the final rules issued by the Bureau in February, July, and August 2012 (collectively the 2012 Final Rule) that implement section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding remittance transfers. The amendments address three specific issues. First, the 2013 Final Rule modifies the 2012 Final Rule to make optional, in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution. Second and relatedly, the 2013 Final Rule also makes optional the requirement to disclose taxes collected by a person other than the remittance transfer provider. In place of these two former requirements, the 2013 Final Rule requires disclaimers to be added to the rule's disclosures indicating that the recipient may receive less than the disclosed total due to the fees and taxes for which disclosure is now optional. Finally, the 2013 Final Rule revises the error resolution provisions that apply when a remittance transfer is not delivered to a designated recipient because the sender provided incorrect or insufficient information, and, in particular, when a sender provides an incorrect account number or recipient institution identifier that results in the transferred funds being deposited in the wrong account.

DATES: This rule is effective October 28, 2013. The effective date of the rules published February 7, 2012 (77 FR 6194), July 10, 2012 (77 FR 40459), and August 20, 2012 (77 FR 50244), which were delayed on January 29, 2013 (78 FR 6025), is October 28, 2013.

FOR FURTHER INFORMATION CONTACT: Eric Goldberg, Ebunoluwa Taiwo or Lauren Weldon, Counsels; Division of Research, Markets & Regulations, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552, at (202) 435–7700 or *CFPB_Remittance Rule@consumerfinance.gov.* Please also visit the following Web site for additional information: *http://www.consumerfinance.gov/regulations/final-remittance-rule-amendment-regulation-e/.*

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

This final rule (the 2013 Final Rule) revises the amendments to Regulation E published on February 7, 2012 (77 FR 6194) (February Final Rule) [1] and August 20, 2012 (77 FR 50244) (August Final Rule and collectively with the February Final Rule, the 2012 Final Rule). The 2012 Final Rule, summarized below, implements section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which creates a comprehensive new system of consumer protections for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries.

The 2013 Final Rule amends the 2012 Final Rule by addressing three specific issues. First, the 2013 Final Rule modifies the 2012 Final Rule to make optional, in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution for transfers to the designated recipient's account. Second and relatedly, the 2013 Final Rule also makes optional the requirement to disclose taxes collected by a person other than the remittance transfer provider. In place of these two former requirements, the 2013 Final Rule requires providers to include disclaimers on the disclosure forms provided to senders of remittance transfers indicating that the recipient may receive less than the disclosed total due to certain recipient institution fees and taxes collected by a person other than the provider. In addition, the 2013 Final Rule permits providers to disclose these fees and taxes, or a reasonable estimate of these figures, as part of the new required disclaimer.

The 2013 Final Rule also creates an exception from the 2012 Final Rule's error provisions for certain situations in which a sender provides an incorrect account number or recipient institution identifier and that mistake results in the transfer being deposited in the account of someone other than the designated recipient. For this exception to apply, a remittance transfer provider must satisfy a number of conditions including providing notice to the sender prior to the transfer that the transfer amount could be lost, implementing reasonable verification measures to verify the accuracy of a recipient institution identifier, and making reasonable efforts to retrieve the mis-deposited funds. The 2013 Final Rule also streamlines error resolution procedures in other situations where a sender's provision of incorrect or incomplete information results in an error under the rule.

Finally, the 2013 Final Rule will go into effect on October 28, 2013.

II. Background

A. Section 1073 of the Dodd-Frank Act

Section 1073 of the Dodd-Frank Act amended the Electronic Fund Transfer Act (EFTA) to create a new comprehensive consumer protection regime for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries. For covered transactions sent by remittance transfer providers, section 1073 creates a new EFTA section 919, and generally requires: (i) The provision of disclosures prior to and at the time of payment by the sender for the transfer; (ii) cancellation and refund rights; (iii) the investigation and remedy of errors by providers; and (iv) liability standards for providers for the acts of their agents.

B. Types of Remittance Transfers

As discussed in more detail in the February Final Rule, consumers can choose among several methods of transferring money to foreign countries. The various methods of remittance transfers can generally be categorized as involving either closed network or open network systems, although hybrids between open and closed networks also exist. Consistent with EFTA section 919, the 2013 Final Rule generally applies to all remittance transfer providers, whether transfers are sent through closed network or open network systems, or some hybrid of the two.

Closed Networks and Money Transmitters

In a closed network, a principal provider offers a service entirely through its own operations, or through a network of agents or other partners that help collect funds in the United States and disburse them abroad. Through the provider's own contractual arrangements with those agents or other partners, or through the contractual relationships owned by the provider's business partner, the principal provider can exercise some control over the

[1] The Bureau published a technical correction to the February Final Rule on July 10, 2012. 77 FR 40459. For simplicity, that technical correction is incorporated into the term ''February Final Rule.''

transfer from end-to-end, including over fees and other terms of service.

In general, closed networks can be used to send transfers that can be received in a variety of forms. But, they are most frequently used to send transfers that are not received in accounts held by depository institutions and credit unions. Additionally, closed networks are most frequently used by non-depository institutions called money transmitters, though depository institutions and credit unions may also provide (or operate as part of) closed networks. Similarly, the Bureau believes that many money transmitters operate exclusively or primarily through closed network systems.

Open Networks and Wire Transfers

In an open network, no single provider has control over or relationships with all of the participants that may collect funds in the United States or disburse funds abroad. Funds may pass from sending institutions through intermediary institutions to recipient institutions, any of which may deduct fees from the principal amount or set the exchange rate that applies to the transfer, depending on the circumstances. Institutions involved in open network transfers may learn about each other's practices regarding fees or other matters through any direct contractual or other relationships that do exist, through experience in sending wire transfers over time, through reference materials, or through information provided by the consumer. However, at least until the time of the February Final Rule, in open networks, there has not generally been a uniform global method for or practice of communication by all intermediary and recipient institutions with originating entities regarding the fees and exchange rates that intermediary or recipient institutions might apply to transfers.

Unlike closed networks, open networks are typically used to send funds to accounts at depository institutions or credit unions. Though they may be used by money transmitters, open networks are primarily used by depository institutions, credit unions and broker-dealers for sending money abroad. The most common form of open network remittance transfer is a wire transfer, a certain type of electronically transmitted order that directs a receiving institution to pay an identified beneficiary. Unlike closed network transactions, which generally can only be sent to agents or other entities that have signed on to work with the specific provider in question, wire transfers can reach most banks (or other institutions) worldwide through national payment systems that are connected through correspondent and other intermediary bank relationships.

Information on the volume of remittance transfers sent via certain methods is very limited. However, the Bureau believes that closed network transactions by money transmitters and wire transfers sent by depository institutions and credit unions make up the great majority of the remittance transfer market. Furthermore, the Bureau believes that, collectively, money transmitters send far more remittance transfers each year than depository institutions and credit unions combined.

III. Summary of the Rulemaking Process

The Bureau published three rules in 2012 to implement section 1073 of the Dodd-Frank Act. The Bureau then published a proposal on December 31, 2012, which would have modified those published rules in three distinct areas. 77 FR 77188 (the December Proposal). These three final rules and the December Proposal are summarized below.

A. The 2012 Final Rule

On May 31, 2011, the Board of Governors for the Federal Reserve System (Board) first proposed to amend Regulation E to implement the remittance transfer provisions in section 1073 of the Dodd-Frank Act. *See* 76 FR 29902 (May 23, 2011). Authority to implement the new Dodd-Frank Act provisions amending the EFTA transferred from the Board to the Bureau on July 21, 2011. *See* 12 U.S.C. 5581(a)(1); 12 U.S.C. 5481(12) (defining ''enumerated consumer laws'' to include the EFTA). On February 7, 2012, the Bureau finalized the Board's proposal in the February Final Rule. On August 20, 2012, the Bureau published the August Final Rule adopting a safe harbor for determining which persons are not remittance transfer providers subject to the February Final Rule because they do not provide remittance transfers in the normal course of business, and modifying several aspects of the February Final Rule regarding remittance transfers that are scheduled before the date of transfer. The 2012 Final Rule had an effective date of February 7, 2013.[2]

The 2012 Final Rule adopts provisions that govern certain electronic transfers of funds sent by consumers in the United States to designated recipients in other countries and, for covered transactions, imposes a number of requirements on remittance transfer providers. In particular, the 2012 Final Rule implements disclosure requirements in EFTA sections 919(a)(2)(A) and (B). The 2012 Final Rule includes provisions that generally require a provider to provide to a sender a written pre-payment disclosure containing detailed information about the transfer requested by the sender, specifically including the exchange rate, applicable fees and taxes, and the amount to be received by the designated recipient. In addition to the pre-payment disclosure, pursuant to the 2012 Final Rule, the provider also must furnish to a sender a written receipt when payment is made for the transfer. The receipt must include the information provided on the pre-payment disclosure, as well as additional information such as the date of availability of the funds, the designated recipient's contact information, and information regarding the sender's error resolution and cancellation rights.

Though the 2012 Final Rule's provisions permit remittance transfer providers to provide estimates in three specific circumstances, the 2012 Final Rule generally requires that disclosures state the actual exchange rate that will apply to a remittance transfer and the actual amount that will be received by the designated recipient of a remittance transfer. One of the exceptions permitting estimates includes a temporary exception for certain transfers provided by insured institutions. Pursuant to this exception, if the remittance transfer provider is an insured depository institution or credit union, the transfer is sent from the sender's account with the institution, and the provider cannot determine exact amounts for reasons beyond its control, the provider can estimate the exchange rate, any fees imposed on the remittance transfer by a person other than the provider, and, in more limited circumstances, taxes imposed by a person other than the provider. The 2012 Final Rule also includes two permanent exceptions permitting estimates, one for transfers to certain countries and the other for transfers that are scheduled five or more business days before the date of transfer.

As noted above, the EFTA, as amended by the Dodd-Frank Act, requires the disclosure of the amount to be received by the designated recipient. Because fees imposed and taxes collected on a remittance transfer by persons other than the remittance

[2] On January 29, 2013, the Bureau temporarily delayed the February 7, 2013 effective date (Temporary Delay Rule).

transfer provider can affect the amount received by the designated recipient, the 2012 Final Rule's provisions require that providers take such fees and taxes into account when calculating the disclosure of the amount to be received under § 1005.31(b)(1)(vii), and that such fees and taxes be disclosed under § 1005.31(b)(1)(vi). Comment 31(b)(1)–ii to the 2012 Final Rule explains that a provider must disclose any fees and taxes imposed on the remittance transfer by a person other than the provider that specifically relate to the remittance transfer, including fees charged by a recipient institution or agent. Foreign taxes that must be disclosed include regional, provincial, state, or other local taxes, as well as taxes imposed by a country's central government.

In the February Final Rule in response to comments received on the Board's proposal, the Bureau noted that commenters had argued that fees imposed and taxes collected on the remittance transfer by a person other than the remittance transfer provider may not be known at the time the sender authorizes the remittance transfer and that this lack of knowledge could result in the provider disclosing misleading information to the sender. The Bureau also acknowledged that smaller institutions might not have the resources to obtain or monitor information about foreign tax laws or fees charged by unrelated financial institutions and that providers might not know whether a recipient had agreed to pay such fees or how much the recipient may have agreed to pay. Nevertheless, the Bureau stated that the Dodd-Frank Act specifically requires providers to disclose the amount to be received, and that fees imposed and taxes collected on the remittance transfer by a person other than the provider are a necessary component of this amount. The Bureau further stated that it was necessary and proper to exercise its authority under EFTA sections 904(a) and (c) to adopt § 1005.31(b)(1)(vi) to require the itemized disclosure of fees and taxes imposed on the remittance transfer by persons other than the provider to help senders understand the calculation of the amount received, which would aid comparison shopping and the identification of errors, and thus effectuate the purposes of the EFTA.

The 2012 Final Rule also implements EFTA sections 919(d) and (f), which direct the Bureau to promulgate error resolution standards and rules regarding appropriate cancellation and refund policies, as well as standards of liability for remittance transfer providers. The 2012 Final Rule thus defines in § 1005.33 what constitutes an error with respect to a remittance transfer, as well as what remedies are available when an error occurs. Of relevance to the 2013 Final Rule, the 2012 Final Rule provides in §§ 1005.33(a)(1)(iii) and (a)(1)(iv) that, subject to specified exceptions, an error includes the failure to make available to a designated recipient the amount of currency stated in the disclosure provided to the sender, as well as the failure to make funds available to a designated recipient by the date of availability stated in the disclosure. Where the error is the result of the sender providing insufficient or incorrect information, § 1005.33(c)(2)(ii) in the 2012 Final Rule specifies the available remedies: The provider must either refund the funds provided by the sender in connection with the remittance transfer (or the amount appropriate to correct the error) or resend the transfer at no cost to the sender, except that the provider may collect third-party fees imposed for resending the transfer. If the transfer is resent, comment 33(c)–2 to the 2012 Final Rule explains that a request to resend is a request for a remittance transfer, and thus the provider must provide the disclosures required by § 1005.31. Under § 1005.33(c)(2) of the 2012 Final Rule, even if the provider cannot retrieve the funds once they are sent, the provider still must provide the stated remedies if an error occurred.

B. The December Proposal

In the February Final Rule, the Bureau stated that it would continue to monitor implementation of the new statutory and regulatory requirements. The Bureau subsequently engaged in dialogue with both industry and consumer groups regarding implementation efforts and compliance concerns. Most frequently, industry participants expressed concern about the costs and compliance challenges to remittance transfer providers of: (1) The requirement to disclose certain fees imposed by recipient institutions on remittance transfers; (2) the requirement to disclose taxes imposed by a person other than the provider, including taxes charged by foreign regional, provincial, state, or other local governments; and (3) the requirement to treat as an error, and thus resend or refund a remittance transfer, where the failure to deliver a transfer to the designated recipient occurs because the sender provided an incorrect account number to the provider. As a result, the Bureau proposed to refine these specific aspects of the 2012 Final Rule in the December Proposal.

First, the Bureau proposed to exercise its exception authority under section 904(c) of the EFTA to provide additional flexibility on how foreign taxes and recipient institution fees may be disclosed. If a remittance transfer provider did not have specific knowledge regarding variables that affect the amount of foreign taxes imposed on the transfer, the December Proposal would have permitted a provider to rely on a sender's representations regarding these variables, as permitted under the 2012 Final Rule. However, the December Proposal would have also permitted providers to estimate foreign taxes by disclosing the highest possible such tax that could be imposed with respect to any unknown variable. Similarly, if a provider did not have specific knowledge regarding variables that affect the amount of fees imposed on the remittance transfer by a recipient institution for receiving a remittance transfer in an account, the December Proposal would have permitted a provider to rely on a sender's representations regarding these variables. Separately, the December Proposal would have also permitted the provider to estimate a fee imposed on the remittance transfer by a recipient institution for receiving a transfer into an account by disclosing the highest possible fee with respect to any unknown variable, as determined based on either fee schedules made available by the recipient institution or information ascertained from prior transfers to the same recipient institution. If the provider could not obtain such fee schedules or information from prior transfers, the December Proposal would have allowed a provider to rely on other reasonable sources of information.

Second, the Bureau proposed to exercise its exception authority under section 904(c) of the EFTA to eliminate the requirement to disclose foreign taxes at the regional, state, provincial and local level. Thus, under the December Proposal, a remittance transfer provider's obligation to disclose foreign taxes would have been limited to taxes imposed on the remittance transfer by a foreign country's central government. Because the proposed changes regarding recipient institution fees and taxes, taken together, could have resulted in inexact disclosures, the December Proposal also solicited comment on whether the existing requirement in the 2012 Final Rule to state that a disclosure is ''Estimated'' when estimates are provided under § 1005.32 should be extended to scenarios where disclosures

are not exact due to the proposed revisions.

Third, the December Proposal would have revised the error resolution provisions that apply when a sender provides incorrect or insufficient information to the remittance transfer provider, and, in particular, when a remittance transfer is not delivered to a designated recipient because the sender provided an incorrect account number to the provider and the incorrect account number results in the funds being deposited in the wrong account. Under the December Proposal, in these circumstances, where the provider could demonstrate that the sender provided the incorrect account number and the sender had notice that the sender could lose the transfer amount, the provider would not have been required to return or refund mis-deposited funds that could not be recovered, provided that the provider had made reasonable efforts to attempt to recover the funds.

The December Proposal also would have revised the existing remedy procedures in situations where a sender provided incorrect or insufficient information, other than an incorrect account number, to allow remittance transfer providers additional flexibility when resending funds at a new exchange rate. Under proposed § 1005.33(c)(3), providers would have been able to provide oral, streamlined disclosures and would not have been required to treat resends as entirely new remittance transfers. The Bureau also proposed to make conforming revisions in light of the proposed revisions regarding recipient institution fees and foreign taxes.

Finally, the Bureau proposed to temporarily delay the effective date of the final rule and to extend the final rule's effective date until 90 days after this final rule is published.[3]

C. Overview of Comments and Outreach

The Bureau received more than 100 comments on the December Proposal. The majority of comments were submitted by industry commenters, including depository institutions and money transmitters that provide remittance transfers, and industry trade associations. In addition, the Bureau received comment letters from consumer groups and several individuals.[4]

Most industry commenters supported, or did not oppose, the proposed additional flexibility regarding the disclosure of recipient institution fees. However, many of these commenters further urged the Bureau to eliminate altogether the requirement that remittance transfer providers disclose recipient institution fees for remittance transfers to an account. These commenters largely reemphasized and expanded upon arguments that commenters had asserted prior to the publication of the February Final Rule. Primarily, that for remittance transfers sent through open networks it is very difficult, and in some cases impossible, for providers to know or even to estimate—with any degree of accuracy—the fees imposed on remittance transfers by recipient institutions. Commenters also argued that for wire transfers sent over the open network, the number of recipient institutions that might receive transfers, and thus assess fees, posed a challenge for any one U.S. institution, even a large correspondent bank, attempting to learn and accurately disclose these fees. Relatedly, commenters noted that existing systems for sending wire transfers in open networks generally do not provide a sending institution any insight into the fees charged by the recipient institution. Some of these commenters contended that Congress did not intend to require the disclosure of recipient institution fees.

In addition, industry commenters argued that the fees charged by recipient institutions for remittance transfers to an account are already transparent to the recipient (because the recipient typically has a preexisting relationship with the recipient institution), do not add transparency that benefits senders in any meaningful way, and may result in overpayment by the sender (particularly to the extent that the December Proposal permits estimates of the highest possible fee). These commenters also expressed concern that the additional flexibility proposed by the Bureau would not substantially reduce the burdens of compliance with the fee disclosure provisions because it would be difficult for remittance transfer providers to locate the materials needed—such as data from prior transactions, fee schedules, or industry surveys—to provide estimates of recipient institution fees under the proposed provisions. Relatedly, many industry commenters argued that the effort needed to compile this information would be of relatively little value to senders of remittance transfers when contrasted with the increased cost of providing the disclosures.

Consumer groups expressed differing views regarding the Bureau's proposal with respect to the disclosure of recipient institution fees. Some argued that senders of remittance transfers would be better served by disclosures that inform them only that recipient institutions may charge fees rather than with disclosures containing estimates of the fees. Others argued that Congress had intended for remittance transfer providers to arrange with recipient institutions to secure the information necessary to disclosure the relevant fee information and therefore maintained that the Bureau should make the proposed estimation provisions temporary in nature to allow and encourage providers to develop databases containing information that would eventually permit accurate disclosures of all fees imposed on remittance transfers, including recipient institutions fees.

Comments received regarding the proposed adjustments to the disclosure of foreign taxes generally mirrored the comments received regarding recipient institution fees. Again, while industry commenters generally stated that they appreciated the Bureau's proposal to eliminate the requirement to disclose subnational taxes as well as increase remittance transfer providers' flexibility to estimate other applicable foreign taxes, most industry commenters also urged the Bureau to eliminate altogether the requirement to disclose taxes collected by a person other than the provider. Consumer groups expressed differing views as to whether the Bureau should adopt the proposed revisions. Based on the perceived difficulty of knowing foreign taxes, some consumer group commenters supported the proposed flexibility with respect to the disclosure of foreign taxes in general and the elimination of the requirement to disclose subnational taxes in particular and they also emphasized the difficulty of providing tax disclosures. Others commenters urged that the Bureau should maintain the requirement that providers disclose all taxes imposed on a remittance transfer by a person other than the provider because doing so is the only way for senders to know precisely the amount that designated recipients will receive.

With respect to the Bureau's proposal to create an exception to the definition of error in the 2012 Final Rule, industry commenters uniformly supported the proposed change. Commenters repeated much of the reasoning put forth by the Bureau in the December Proposal—that

[3] As noted above, the Bureau published the Temporary Delay Rule on January 29, 2013, which temporarily delayed the February 7, 2013 effective date of the 2012 Final Rule.

[4] Comments that solely addressed whether the Bureau should have delayed the February 7, 2013 effective date were addressed in the Temporary Delay Rule and are not separately addressed herein.

in many instances remittance transfer providers are unable to verify the accuracy of account numbers and that providers should not have to bear the cost of a lost transfer. Commenters reiterated the fear that unscrupulous senders would abuse the 2012 Final Rule's remedy provisions for their own benefit, and that the attendant risk of loss could be significant enough that many providers might either exit the remittance transfer business or severely curtail their offerings. In addition, many industry commenters requested that the Bureau expand the proposed exception to the definition of the term error to include all mistakes in information provided by senders that could lead to an error under the rule, rather than just incorrect account numbers.

Consumer group commenters were divided on whether the Bureau should adopt the proposed exception to the definition of error. Two consumer groups argued that the proposed exception would properly calibrate the incentives for remittance transfer providers to prevent errors. These groups also agreed that remittance transfer providers should not have to bear the loss of a missing transfer when funds cannot be retrieved due to an error by the sender. Other consumer group commenters urged the Bureau not to adopt the proposed changes to the definition of the term error on the grounds that they are unnecessary because of existing error resolution procedures in subpart A of Regulation E, harmful to consumers who can ill afford to bear the loss of a missing transfer, and contrary to the intent of Congress.

In addition to the comments received on the December Proposal, the Bureau staff conducted outreach with various parties about the issues raised by the December Proposal or raised in comments. Records of these outreach conversations are reflected in *ex parte* submissions included in the rulemaking record (accessible by searching by the docket number associated with this final rule at *www.regulations.gov*).

IV. Legal Authority

Section 1073 of the Dodd-Frank Act created a new section 919 of the EFTA that requires remittance transfer providers to provide disclosures to senders of remittance transfers, pursuant to rules prescribed by the Bureau. In particular, providers must give a sender a written pre-payment disclosure containing specified information applicable to the sender's remittance transfer, including the amount to be received by the designated recipient. The provider must also provide to the sender a written receipt that includes the information provided on the pre-payment disclosure, as well as additional specified information. EFTA section 919(a).

In addition, EFTA section 919(d) provides for specific error resolution procedures and directs the Bureau to promulgate rules regarding appropriate cancellation and refund policies. Except as described below, the final rule is issued under the authority provided to the Bureau in EFTA section 919, and as more specifically described in this **SUPPLEMENTARY INFORMATION**.

In addition to the Dodd-Frank Act's statutory mandates, EFTA section 904(a) authorizes the Bureau to prescribe regulations necessary to carry out the purposes of the title. The express purposes of the EFTA, as amended by the Dodd-Frank Act, are to establish ''the rights, liabilities, and responsibilities of participants in electronic fund and remittance transfer systems'' and to provide ''individual consumer rights.'' EFTA section 902(b). EFTA section 904(c) further provides that regulations prescribed by the Bureau may contain any classifications, differentiations, or other provisions, and may provide for such adjustments or exceptions for any class of electronic fund transfers or remittance transfers that the Bureau deems necessary or proper to effectuate the purposes of the title, to prevent circumvention or evasion, or to facilitate compliance. As described in more detail below, certain provisions of the 2013 Final Rule are adopted pursuant to the Bureau's authority under EFTA sections 904 (a) and (c).

V. Section-by-Section Analysis of the Final Rule

Section 1005.30 Remittance Transfer Definitions

Section 1005.30 incorporates certain definitions applicable to the remittance transfer provisions in subpart B of Regulation E. Under the 2012 Final Rule, the introductory language in § 1005.30 states that ''for purposes of this subpart, the following definitions apply.'' The Bureau is revising in the 2013 Final Rule this introductory language to clarify that, except as otherwise provided, for purposes of subpart B of Regulation E, the definitions in § 1005.30 apply.

30(c) Designated Recipient

Under the 2012 Final Rule, the term ''designated recipient'' is defined to mean any person specified by the sender as the authorized recipient of a remittance transfer to be received at a location in a foreign country. Section 1005.30(c). Comment 30(c)–1 further clarifies that a designated recipient can be either a natural person or an organization, such as a corporation. *See* § 1005.2(j) (definition of person). Relatedly, § 1005.31(b)(2)(iii) requires a remittance transfer provider to disclose to a sender the name of the designated recipient. Thus, the provider must ascertain this name from the sender at or before the receipt or combined disclosure is provided to the sender.

As discussed below in the section-by-section analysis of § 1005.33(a)(1)(iv), the Bureau is adopting certain revisions to 2012 Final Rule's error resolution provisions in § 1005.33 where a transfer is delivered to someone other than the designated recipient. In particular, § 1005.33(a)(1)(iv)(D) creates a new exception to the definition of error in § 1005.33(a)(1)(iv) that applies when a sender provides an incorrect account number or recipient institution identifier, and the conditions in § 1005.33(h) are met. Based on comments received regarding these proposed changes, and, in particular, concerning the specific mistakes by a sender that might result in an error under the 2012 Final Rule, the Bureau believes that it would be useful to provide further clarity on how the designated recipient is determined for purposes of determining whether an error has occurred or the new exception under § 1005.33(a)(1)(iv) applies. In particular, the Bureau believes it necessary to address situations in which the transfer is delivered to someone other than the designated recipient named by the sender at the time of the transfer. Therefore, the Bureau is clarifying in comment 30(c)–1 that the designated recipient is identified by the name of the person stated on the disclosure provided pursuant to § 1005.31(b)(1)(iii).

30(h) Third-Party Fees

As discussed in detail below in the section-by-section analysis of § 1005.31, the Bureau is eliminating the requirement to disclose certain recipient institution fees and to include such fees in the calculation of the disclosed amount to be received by the designated recipient. In order to differentiate between fees that must be disclosed and included in the calculation of the amount to be received and those that are no longer required to be disclosed and included in such calculation, the Bureau is adopting definitions under § 1005.30(h) for covered third-party fees, required to be calculated and disclosed under subpart B of Regulation E, and non-covered third-party fees, which are not required to be calculated and

disclosed. Section 1005.30(h)(1) defines the term ''covered third-party fees'' to mean any fee that is imposed on the remittance transfer by a person other than the remittance transfer provider, except for non-covered third-party fees as described in § 1005.30(h)(2). Section 1005.30(h)(2) defines the term ''non-covered third-party fees'' to mean any fees imposed by the designated recipient's institution for receiving a transfer into an account, except if the institution acts as an agent of the remittance transfer provider. The rationale underlying the distinctions made in these definitions is discussed further below in the discussion of § 1005.31(b)(1)(vi).

The 2013 Final Rule adds new commentary to 30(h) to explain the scope of these fees. Drawing from applicable examples of fees imposed by a person other than the remittance transfer provider that were in comment 31(b)(1)–1.ii in the 2012 Final Rule, as well as proposed comments 31(b)(1)–iii and –iv which would have provided additional clarification on how to disclose recipient institution fees, comment 30(h)–1 explains that fees imposed on the remittance transfer by a person other than the provider include only those fees that are charged to the designated recipient and are specifically related to the remittance transfer.

Comment 30(h)–1 additionally provides examples of fees that are or are not specifically related to the remittance transfer. For example, overdraft fees that are imposed by a recipient's bank or funds that are garnished from the proceeds of a remittance transfer to satisfy an unrelated debt are not fees imposed on the remittance transfer because these charges are not specifically related to the remittance transfer. Comment 30(h)–1 further states that account fees are also not specifically related to a remittance transfer if such fees are merely assessed based on general account activity and not for receiving transfers. Comment 30(h)–1 additionally clarifies that fees that banks charge one another for handling a remittance transfer or other fees that do not affect the total amount that will be received by the designated recipient are not fees imposed on the remittance transfer. Comment 30(h)–1 also clarifies that fees that specifically relate to a remittance transfer may be structured on a flat per-transaction basis, or may be conditioned on other factors (such as account status or the quantity of remittance transfers received) in addition to the remittance transfer itself.

In addition, the 2013 Final Rule adds new commentary to explain the difference between covered and non-covered third-party fees. Comment 30(h)–2.i explains that under § 1005.30(h)(1), a covered third-party fee means any fee that is imposed on the remittance transfer by a person other than the remittance transfer provider including fees imposed by a designated recipient's institution for receiving a transfer into an account where such institution acts as an agent of the provider for the remittance transfer. As noted above, the rationale for this distinction is discussed further below in the section-by-section analysis of § 1005.31(b)(1)(vi). Comment 30(h)–2.ii provides examples of covered third-party fees including fees imposed on a remittance transfer by intermediary institutions in connection with a wire transfer and fees imposed on a remittance transfer by an agent of the provider at pick-up for receiving the transfer.

With respect to non-covered third-party fees, comment 30(h)–3 explains that a non-covered third-party fee means any fee imposed by the designated recipient's institution for receiving a transfer into an account, unless the institution is acting as an agent of the remittance transfer provider. It further provides as an example that a fee imposed by the designated recipient's institution for receiving an incoming transfer could be a non-covered third-party fee provided such institution is not acting as the agent of the provider. In addition, comment 30(h)–3 explains that designated recipient's account in § 1005.30(h)(2) refers only to an asset account, regardless of whether it is a consumer asset account, established for any purpose and held by a bank, savings association, credit union, or equivalent institution. It does not, however, include a credit card, prepaid card, or a virtual account held by an Internet-based or mobile telephone company that is not a bank, savings association, credit union or equivalent institution. The rationale for this interpretation is also discussed further below in the section-by-section analysis of § 1005.31(b)(1)(vi).

Section 1005.31 Disclosures

EFTA sections 919(a)(2)(A) and (B) require a remittance transfer provider to disclose, among other things, the amount to be received by the designated recipient in the currency in which it will be received. In the 2012 Final Rule under § 1005.31, the Bureau set forth the disclosure requirements for providers, including that providers disclose fees and taxes imposed by a person other than the provider. Pursuant to EFTA section 919(a)(4)(A), the Bureau adopted an exception in § 1005.32(a) to provide that for certain disclosures by insured depository institutions or credit unions regarding the amount of currency that will be received by the designated recipient will be deemed to be accurate in certain circumstances so long as the disclosure provides a reasonably accurate estimate of the amount of currency to be received.

As noted in the December Proposal, after the Bureau issued the February Final Rule, industry participants continued to express concerns previously raised in response to the Board's proposed rule to implement EFTA section 919. The concerns regarded the feasibility of disclosing fees imposed by a designated recipient's institution.

For the subset of transfers sent over the open network, industry participants stated that where a designated recipient's institution charges that recipient fees for receiving a transfer into an account, the remittance transfer provider would not typically know whether the recipient had agreed to pay such fees or how much the recipient had agreed to pay. Some industry participants also requested guidance on whether and how to disclose recipient institution fees that can vary based on the recipient's status with the institution, quantity of transfers received, or other variables that are not easily knowable by the sender or the provider.

Separately, after the release of the February 2012 Rule, industry expressed concern about the disclosure of foreign taxes. Industry participants argued first that it is significantly more burdensome to research and disclose subnational taxes, *i.e.,* taxes imposed by regional, provincial, state, and other local governments than it is to research and disclose those taxes imposed by a country's central government because there are substantially more jurisdictions that could impose these subnational taxes. Second, industry participants suggested that the guidance in the 2012 Final Rule under comment 31(b)(1)(vi)–2, which would allow remittance transfer providers to rely on senders' representations regarding variables that affect the amount of taxes imposed by a person other than the provider is insufficient where variables that influence the amount of taxes imposed by a person other than the provider are not easily knowable by the sender or the provider.

With respect to both recipient institution fees and foreign taxes, industry stated that, to make the appropriate calculations and disclosures, remittance transfer

providers might need to ask numerous questions of senders that senders might not understand or might not be able to answer. With respect to fees, industry also stated that the calculations required to determine and disclose fees might vary with respect to each recipient institution because each of these institutions might have unique fee schedules that applied to particular accounts or different ways of imposing fees on remittance transfers.

In response to these comments, in the December Proposal, the Bureau proposed to provide additional flexibility and guidance regarding the calculation and disclosure of fees imposed by a designated recipient's institution for receiving a transfer into an account and taxes imposed by a person other than the remittance transfer provider. The Bureau also proposed to eliminate the requirement to disclose regional, provincial, state, and other local foreign taxes and to include this amount in the disclosed amount received by the designated recipient. The Bureau sought comment on whether these proposed changes achieved the goals stated in the December Proposal, or whether the existing rules or another alternative were preferable.

The majority of comments on the proposed changes regarding recipient institution fee and tax disclosures came from industry participants, including large banks, community banks, credit unions, non-depository institutions, and trade associations. These commenters stated that they appreciated the Bureau's attempts to facilitate compliance, particularly with respect to the proposal to eliminate the required disclosure of subnational taxes. However, many industry commenters argued that the proposed changes did not go far enough to ease compliance burden. These industry commenters asserted that the proposed flexibility would not effectively mitigate the difficulty of researching the information needed to provide the recipient institution fee and foreign tax disclosures to senders. Further, these industry commenters also expressed concern that the proposed estimation methods could increase consumer confusion due to discrepancies in the estimated amounts disclosed. Moreover, industry commenters expressed concern that, under the estimation methods described in the December Proposal, the sender would usually receive a disclosure that showed the highest possible fee or tax that could apply. As a result of this proposed highest estimation method, commenters stated that the disclosure could result in senders increasing the amount of money transferred more than was necessary to insure that a recipient received the expected amount.

Some consumer groups also expressed skepticism about the proposed estimation methods for a different reason: they believed that any additional estimation, beyond that permitted in the 2012 Final Rule, would be detrimental to senders because they would not know the precise amount of the transfer that would be received. In contrast, other consumer groups supported the December Proposal and stated that it struck the proper balance of facilitating compliance, while also providing meaningful information to senders.

The Bureau has carefully weighed these concerns and, for the reasons explained in detail below, the Bureau believes that it is appropriate to exercise its exception authority under EFTA section 904(c) to eliminate the requirement to include certain recipient institution fees and taxes collected by a person other than the remittance transfer provider in the calculation of the amount to be received by the designated recipient pursuant to § 1005.31(b)(1)(vii). For the same reasons, the Bureau is eliminating the requirement to disclose these amounts under § 1005.31(b)(1)(vi). However, as noted above, the Bureau believes that a majority of remittance transfers are sent through closed networks whereby the recipient picks up the transfer from an agent. In these cases, all fees imposed on the remittance transfer would continue to be required to be disclosed. *See* § 1005.30(h)(1).

For those minority of transfers where there may be non-covered third-party fees, the 2013 Final Rule requires that remittance transfer providers include, as applicable, a disclaimer on the pre-payment disclosure and receipt, or combined disclosure, indicating that the recipient may receive less due to fees charged by the recipient's bank. *See* § 1005.31(b)(1)(viii). Similarly, if there may be taxes collected on the remittance transfer by a person other than the provider, the 2013 Final Rule requires that providers include a disclaimer indicating that the recipient may receive less due to foreign taxes. As part of these disclaimers, providers may choose to disclose an exact or estimated amount of these fees or taxes. *See* § 1005.32(b)(3).

As described in detail below, the 2013 Final Rule's Appendix and Model Forms have been amended to include samples of the new disclosures and disclaimers. The Bureau is also making conforming edits in several other provisions in § 1005.31 to reflect the changes in the required disclosures. These changes are described below.

31(a) General Form of Disclosures

31(a)(1) Clear and Conspicuous

In the 2013 Final Rule, § 1005.31(a)(1) provides that disclosures required by subpart B of Regulation E must be clear and conspicuous. It also states that disclosures required by this subpart may contain commonly accepted or readily understandable abbreviations or symbols.

As is explained in detail below, as part of the changes adopted in the 2013 Final Rule, the Bureau is adding two optional disclosures. First, the Bureau is making optional the requirement to disclose non-covered third-party fees and taxes collected on the remittance transfer by a person other than the remittance transfer provider. *See* § 1005.33(b)(1)(viii). Second, the Bureau is creating an exception to the definition of error for certain mistakes made by senders. *See* § 1005.33(a)(1)(iv)(D). If a provider wants to take advantage of this exception, it must provide a notice before the sender authorizes the remittance transfer consistent with § 1005.33(h)(3). While these two disclosures are optional, the Bureau believes it is important to ensure that they are made in a manner that is clear and conspicuous. Thus, the Bureau is amending § 1005.31(a)(1) to state that disclosures required by subpart B of Regulation E or permitted by § 1005.31(b)(1)(viii) or § 1005.33(h)(3) must be clear and conspicuous. Disclosures required by subpart B of Regulation E or permitted by § 1005.31(b)(1)(viii) or § 1005.33(h)(3) may contain commonly accepted or readily understandable abbreviations or symbols.

31(b) Disclosure Requirements

Comment 31(b)–1 Disclosures Provided as Applicable

Comment 31(b)–1 to the 2012 Final Rule provides examples of when certain disclosures may not be applicable and therefore need not be disclosed. Because of the changes that the Bureau is making with respect to the disclosure of non-covered third-party fees and taxes collected on a remittance transfer by a person other than the remittance transfer provider, the 2013 Final Rule makes certain revisions to the commentary in the 2012 Final Rule for consistency and clarification. Comment 31(b)–1 clarifies that for disclosures required by § 1005.31(b)(1)(i) through (vii), a provider may disclose a term and state that an amount or item is ''not

applicable,'' ''N/A,'' or ''None.'' Consistent with the changes made in the 2013 Final Rule regarding the disclosure of non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider, comment 31(b)–1 is revised to state that if fees are not imposed or taxes are not collected in connection with a particular transaction the provider need not provide the disclosures about fees and taxes generally required by § 1005.31(b)(1)(ii), the disclosures about covered third-party fees generally required by § 1005.31(b)(1)(vi), or the disclaimers about non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider generally required by § 1005.31(b)(1)(viii).

Comment 31(b)–2 Substantially Similar Terms, Language, and Notices

As adopted by the 2012 Final Rule, comment 31(b)–2 states that terms used on the disclosures under §§ 1005.31(b)(1) and (2) may be more specific than the terms provided and notes, as an example, that a remittance transfer provider sending funds to Colombia may describe a tax disclosed under § 1005.31(b)(1)(vi) as a ''Colombian Tax'' in lieu of describing it as ''Other Taxes.'' In light of the changes discussed below regarding the disclosure of foreign taxes, the 2013 Final Rule eliminates as an example the disclosure of a Colombian tax. Instead, the 2013 Final Rule provides as an example that a provider sending funds may describe fees imposed by an agent at pick-up as ''Pick-up Fees'' in lieu of describing them as ''Other Fees.'' In addition, in light of the new disclosures permitted by § 1005.31(b)(1)(viii) and § 1005.33(h)(3), the comment makes conforming changes to note that the foreign language disclosures required under § 1005.31(g) must contain accurate translations of the terms, language, and notices required by § 1005.31(b) or permitted by § 1005.31(b)(1)(viii) and § 1005.33(h)(3).

31(b)(1) Pre-Payment Disclosures

31(b)(1)(ii) Fees Imposed and Taxes Collected by the Provider

Section 1005.31(b)(1)(ii) of the 2012 Final Rule states that a remittance transfer provider must disclose any fees and taxes imposed on the remittance transfer by the provider, in the currency in which the remittance transfer is funded, using the terms ''Transfer Fees'' for fees and ''Transfer Taxes'' for taxes or substantially similar terms. Since the Board's initial proposal, commenters have argued that because a tax is imposed by a government, and not by the provider, this provision may be confusing. The Bureau agrees that the original formulation may be inexact insofar as taxes are typically imposed by governments, even though they may be collected by providers. As a result, for clarity, the Bureau is revising this language to refer to taxes ''collected'' by the provider. This change is for clarification only and is not intended to change the meaning of the provision in the 2012 Final Rule. Consequently, § 1005.31(b)(1)(ii) of the 2013 Final Rule is revised to state, more precisely, that a provider must disclose any fees imposed and any taxes collected on the remittance transfer by the provider.[5]

Comment 31(b)(1)–1 Fees and Taxes

Comment 31(b)(1)–1 to the 2012 Final Rule provides general guidance on the disclosure of fees and taxes. Comment 31(b)(1)–1.i explains that taxes imposed on the remittance transfer by the remittance transfer provider, which are required to be disclosed under § 1005.31(b)(1)(ii), include taxes imposed on the remittance transfer by a State or other governmental body, and comment 31(b)(1)–1.ii focuses more specifically on how to disclose fees and taxes imposed on the remittance transfer by a person other than the provider as required by § 1005.31(b)(1)(vi).

In the December Proposal, the Bureau proposed additional clarification on other types of recipient institution fees that are, or are not, specifically related to a remittance transfer. For organizational purposes, the December Proposal divided comment 31(b)(1)–1.ii into new proposed comment 31(b)(1)–1.ii through –1.v. Specifically, proposed comment 31(b)(1)–1.ii would have contrasted the fees and taxes required to be disclosed by § 1005.31(b)(1)(ii) and the fees and taxes required to be disclosed by § 1005.31(b)(1)(vi). Proposed comment 31(b)(1)–1.iii would have revised the reference to taxes imposed by a foreign government to taxes imposed by a foreign country's central government, and the proposed commentary would have built on the existing guidance regarding applicable recipient institution fees to clarify that account fees are not specifically related to a remittance transfer if such fees are merely assessed based on general account activity and not for receiving transfers. Proposed comment 31(b)(1)–1.iv additionally would have explained that a fee that specifically relates to a remittance transfer may be structured on a flat per-transaction basis, or may be conditioned on other factors (such as account status or the quantity of remittance transfers received) in addition to on the remittance transfer itself. Proposed 31(b)(1)–1.v would have provided that the terms used to describe the fees and taxes imposed on the remittance transfer by the provider in § 1005.31(b)(1)(ii) and imposed on the remittance transfer by a person other than the provider in § 1005.31(b)(1)(vi) must differentiate between such fees and taxes.

Insofar as the Bureau is eliminating the requirement to disclose non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider, the Bureau is not adopting the proposed revisions to comments 31(b)(1)–1.ii. Instead, applicable examples concerning the types of fees related to a remittance transfer that must be disclosed have been moved to the commentary to § 1005.30(h), as discussed above. *See* comment 30(h)–1. The Bureau is, however, modifying certain aspects of the remaining commentary in light of the new definitions and the elimination of the requirement to disclose taxes collected on the remittance transfer by a person other than the provider. In comment 31(b)(1)–1.i of the 2013 Final Rule, the reference to § 1005.31(b)(1)(vi) is removed to focus on the scope of fees imposed or taxes collected on the remittance transfer by the provider that are required to be disclosed under § 1005.31(b)(1)(ii). The Bureau is also revising comments 31(b)(1)–1.ii, 31(b)(1)–2, and 31(b)(1)–3 of the 2013 Final Rule commentary consistent with new scope of the required disclosures and the movement of certain commentary to 30(h). In addition, the 2013 Final Rule divides existing commentary in 31(b)(1)–1.ii to create a new comment 31(b)(1)–1.iii for clarity.

31(b)(1)(v) Transfer Amount

Section 1005.31(b)(1)(v) of the 2012 Final Rule requires remittance transfer providers to disclose the transfer amount in the currency in which the funds will be received by the designated recipient. Under § 1005.31(b)(1)(v) of the 2012 Final Rule, providers are required to disclose the transfer amount only if applicable fees and taxes are imposed by persons other than the provider under § 1005.31(b)(1)(vi), in order to demonstrate to the sender how such fees reduce the amount received by the designated recipient. Insofar as § 1005.31(b)(1)(vi) in the 2013 Final Rule will now only require disclosure of covered third-party fees, the Bureau has made conforming changes to the appropriate reference in

[5] The Bureau has made conforming changes throughout the 2013 Final Rule.

§ 1005.31(b)(1)(v) to clarify that the section implicates covered third-party fees only rather than all fees and taxes imposed on the remittance transfer by a person other than the provider.

31(b)(1)(vi) Covered Third-Party Fees

Section 1005.31(b)(1)(vi) of the 2012 Final Rule requires remittance transfer providers to disclose any fees and taxes imposed on the remittance transfer by a person other than the provider, in the currency in which the funds will be received by the designated recipient. As discussed above, the Bureau is refining the 2012 Final Rule with respect to the disclosure of certain recipient institution fees and foreign taxes. The rationale for these changes is discussed below.

Disclosure of Recipient Institution Fees

Since the Board first proposed to amend Regulation E to implement the Dodd-Frank Act's remittance transfer provisions, industry participants and representatives have argued that particularly for remittance transfers that take place over an open network, the requirement to disclose third-party fees is unduly burdensome, if not impossible, given the potential number of institutions involved in any one transfer and the fact that remittance transfer providers typically have no direct relationships with recipient institutions. In issuing the February Final Rule, the Bureau recognized the challenges for providers in disclosing fees imposed by third parties, but determined that the disclosure of third-party fees would provide senders with greater transparency regarding the cost of a remittance transfer consistent with the purposes of the EFTA.

Consequently, § 1005.31(b)(1)(vi) of the 2012 Final Rule required providers to disclose fees imposed by persons other than the provider (including fees imposed by the designated recipient's institution) and required that such fees be taken into account when calculating the disclosure of the amount to be received under § 1005.31(b)(1)(vii). In view of Congress' recognition that these determinations would be difficult in the context of open network transactions by financial institutions, *see* EFTA section 919(a)(4), § 1005.32(a) permitted insured institutions to estimate the amounts required to be disclosed pursuant to §§ 1005.31(b)(1)(vi) and (vii) for an interim period when such transfers are sent from a sender's account with the institution and the remittance transfer cannot determine the exact amounts for reasons beyond its control.

As noted above, after the Bureau published the February Final Rule, industry participants and representatives continued to express concern through comment letters and other fora that, where a designated recipient's institution charges the recipient fees for receiving a transfer in an account, the remittance transfer provider would not reasonably know, or be able to estimate, the amount of fees that might apply because fees might vary based on agreements between the recipient and the recipient institution. Relatedly, industry participants and representatives requested clarification on whether and how to disclose recipient institution fees that can vary based on the recipient's status with the institution, the account type, the quantity of transfers received, or other variables that are not easily knowable by the sender or the provider.

In response to these concerns, in the December Proposal, the Bureau proposed to provide clarification relating to which recipient institution fees remittance transfer providers were required to disclose and additional flexibility and guidance on how recipient institution fees could be disclosed. Proposed comment 31(b)(1)–1.ii would have provided additional examples to distinguish between fees that are specifically related to the remittance transfer and therefore required to be disclosed under § 1005.31(b)(1)(vi), including fees that are imposed by a recipient's institution for receiving a wire transfer, and other types of recipient institution fees that are not specifically related to a remittance transfer, such as a monthly maintenance fee, and therefore not required to be disclosed. For example, the proposed comment would have noted that fees that specifically relate to a remittance transfer may be structured on a flat per-transaction basis, or may be conditioned on other factors (such as account status or the quantity of remittance transfers received) in addition to the remittance transfer itself. Moreover, similar to the treatment of taxes imposed by a person other than the remittance transfer provider under the 2012 Final Rule, the Bureau proposed to add comment 31(b)(1)(vi)–4 to clarify that a provider could rely on a sender's representation regarding variables that affect the amount of fees imposed by the recipient's institution for receiving a transfer in an account where the provider did not have specific knowledge regarding such variables.

Additionally, the December Proposal proposed to allow all remittance transfer providers, not just insured institutions covered by the temporary exception, the flexibility to estimate on a permanent basis certain fees imposed by a designated recipient's institution for receiving a transfer into an account. Specially, where a provider did not have specific knowledge regarding variables that affect the amount of fees imposed by a designated recipient's institution for receiving a transfer in an account, proposed § 1005.32(b)(4)(i) would have permitted a provider to disclose the highest possible recipient institution fees that could be imposed on the remittance transfer with respect to any unknown variable, as determined based on either the recipient institution's fee schedules or information ascertained from prior transfers to that same institution.

The December Proposal additionally provided in proposed § 1005.32(b)(4)(ii) and its accompanying commentary that, if the remittance transfer provider could not obtain such fee schedules or did not have such information, the provider could rely on other reasonable sources of information, including fee schedules published by competitor institutions, surveys of financial institution fees, or information provided by the recipient institution's regulator or central bank as long as the provider disclosed the highest fees identified through the relied-upon source. The Bureau sought comment on all aspects of this proposal.

Although most industry commenters stated that they supported the Bureau's efforts to provide additional flexibility to remittance transfer providers to determine applicable recipient institution fees, many industry commenters argued that the December Proposal would not significantly reduce the burden of disclosing recipient institution fees that are not already known. Describing providers' efforts to come into compliance with the 2012 Final Rule, industry commenters stated that efforts to obtain fee information had largely been hampered by the difficulty of obtaining information from recipient institutions with whom providers had no direct relationship, particularly in cases in which fees were governed by contracts between recipient institutions and recipients, *i.e.,* those institutions' customers. In additional outreach by the Bureau, one large bank provider and correspondent reported that it had attempted to survey recipient institutions with which it had regular contact, but that the vast majority of institutions had either not provided the requested fee information or failed to respond altogether. In comment letters, as well as outreach both before and after the publication of the December Proposal, industry participants stated that they had difficulty explaining to foreign institutions what was being requested and why the foreign

institutions should provide that information. Industry participants further stated that recipient institutions declined to provide the requested fee information, citing proprietary, competitive, and privacy concerns associated with releasing information about their fee schedules and their contractual relationships with their customers.

Some industry participants stated that as a result of the difficulty in obtaining fee information from individual institutions, even with the flexibility that the December Proposal would have allowed, they anticipated that the challenges associated with obtaining fee schedules or conducting fee surveys might force them to limit services to countries where fee information was more readily obtainable or where the transfer volume was significant enough to warrant additional efforts to obtain fee information. Though the pertinent comment letters focused on the December Proposal, the arguments echoed concerns that industry participants had previously expressed prior to the 2012 Final Rule with regard to any requirement to disclose fees imposed by persons other than the remittance transfer provider. Industry commenters further opined more generally, as they had prior to the 2012 Final Rule, that a significant number of providers might choose to exit the market altogether, even if the Bureau were to adopt the December Proposal, due to the difficulty of disclosing recipient institution fees.

In addition, several industry commenters stated that compared to the 2012 Final Rule, the proposed estimation methodologies would not improve and instead could diminish the quality of the disclosures received by senders or senders' ability to comparison shop. With respect to the Bureau's proposal to add commentary clarifying that remittance transfer providers could rely in certain circumstances on senders' representations regarding the variables that affect the amount of fees to be imposed by a recipient's financial institution (*see* proposed § 1005.32(b)(4)), several industry commenters argued that if the sender knew the fees that applied to the recipient's account, then it is likely the sender was getting such information from the recipient, and in such cases the disclosure of recipient institution fees would not provide additional transparency to the sender. By contrast, to the extent that the sender had not received information on the variables that affect fees from the designated recipient, industry commenters argued that relying on a sender's representation would be unlikely to provide reliable information. Industry commenters repeated industry's longstanding assertion that recipients are in the best position to know what fees their institutions impose on receiving transfers, and suggested that the Bureau reconsider its decision to mandate disclosure of such fees or provide a database of fees upon which providers could rely.

Many industry commenters also expressed concern with respect to the Bureau's proposal to allow remittance transfer providers to disclose an estimate of the highest possible recipient institution fee that could be imposed on the remittance transfer with respect to any unknown variable (*see* proposed § 1005.32(b)(4)), as determined based on either fee schedules made available by the recipient institution or information ascertained from prior transfers to the same recipient institution. Commenters stated that if each provider employed its own methodology based on its own research, the highest possible fee estimates would vary, sometimes widely, across institutions. Commenters argued that this could cause consumer confusion and undermine comparison shopping, as senders would have little insight into which estimation model was accurate. Although certain limited estimation is permitted under the 2012 Final Rule for some transfers sent by insured institutions, *see* § 1005.32(a) and (b), commenters argued that using the additional estimation methodologies permitted under the December Proposal would lead to greater degrees of inaccuracy because of the requirement to disclose the highest estimate possible with respect to certain recipient institution fees where such fees might be unlikely apply. Furthermore, the proposed estimation methodology would have differed from the bases for estimates described in existing § 1005.32(c), which permit a provider to base an estimate on an approach not listed in subpart B of Regulation E so long as the designated recipient receives the same, or greater, amount of funds than the provider disclosed pursuant to § 1005.31(b)(1)(vii).

Commenters also suggested that under either the 2012 Final Rule or the December Proposal, smaller institutions would be at a disadvantage, compared to their larger competitors, because they would have fewer resources to collect and maintain extensive data sets regarding account fees for every location to which they did or could send a remittance transfer. Several industry commenters further opined that remittance transfer providers that could provide lower estimates could have a competitive advantage over providers that provided higher (but potentially more accurate) estimates because the providers with lower estimates would appear to be providing designated recipients with more funds, even though the actual fee imposed by the recipient institution for the same designated recipient should generally be the same for transfers sent by the same sender to the same recipient institution.

Finally, some industry commenters argued there was a significant risk that if the highest possible fee a recipient institution could impose on receiving a remittance transfer was disclosed, a sender might unnecessarily overfund a remittance transfer to ensure that the designated recipient received a certain amount. For example, a commenter explained, that a sender might want to send a remittance transfer to a merchant to pay for a purchase. The merchant, per its agreement with the receiving institution, might be charged an incoming wire transfer fee. Although the merchant would not expect the sender to pay this fee, as the merchant had incorporated such cost into its overhead, the sender might believe that he or she is responsible for covering this fee and might increase the amount transferred by the amount of the disclosed fee.

Because of the limitations they perceived with estimates disclosed under the Bureau's methodology described in the December Proposal, the majority of industry commenters requested that the Bureau eliminate the required disclosure of recipient institution fees altogether. Several of these industry commenters argued, as commenters had argued as part of the 2012 rulemakings, that section 1073 of the Dodd-Frank Act did not expressly require disclosure of recipient institution fees and urged the Bureau to eliminate the required disclosure of recipient institution fees. A few commenters went further and suggested that the Bureau should eliminate the required disclosure of intermediary fees as well. Alternatively, industry commenters suggested that the Bureau delay the implementation date for the disclosure of recipient institution fees until resources for ascertaining such fees could be developed, although such commenters did not indicate that such resources were being developed or that they would soon be available.

Consumer group commenters were divided in their reactions to the December Proposal's provisions regarding the disclosure of recipient institution fees. Although some

consumer group commenters favored the Bureau's approach in providing increased flexibility and guidance with respect to the disclosure of recipient institution fees, other consumer group commenters believed that the methods of estimation proposed by the Bureau would prove to be problematic for senders and suggested either that the allowance for such estimation be made temporary or that the required disclosure of recipient institution fees be eliminated.

Among consumer group commenters who favored the disclosure of recipient institution fees, some opined that recipient institution fee information could become readily available given current technology, and they encouraged the Bureau to, at the very least, make any additional estimate provisions temporary in nature. This would, these commenters argued, provide strong incentives to industry to create databases with the necessary information for compliance. In addition, one comment letter argued that permitting ''estimated'' price disclosures essentially permits a continuation of the status quo that Congress intended to change by adopting section 1073 of the Dodd-Frank Act. The commenter further suggested that although a permanent exemption from any disclosure requirements would be premature, a delay in requiring disclosure of recipient institution fees may be needed to provide enough time and the proper incentives for some providers to update their information systems in order to capture this information.

By contrast, other consumer group commenters maintained that it was appropriate to eliminate the obligation to disclose recipient institution fees given the difficulty remittance transfer providers (or their partners) face in determining these fees. These commenters argued that, given the inaccuracies inherent in estimating the applicable fees to be applied, senders would be better served by an alternative generic disclosure noting that recipient institutions may charge account fees, rather than requiring the specific disclosure of such fees.

In light of information received through comment letters, additional outreach, and the Bureau's independent monitoring of efforts to implement the 2012 Final Rule, the Bureau believes that it is necessary and proper both to effectuate the purposes of the EFTA and to facilitate compliance to exercise its authority under EFTA section 904(c) to eliminate the requirement to disclose recipient institution fees for transfers into an account, except where the recipient institution is acting as an agent of the provider.

As stated in the February Final Rule, the Bureau believes that disclosures regarding the fees imposed by persons other than the remittance transfer provider can benefit senders by making them aware of the impact of these fees, helping to decide how much money to send, facilitating comparison shopping, and aiding in error resolution. As described in the February Final Rule, in recent years, a number of concerns with regard to the clarity and reliability of information provided to consumers sending remittance transfers have been identified. Congressional hearings prior to enactment of the Dodd-Frank Act focused on the need for standardized and reliable pre-payment disclosures, suggesting that disclosure of the amount of money to be received by the designated recipient is particularly critical. Research suggests that consumers place a high value on reliability to ensure that the promised amount is made available to recipients. *See* 77 FR 6199 (and sources cited therein).

Despite the public interest in the disclosure of recipient interest fees, however, the Bureau believes that requiring disclosure of such fees in cases in which the recipient institution is not an agent of the provider would at this time either require a substantial delay in implementation of the overall Dodd-Frank Act regime for remittance transfers or produce a significant contraction in access to remittance transfers, particularly for less popular corridors. The Bureau believes that both of these results would substantially harm consumers and undermine the broader purposes of the statutory scheme. Accordingly, the Bureau has constructed the exception to relieve the obligation to disclose recipient institution fees absent an agency relationship between the remittance transfer provider and the recipient institution.

The Bureau believes that, in practice, this adjustment of the 2012 Final Rule will affect a minority of remittance transfers. While information on the volume of open-network transfers is limited, the Bureau believes that closed network transfers sent through agents—*i.e.,* transfers for which remittance transfer providers must continue to disclose all third-party fees in accordance with the 2012 Final Rule—account for the majority of remittance transfers.

For the minority of transfers where the exception applies because there is no agency relationship between the remittance transfer provider and the recipient institution, the Bureau has concluded that finalizing the proposed exception in § 1005.32(b)(4) (which would have permitted estimates in certain circumstances) would have significant risks and disadvantages to senders of remittance transfers. First, despite the greater flexibility that the December Proposal would have provided concerning estimation methodologies, the Bureau is concerned that many remittance transfer providers still would have curtailed services particularly outside of heavily used corridors. Second, the Bureau is concerned that the resulting estimates would have varied so widely that their use to consumers in calibrating transfer amounts and comparison shopping would have been limited.

The Bureau believes that given current limitations, it is appropriate to require use of a more generic disclaimer to warn consumers where recipient institution fees may apply and to change the model forms in a way that will reduce the risk of consumer confusion in attempting to make comparisons where estimates are provided. The Bureau also believes that it is important to encourage estimates and increasingly reliable methodologies over time, and will continue dialogue with interested stakeholders about how best to make progress toward this goal.

The Bureau's conclusion rests in large part on its understanding of the open network systems for sending remittance transfers. As described above, these networks allow remittance transfer providers to send to accounts at banks worldwide. However, providers have limited authority or ability to monitor or control the recipient institutions in such networks. Although the Bureau had expected that industry's implementation efforts would result in the development of the compilation of reliable and current information concerning fees imposed by many recipient institutions for most corridors, the process has been slower and harder than expected and the lack of comprehensive information could lead providers to limit their offerings. Given the current environment, the Bureau believes that estimating, or in some cases, determining the actual recipient institution fees for transfers to accounts consistent with the 2012 Final Rule would be difficult or impracticable given the myriad institutions to which such remittance transfers may be sent and the myriad fee schedules that may apply across these institutions.

Even under the Bureau's proposal to provide additional flexibility for remittance transfer providers in estimating certain recipient institution

fees for transfers to accounts, the comment letters and the Bureau's outreach suggest that the burden of obtaining and maintaining applicable fee information sufficient to provide the permitted estimates in all cases would still be substantial. The Bureau is concerned that even if it adopted the December Proposal, the requirements to disclose recipient institution fees might cause a number of providers to raise their prices, significantly reduce their offerings, or exit the market due to the requirements related to the disclosure of recipient institution fees. If any price increase were similar to the size of a recipient institution fee, that alone might offset the benefit of improved information about the size of such fees. Furthermore, as the Bureau stated in the December Proposal, the Bureau believes that the loss of market participants would be detrimental to senders by decreasing market competition and the convenient availability of remittance transfer services.

Moreover, the Bureau is concerned that the estimate methodologies proposed in the December Proposal would have produced disclosures that varied so widely that their use to senders in calibrating transfer amounts and comparison shopping would have been limited. In many cases, the December Proposal would have required the remittance transfer provider to over-estimate recipient institution fees, by disclosing the highest possible fee that could be imposed on the remittance transfer with respect to any unknown variable. To the extent providers used differing methodologies upon which to base their estimates, the disclosed fees could vary significantly across institutions, making it difficult for senders to decide how much money to transmit.

In addition, because these fees would be separately disclosed and included within the total to recipient on the disclosure forms, differences in amounts disclosed among remittance transfer providers could lead senders to mistakenly focus on discrepancies within these fees when comparison shopping, even though the actual fee would likely be the same regardless of the provider so long as the sender transmitted the same amount to the same designated recipient at the same institution using the same transfer method. While the Bureau believes that it is important to encourage estimates and increasingly reliable methodologies over time, the Bureau has concluded that given current limitations it is appropriate to require use of a more generic disclaimer to alert senders where recipient institution fees may apply and to change the model forms in a way that will reduce the risk of consumer confusion in attempting to make comparisons where estimates are provided. By providing the disclaimer, senders themselves can investigate such fees. In addition, as discussed in the section-by-section analysis of § 1005.31(b)(1)(viii), providers may be incentivized to seek such information to better compete with providers providing more detailed price information. The Bureau believes this amendment to the disclosure requirements will best preserve senders' access to competitive remittance transfer markets, while facilitating continued information-gathering about such fees both by senders and providers.

Alternatively, the Bureau considered further delaying implementation of the section 1073 protections, to allow remittance transfer providers to continue to seek more reliable fee information in order to reduce implementation burdens and make fee-related disclosures more accurate and thus more useful for senders. However, the Bureau believes that it is critical to provide senders timely access to the important new consumer protection benefits of the 2012 Final Rule including rights to cancellation and error resolution.

Accordingly, the Bureau has tailored its amendments to § 1005.31(b)(1)(vi), and as discussed below, § 1005.31(b)(1)(vii), to focus on the third-party fees that the Bureau believes are most difficult for remittance transfer providers to disclose. Based on the Bureau's outreach, it appears that providers sending transfers through open network systems have had considerably more success in obtaining information needed to estimate or disclose accurately fees imposed by intermediary institutions, as compared to recipient institutions that maintain ongoing customer relationships with individual designated recipients. Some providers (or business partners) have changed or contemplated changing the methods they use to send transfers between bank accounts, in order to avoid the imposition of any intermediary fees. In addition, some providers have worked with correspondents to understand such intermediary fees. Thus, the Bureau is not eliminating the requirement to disclose pursuant to § 1005.31(b)(1)(vi) intermediary bank fees or to include such amount in the calculation of the amount required to be disclosed under § 1005.31(b)(1)(vii).

Similarly, although the Bureau is making an adjustment for recipient institution fees that it believes industry cannot reasonably disclose, it is not adjusting the required disclosures for transfers that a recipient picks up at a paying agent. As noted above, the additional guidance included in the December Proposal targeted situations in which providers did not have specific knowledge regarding variables that affect the amount imposed by the recipient's institution for receiving a transfer in an account. By contrast, where the designated recipient's institution is an agent of the remittance transfer provider, the Bureau believes the provider should have access to or be able to contract concerning the disclosure of any fees imposed by such institution. Consequently, the Bureau is maintaining the provider's obligation under the 2012 Final Rule to disclose a designated recipient institution's fees where such recipient institution is acting as an agent of the provider in the remittance transfer. Through a provider's contractual arrangements with its agents, the Bureau believes that such information should be readily available to or obtainable by a provider or that the provider can control such fees, based on the terms of the contract between the provider and such agent.

For similar reasons, the Bureau is maintaining the requirement to disclose fees assessed for remittance transfers to credit cards, prepaid cards, or virtual accounts held by an Internet-based or mobile phone company that is not a bank, credit union, or equivalent institution. *See* comment 30(h)–3. In the December Proposal, the Bureau did not specifically propose to allow estimation of these amounts. Although a few comment letters suggested that the proposed estimates exception should be expanded to cover more than depository institution accounts, such as general purpose reloadable (or prepaid) cards, mobile phones, or mobile or electronic wallets, no commenters suggested that obtaining this information would be as burdensome as the disclosure of depository institution fees. Indeed, upon further outreach, industry participants largely confirmed that currently the majority of such transactions currently take place within a single network whereby such fees are a matter of contract. The Bureau believes that the systems for offering such transfers are still nascent and that currently most of these transfers are provided through systems in which remittance transfer providers have contractual arrangements with the recipient institutions, or the providers and the recipient institutions operate within one single network. The Bureau further believes that these arrangements

will likely permit providers to exercise some control over, or learn about, fees charged by recipient institutions. As these systems grow, the Bureau expects that providers, and any associated networks, can design systems so that any associated fees with respect to such transfers are transparent to providers and senders alike.

The Bureau does not believe that the same sort of evolution can happen as quickly or easily in existing open network systems, and in particular for the interbank wire transfer system. These systems use communication and settlement protocols that have been developed over decades (or longer) and assume that participating institutions will exercise little control over each other.[6] Furthermore, these systems depend on the participation of many foreign entities that have no duty or incentive to comply with subpart B of Regulation E. Consequently, for purposes of determining the fees imposed on the remittance transfer by the designated recipient's institution for receiving a remittance transfer into an account under § 1005.30(h)(2), the Bureau includes transfers into an asset account, regardless of whether or not it is a consumer asset account, established for any purpose and held by a bank, savings association, credit union, or equivalent institution. *See* comment 30(h)–3. The Bureau believes that these institutions are likely subject to legacy systems that cannot easily be modified to capture fee information.

In light of these conclusions, to effectuate the purposes of the EFTA, the Bureau is exercising its authority under EFTA sections 904(a) and (c) to maintain in § 1005.31(b)(1)(vi) the remittance transfer provider's obligation to disclose covered third-party fees and that such fees be included in the amount disclosed pursuant to § 1005.31(b)(1)(vi), discussed further below. The Bureau believes that providing a total to recipient that reflects the impact of such fees, and separately disclosing these fees, will provide senders with a greater transparency regarding the cost of a remittance transfer.

Insofar as the Bureau is eliminating the required disclosure of non-covered third-party fees, the Bureau is also not adopting the suggestion of several industry and consumer group commenters that to facilitate compliance, the Bureau help develop and maintain a database of recipient institution fees that could be accessed by remittance transfer providers. The Bureau continues to believe that because providers are engaged in the business of sending remittance transfers and likely will develop relationships with recipient institutions over time, providers are in a better position than the Bureau is to determine applicable fee information. The Bureau will continue to monitor implementation of this rule and market developments, including whether better information about recipient institution fees becomes more readily available over time. The Bureau will also engage in stakeholder dialogue about methods to encourage improvements in communications methodologies and data gathering so as to promote the provision of increasingly accurate estimates and disclosures of actual fees over time.

Disclosure of Foreign Taxes

Commenters' arguments regarding the disclosure of foreign taxes have largely paralleled their arguments regarding the disclosure of recipient institution fees. Notably, since the Board's proposal, industry has argued that the requirement to disclose foreign taxes is unduly burdensome given the number of jurisdictions that may impose taxes and the challenges of determining whether or how various tax exceptions or exclusions may apply. Although the Bureau recognized the challenges for remittance transfer providers in disclosing foreign taxes, the Bureau also believed that this disclosure would provide senders with greater transparency regarding the cost of a remittance transfer, which the Bureau believed was consistent with the purposes of the EFTA. Consequently, § 1005.31(b)(1)(vi) of the 2012 Final Rule generally would have required that providers disclose foreign taxes and take such taxes into account when calculating the disclosure of the amount to be received under § 1005.31(b)(1)(vii). This disclosure of taxes would have included foreign taxes imposed by a country's central government, as well as taxes imposed by regional, provincial, state, or other local governments.

After the Bureau published the 2012 Final Rule, industry continued to express concern about the ability of remittance transfer providers to disclose these foreign taxes in two respects. First, industry argued that it is significantly more burdensome to research and disclose subnational taxes than to research and disclose only foreign taxes imposed by a country's central government, with little commensurate benefit to consumers. Second, industry suggested that the existing guidance on the disclosure of foreign taxes is insufficient where variables that influence the applicability of foreign taxes are not easily knowable by the sender or the provider.

In light of these comments, in its December Proposal, the Bureau proposed two revisions to the 2012 Final Rule regarding foreign tax disclosures. First, the proposal would have revised § 1005.31(b)(1)(vi) to state that only foreign taxes imposed by a country's central government on the remittance transfer need to be disclosed. Proposed comment 31(b)(1)(vi)–3 would have further clarified that regional, provincial, state, or other local foreign taxes do not need to be disclosed, although the remittance transfer provider could choose to disclose them. In the event that the subnational taxes were not disclosed, the proposal would have required that a provider state that a disclosure is ''Estimated.'' Consistent with this amendment, regional, provincial, state, or other local foreign taxes would not have needed to be taken into account when calculating the disclosure of the amount to be received under § 1005.31(b)(1)(vii).

Second, the December Proposal also would have provided additional flexibility regarding the determination of foreign taxes imposed by a country's central government. Under § 1005.31(b)(1)(vi), if a remittance transfer provider did not have specific knowledge regarding variables that affect the amount of these taxes imposed by a person other than the provider, the provider could disclose the highest possible tax that could be imposed on the remittance transfer with respect to any unknown variable. Where a provider relied on this estimation method, the proposal would have required that a provider state that related disclosures are ''Estimated.''

The Bureau sought comment on both aspects of these proposed changes, including whether the proposed revisions would facilitate compliance and how the revisions would impact senders. Similar to comments about the proposed revisions to the disclosure of recipient institution fees, the Bureau received numerous comments from industry and consumer groups on its proposed elimination of the subnational

[6]The modern open network banking system evolved slowly over the seventeenth and eighteenth centuries and did not become electronic and automated until the 1970s. The earliest banks did not transfer money between themselves. Over time, however, smaller or more remote banks began to rely on larger mutual or central banks that they all trusted to facilitate transfers of funds although the remote banks had no relationship with one another. Into the mid-Twentieth Century, this system became computerized and banks could electronically message one another. *See* Ben Norman, *et al.,* The History of Interbank Settlement Arrangements: Exploring Central Banks' Role in the Payment System (June 2011), available at: *http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1863929.*

tax disclosure and also its proposed methods for the estimation of taxes imposed by a foreign country's central government.

With respect to the proposed change related to the elimination of the requirement to disclose subnational taxes and to include such taxes in the calculation of the amount to be received, there was uniform support from industry commenters. Nearly all industry commenters expressed concern that it was infeasible to attempt to research all potential jurisdictions that might impose a subnational tax. Further, industry commenters noted that there would be an ongoing and potentially significant cost required to maintain information related to all subnational tax laws throughout the world given the number of potential jurisdictions that could impose a tax. Additionally, in terms of the feasibility of the disclosure of subnational taxes, one money transmitter also stated that it would be difficult for it to disclose subnational taxes given that its customers were not required, when sending a transfer, to specify a sub-region within a country where the transfer would be picked up.

Another money transmitter also stated that, in its experience, it believed that subnational taxes were rare. Although this commenter did not cite any examples of tax practice in specific jurisdictions, this commenter argued that many localities wanted to encourage the inflow of transfers, and therefore, would be unlikely to impose subnational taxes. This commenter and others stated that the cost to determine, in every case, whether subnational taxes applied, a cost that might be passed on to all senders, would outweigh the benefits given that it appeared that such taxes rarely applied in practice.

In contrast to the uniform support by industry commenters for the elimination of the requirement to disclose subnational taxes, consumer group commenters were divided regarding their views about the proposed elimination of the requirement to disclose subnational taxes. Some consumer group commenters opposed the proposed change and stated that full disclosure of the exact amount of foreign taxes was critical in order for senders to be aware of exactly how much money would be received. They stated that elimination of the requirement to disclose subnational taxes would harm senders because they would not know with certainty how much money would ultimately be received. Other consumer group commenters, however, stated that the burden of researching and disclosing subnational taxes outweighed the relative benefit to senders. These consumer group commenters noted that some remittance transfer providers could withdraw from the market or increase prices if required to research and disclose subnational taxes.

With respect to the Bureau's proposal to allow remittance transfer providers increased flexibility to estimate the taxes imposed by a country's central government, many industry commenters expressed concern that the December Proposal did not sufficiently ease the burden of researching foreign taxes. These industry commenters raised several concerns with respect to the proposed estimated disclosure of taxes imposed by a foreign country's central government. Some industry participants commented that they did not have the capability to research the relevant tax laws in the first place because they did not have foreign contacts, or, alternatively, that they did not have the resources to expend to determine the applicable foreign tax laws. Thus, they asserted that an ability to estimate would not facilitate compliance since such estimation would require an underlying knowledge of the foreign tax laws.

Industry commenters, particularly smaller banks and credit unions, also noted that remittance transfer providers were reluctant to rely on information from third-party service providers (such as larger correspondent institutions) because they would have no means to verify the accuracy of the information provided by the third-parties. Further, even where the tax information was accurate, some industry commenters stated that there could be a high cost associated with relying on a third-party provider to obtain that foreign tax information. Similar to industry comments about the disclosure of subnational taxes, commenters stated that these costs not only included the upfront costs of acquiring the tax information but also ongoing costs required to maintain and update tax information. For example, commenters expressed concern that, even if a provider (or a third-party selling the tax information) determined that a particular country did not tax remittance transfers, the provider would need to continue to monitor that country's tax law to know whether any new tax laws were enacted in the future.

Industry commenters (as well as some consumer group commenters) stated that some of the burden resulting from the disclosure of foreign taxes imposed by a country's central government could be solved if the Bureau itself developed a tax database that was made available to remittance transfer providers. Industry commenters noted that a Bureau-provided database would eliminate the cost and potential inaccuracy that could result from each provider's individual attempts to determine the applicable foreign taxes.

Along similar lines, the Bureau learned through outreach that at least one trade association is developing a database containing information about foreign taxes imposed on remittance transfers by a country's central government. The trade association informed the Bureau that, by working with a third-party, it thought it could eventually determine the relevant tax laws for most countries. The trade association, however, stated that there were several challenges associated with determining and disclosing the applicable tax under the proposed estimation method. According to the trade association and other commenters, one concern was that many foreign taxes have exceptions and exclusions that are not imposed uniformly on all transfers. The trade association noted that, even if a database listed applicable tax laws, it might be difficult for remittance transfer providers, particularly smaller providers, to apply these exceptions and incorporate the exceptions into computer programs or onto forms to arrive at an accurate tax disclosure. Some industry commenters also noted that, if a provider did not apply an exception, that provider might appear to be imposing a higher tax than another provider that applied the exception, even if the tax is the same. Thus, these commenters stated that a sender might misidentify the cheapest provider.

Relatedly, several other industry commenters expressed concern that a tax law might be misinterpreted or misunderstood by the remittance transfer provider because of the challenges of interpreting foreign laws. As a result, several industry commenters and a trade association stated that the Bureau should provide a safe harbor for providers that use some reasonable processes to acquire the tax information. Other commenters stated that they would favor a safe harbor whereby, if the provider relied on some reasonable source of information in obtaining tax information, that provider would not be liable if the disclosed tax was incorrect.

Industry commenters also echoed similar comments to those made with respect to the December Proposal's provisions regarding the recipient institution fee disclosures, stating that the estimated tax disclosure would be of limited benefit to senders because they believed that in many instances the same tax likely would apply to all

transfers to a particular country. As a result, a disclosure of the foreign tax would not improve a sender's ability to comparison shop among remittance transfer providers. In addition, other commenters noted that because the Bureau's proposed estimation method required a disclosure of the highest possible foreign tax that could be imposed with respect to any unknown variable, a sender might transfer more money than was required to compensate for the high estimated tax that the sender believed would be deducted. The commenters noted, for example, that if a sender was transferring funds to a foreign merchant, the higher disclosed tax could harm the sender who inadvertently provided more money than was necessary to pay for a good or service.

In contrast to industry commenters and as with respect to the Bureau's proposal to eliminate the requirement to disclose subnational taxes, consumer groups were divided with respect to their comments about the proposed change to allow estimation to be used in the determination of the foreign country tax disclosure. Some consumer groups stated that the estimation of foreign taxes would harm senders because they would not know exactly how much money would be received. In contrast, other consumer groups supported the Bureau's proposed estimation method for those taxes imposed by a country's central government. These consumer groups stated that the Bureau's proposed estimation method would facilitate compliance, and thereby encourage providers to stay in the market or prevent providers from increasing prices.

Similar to its reasoning with respect to the elimination of the requirement to disclose certain recipient institution fees, as a result of comments received, additional outreach, and the Bureau's independent monitoring of efforts to implement the 2012 Final Rule, the Bureau believes it is necessary and proper both to further the purposes of the EFTA and to facilitate compliance to exercise its exception authority under EFTA section 904(c) to eliminate the requirement that remittance transfer providers include taxes collected by a person other than the provider—including both subnational taxes and taxes imposed by a foreign country's central government, in the calculation of the amount to be disclosed under § 1005.31(b)(1)(vii). Consistent with this revision, the Bureau is also eliminating the requirement to disclose taxes imposed by a person other than the remittance transfer provider under § 1005.31(b)(1)(vi) since such taxes are no longer necessary to clarify the calculation of the amount to be received under § 1005.31(b)(1)(vii). Under the 2013 Final Rule, a provider continues to be required to disclose any taxes collected by the provider, as described under § 1005.31(b)(ii), but providers are no longer required to disclose taxes collected by other persons.

As stated in the February Final Rule, the Bureau believes that disclosures regarding the taxes collected by a person other than the remittance transfer provider can benefit senders by making them aware of the impact of these taxes on the total amount transferred, deciding how much money to transfer, facilitating comparison shopping, and aiding in error resolution. Yet, while this foreign tax information is important for consumers, the Bureau is concerned that requiring disclosure of taxes collected by a person other than the provider could at this time produce increased costs for all transactions or result in a significant contraction in access to remittance transfers, particularly for less popular corridors. Similar to its decision about eliminating the requirement to disclose certain recipient institution fees, the Bureau believes that both of these results would substantially harm consumers and undermine the broader purposes of the statutory scheme. Accordingly, the Bureau has concluded that in the current environment, this amendment to the tax disclosure requirements will best preserve access to competitive prices for remittance transfers for a wide range of countries.

As with fees, one key factor in the Bureau's decision was a concern that the required tax disclosure might limit the availability of remittance services to certain countries or result in an increased cost for many transfers. With respect to cost increases, under the 2012 Final Rule and the December Proposal, most remittance transfer providers would have needed to conduct research to determine (or purchase information regarding) the relevant foreign tax laws, potentially for many countries. These providers would also need to expend resources to update this information on a regular basis. Although one industry association has been undertaken to develop a database of applicable central government taxes, that association acknowledged several challenges both in developing the database and with how individual providers would make use of the data contained in it. For example, validation and continuous updating of the information collected remains a substantial concern. As described above, the Bureau is concerned that many providers would pass the costs associated with these efforts on to senders in the form of increased prices that would affect remittance transfers across the board, even to countries in which no such taxes are actually imposed. The Bureau also remains concerned that the cost of maintaining the required tax information could cause providers to exit the market, or limit their offerings—even if the requirement was limited to taxes imposed by a foreign country's central government. Some providers, for example, might curtail their services and limit transfers only to the highest traffic corridors in order to minimize their necessary foreign tax law research. Because some providers might restrict their services to certain corridors with less volume, a sender might have limited ability to send transfers to those regions.

As a result, while the Bureau generally believes that senders can benefit from transparency regarding the foreign tax disclosure, in the present market, the cost of obtaining the necessary tax information may exceed the benefit of this information to many senders. As with recipient institution fees, the Bureau also recognizes that in many instances the benefit of the disclosure may be minimized because the actual foreign tax imposed is likely to be uniform across all remittance transfers to a particular person in a particular country (and, therefore, the same tax would apply).[7]

In addition, as with the estimation of recipient institution fees, the disclosure of the highest tax estimates based on any unknown variable, as required in the December Proposal, could result in consumer confusion where providers disclosed different tax estimates. Even if third-party providers developed common databases of information, there is still a risk of inconsistent disclosures depending on providers' knowledge of potentially relevant variables, practices, and interpretations of foreign tax law. The Bureau believes that using the general disclaimer and moving any voluntarily provided estimates or actual numbers lower on the form will help to reduce the risk that senders mistakenly choose providers based on discrepancies in tax estimates. Further, rather than adopting a systematic rule that tends to overestimate tax rates, the Bureau believes that senders may prefer

[7] The Bureau recognizes that this uniformity may not always be the case. For example, a tax could be imposed differently based on whether the tax law treated transfers sent through a closed or open network differently. But, for most transfers, the Bureau believes that a tax law would apply in the same manner where a transfer was of the same amount to the same destination in a country.

to apply different approaches to different types of transfers, for instance by being more conservative about the risk of overfunding a transfer to a business as compared to a family member.

The Bureau also does not believe that it is appropriate or feasible to create a safe harbor for remittance transfer providers that rely on a third-party database or some other third-party source for tax information. At this time, the Bureau is not aware of any data source whose accuracy it can guarantee, absent extensive monitoring. The Bureau is not currently positioned to evaluate the accuracy of each database that might be created nor can it determine whether providers are reasonably researching, interpreting, or applying the applicable foreign tax laws. Similarly, the Bureau does not believe that currently it is positioned to create a database itself. In addition, even if a database existed, as noted above, it would still be necessary to determine how the particular tax laws and exceptions or exclusions applied, and the Bureau believes that providers are better positioned to learn over time how foreign tax laws apply to individual transfers.

Overall, given the current burden of researching the foreign taxes and the potential risks of sender confusion, increased cost, and reduced transfer services, the Bureau believes that the best result at this time is to eliminate the obligation to disclose taxes collected by parties other than the remittance transfer provider and to eliminate the requirement to include this amount in the calculation of the amount to be received by the designated recipient. The Bureau, however, notes that its decision is based on the current feasibility and cost associated with determining or estimating such taxes imposed on a remittance transfer, as well as the potential impact on market structure and pricing practices. The Bureau intends to monitor whether the development and availability of information regarding taxes collected on a remittance transfer by a person other than the provider becomes more feasible in the future. The Bureau will also engage in stakeholder dialogue about methods to encourage improvements in communications methodologies and data gathering so as to promote the provision of increasingly accurate estimates and disclosures of foreign taxes over time.

Conforming Changes to § 1005.31(b)(1)(vi)

In light of the changes the Bureau is making with respect to the disclosure of non-covered third-party fees and foreign taxes, § 1005.31(b)(1)(vi) in the 2013 Final Rule requires only the disclosure of covered third-party fees. The 2013 Final Rule also makes conforming edits to comment 31(b)(1)(vi)–1 to reflect that the disclosure of covered third-party fees must be made in the currency in which the funds will be received by the designated recipient. While the revised § 1005.31(b)(1)(vi) provides that only covered third-party fees be disclosed under this subsection, as discussed below, under § 1005.31(b)(1)(viii) a remittance transfer provider would remain free to disclose separately any non-covered third-party fees or taxes collected by a person other than the provider of which it is aware, to the extent consistent with the parameters of that section.

31(b)(1)(vii) Amount Received

Section 1005.31(b)(1)(vi) of the 2012 Final Rule implements EFTA section 919(a)(2)(A)(i) by requiring that a remittance transfer provider disclose to the sender the amount that will be received by the designated recipient, in the currency in which the funds will be received. As adopted by the 2012 Final Rule, this disclosure must reflect all charges that would affect the amount to be received including any recipient institution fees and taxes imposed by a person other than the provider. As stated above, the Bureau is exercising its exception authority under EFTA section 904(c) to revise § 1005.31(b)(1)(vii) to eliminate the requirement to include non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider in the calculation of the amount received, consistent with the narrowed scope of § 1005.31(b)(1)(vi). Section 1005.31(b)(1)(vii) of the 2013 Final Rule thus provides that the disclosed amount must be disclosed in the currency in which the funds will be received, using the term ''Total to Recipient'' or a substantially similar term except that this amount shall not include any non-covered third party fee or tax collected by a person other than the provider, whether such fee or tax is disclosed pursuant to § 1005.31(b)(1)(viii).

While § 1005.31(b)(1)(viii) gives the provider the option to disclose non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider, as discussed below, a provider cannot, in any circumstance, include these amounts in the amount disclosed under § 1005.31(b)(1)(vii). The Bureau believes that eliminating the requirement to include non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider in the calculation of the disclosed amount to be received by the designated recipient is necessary and proper to facilitate compliance and further the purposes of the EFTA because the Bureau is concerned that requiring disclosure of such amounts within the amount disclosed under § 1005.31(b)(1)(vii) might hamper senders' ability to make informed comparisons across similar providers.

The 2013 Final Rule also makes conforming edits to comment 31(b)(1)(vii) to clarify that the amount disclosed pursuant to § 1005.31(b)(1)(vii) must reflect the exchange rate, all fees imposed and all taxes collected on the remittance transfer by the provider, as well as any covered third-party fees as provided by § 1005.31(b)(1)(vi). The Bureau recognizes that in some cases the amount disclosed pursuant to § 1005.31(b)(1)(vii) will not reflect the amount that the designated recipient will ultimately receive due to additional non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider.

31(b)(1)(viii) Statements That Non-Covered Third-Party Fees or Taxes Collected on the Remittance Transfer by a Person Other Than the Provider May Apply

In the December Proposal, the Bureau solicited comment on methods to reduce the burden of required disclosures of fees and taxes imposed on remittance transfers by persons other than the providers and alternative disclosures that could be provided. Several industry and consumer group commenters suggested that in place of requiring exact or estimated disclosures of recipient institution fees or foreign taxes, the Bureau could require a statement within the disclosure forms alerting senders that the total amount received may be reduced by recipient institution fees or foreign taxes. These commenters contended that such a disclosure would ensure that senders are aware of the potential for further reductions in the disclosed amount received, due to fees or taxes that are not disclosed, and would encourage senders and recipients to investigate the fees associated with a transfer to the recipient's financial institution, as compared to those associated with other mechanisms for sending a remittance transfer.

Although the Bureau is eliminating the requirement to calculate and disclose non-covered third-party fees and taxes collected on a remittance transfer by a person other than the

remittance transfer provider, the Bureau strongly believes that it is nonetheless important to inform senders when fees and taxes that are not disclosed may apply to the remittance transfer. Accordingly, to further the purposes of the EFTA, the Bureau believes that it is necessary and proper to exercise its authority under EFTA sections 904(a) and (c) to add § 1005.31(b)(1)(viii), which requires that a provider include, as applicable, a statement indicating that non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider may apply to the remittance transfer and result in the designated recipient receiving less than the amount disclosed pursuant to § 1005.31(b)(1)(vii). Moreover, under this paragraph, a provider may, but is not required to, disclose any applicable non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider using the language set for in Model Forms A–30(b)–(d) of Appendix A to this part or substantially similar language. Any such figures must be disclosed in the currency in which the funds will be received, using the language set forth in Model Forms A–30(b) through (d) of Appendix A to this part, as appropriate, or substantially similar language. The exchange rate used to calculate any disclosed non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider is the exchange rate used in § 1005.31(b)(1)(iv), including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate. Although new § 1005.31(b)(1)(viii) makes the disclosure of the amount of non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider optional, the Bureau believes that providers may be motivated to collect and disclose such information voluntarily, in the interest of providing high levels of customer service to senders and to better compete for remittance business against other providers.

New comment 31(b)(1)(viii)–1 clarifies that if non-covered third-party fees or taxes collected on the remittance transfer by a person other than the remittance transfer provider apply to a particular remittance transfer, or if a provider does not know if such fees or taxes may apply to a particular remittance transfer, § 1005.31(b)(1)(viii) requires the provider to include the disclaimer with respect to such fees and taxes. Comment 31(b)(1)(viii)–1 additionally clarifies that required disclosures under § 1005.31(b)(1)(viii) may only be provided to the extent applicable. For example, if the designated recipient's institution is an agent of the provider and thus, non-covered third-party fees cannot apply to the transfer, the provider must disclose all fees imposed on the remittance transfer and may not provide the disclaimer regarding non-covered third-party fees. In this scenario, the commentary clarifies, the provider may only provide the disclaimer regarding taxes collected on the remittance transfer by a person other than the provider, as applicable.

New comment 31(b)(1)(viii)–2 explains that § 1005.31(b)(1)(viii) permits a provider to disclose the amount of any non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider. For example, when a remittance transfer provider knows that the designated recipient's institution imposes a fee or that a foreign tax will apply, the provider may choose to disclose the relevant fee or tax as part of the information disclosed pursuant to § 1005.31(b)(1)(viii). The comment also notes that § 1005.32(b)(3) permits the provider to disclose estimated amounts of such taxes and fees, provided any estimates are based on reasonable source of information. *See* comment 32(b)(3)–1. It further provides that where the provider chooses, at its option, to disclose the amounts of the relevant recipient institution fee or tax as part of the information disclosed pursuant to § 1005.31(b)(1)(viii), the provider must not include that fee or tax in the amounts disclosed pursuant to § 1005.31(b)(1)(vi) or (b)(1)(vii).

31(b)(2) Receipt

31(b)(2)(i) Pre-Payment Disclosures on Receipt

Section 1005.31(b)(2)(i) in the 2012 Final Rule provides that the same disclosures included in the pre-payment disclosure must be disclosed on the receipt. As discussed above, the Bureau is adding a new requirement that pre-payment disclosures include disclaimers when non-covered third-party fees or taxes collected on a remittance transfer by a person other than the provider may apply. In addition, as stated above, to facilitate compliance and further the purposes of the EFTA, the Bureau believes it is necessary and proper to exercise its exception authority under EFTA section 904(c) to revise § 1005.31(b)(1)(vii) to eliminate the requirement to include non-covered third-party fees and taxes collected on the remittance transfer by a person other than the remittance transfer provider in the calculation of the amount received, disclosed on the receipt provided to the sender under § 1005.31(b)(2)(i), consistent with the narrowed scope of § 1005.31(b)(1)(vi). As discussed above, to further the purposes of the EFTA, the Bureau also believes that it is necessary and proper to exercise its authority under EFTA sections 904(a) and (c) to require providers to include disclaimers stating, as applicable, that non-covered third-party fees or taxes collected by a person other than the provider may apply to the remittance transfer and result in the designated recipient receiving less than the amount disclosed pursuant to § 1005.31(b)(1)(vii). Accordingly, the Bureau is amending the cross-reference in § 1005.31(b)(2)(i) to require that such disclaimers be provided on the receipt. These changes would also be reflected on a combined disclosure. *See* § 1005.31(b)(3).

31(c) Specific Format Requirements

31(c)(1) Grouping

EFTA section 919(a)(3)(A) states that disclosures provided pursuant to EFTA section 919 must be clear and conspicuous. The 2012 Final Rule incorporates this requirement and sets forth grouping, proximity, prominence, size, and segregation requirements to ensure that it is satisfied. In particular, § 1005.31(c)(1) requires that information about the transfer amount, fees and taxes imposed by a person other than the provider, and amount received by the designated recipient be grouped together. The purpose of this grouping requirement is to make clear to the sender how the total amount to be transferred to the designated recipient, in the currency to be made available to the designated recipient, will be reduced by fees imposed or taxes collected on the remittance transfer by a person other than the remittance transfer provider. As previously discussed, under the 2013 Final Rule the disclosure of non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider is no longer required under § 1005.31(b)(1)(vi), or included in the calculation of the amount required to be disclosed under § 1005.31(b)(1)(vii), but instead is subject to new § 1005.31(b)(1)(viii). Consequently, the 2013 Final Rule amends § 1005.31(c)(1) to group the new § 1005.31(b)(1)(viii) disclosure requirement with the information required by §§ 1005.31(b)(1)(v), (vi), and (vii). The Bureau believes that this grouping will ensure that the sender

will understand that the total amount received by the designated recipient will be affected by these additional fees and taxes as applicable. In addition, the Bureau clarifies that although disclosures provided via mobile application or text message to the extent permitted by § 1005.31(a)(5) generally need not comply with the grouping requirements, information required or permitted by § 1005.31(b)(1)(viii) must be grouped with § 1005.31(b)(1)(vii). The Bureau believes that it is important that the new disclaimers—which advise of potential additional fees and taxes—be grouped with the disclosure of the amount to be received by the designated recipient in order to maximize the likelihood that senders will see the disclaimers and read them in conjunction with the disclosures under § 1005.31(b)(1)(vii). Insofar as the Bureau is requiring that information required or permitted by § 1005.31(b)(1)(viii) be grouped with § 1005.31(b)(1)(vii) for disclosures provided via mobile application or text message, the Bureau is adding guidance in comment 31(c)(1)–1 to explain that to comply with the requirement a provider could send multiple text messages sequentially to provide the full disclosure.

31(c)(2) Proximity

To effectuate EFTA section 919(a)(3)(A), § 1005.31(c)(2) of the 2012 Final Rule also requires that certain disclosures be placed in close proximity to each other. The purpose of this proximity requirement is to prevent such disclosures from being overlooked by a sender. As previously discussed, under the 2013 Final Rule the disclosure of non-covered third-party fees and taxes collected by a person other than the provider is no longer required under § 1005.31(b)(1)(vi); instead, remittance transfer providers are subject to the new disclosure provision of § 1005.31(b)(1)(viii). Consequently, the 2013 Final Rule amends § 1005.31(c) to require that the new § 1005.31(b)(1)(viii) disclaimers be in close proximity with the disclosure required by § 1005.31(b)(1)(vii) (the amount received by the designated recipient). Section 1005.31(c)(2) further notes that disclosures provided via mobile application or text message, to the extent permitted by § 1005.31(a)(5), generally need not comply with the proximity requirements of § 1005.31(c), except that information required or permitted by § 1005.31(b)(1)(viii) must follow the information required by § 1005.31(b)(1)(vii). The Bureau believes that it is important that the new disclaimers—which advise of potential additional fees and taxes—be grouped in close proximity to the disclosure of the amount to be received by the designated recipient. Insofar as the total amount to be received may not include certain items the disclosure of which is no longer required, the disclaimers should be placed in close proximity to, or in the case of disclosures provided via mobile application or text message follow, the disclosure required by § 1005.31(b)(1)(vii) in order to maximize the likelihood that senders will see the disclaimers and read them in conjunction with the amount disclosed pursuant to § 1005.31(b)(1)(vii).

31(c)(3) Prominence

Section 1005.31(c)(3) sets forth the requirements regarding the prominence and size of the disclosures required under subpart B of Regulation E. In light of the new disclaimer required by § 1005.31(b)(1)(viii), as well as the optional disclosures under that paragraph, the Bureau is making conforming edits to § 1005.31(c)(3) to note that the disclosures required or permitted by § 1005.31(b) when provided in writing or electronically must be provided on the front of the page on which the disclosure is printed, in a minimum eight-point font, except for disclosures provided via mobile application or text message, and must be in equal prominence to each other.

Comment 31(c)(4)–2 Segregation

Section 1005.31(c)(4) provides that written and electronic disclosures required by subpart B must be segregated from everything else and contain only information that is directly related to the disclosures required under subpart B. Comment 31(c)(4)–2 in the 2012 Final Rule clarifies that, for purposes of § 1005.31(c)(4), the following is directly related information: (i) The date and time of the transaction; (ii) the sender's name and contact information; (iii) the location at which the designated recipient may pick up the funds; (iv) the confirmation or other identification code; (v) a company name and logo; (vi) an indication that a disclosure is or is not a receipt or other indicia of proof of payment; (vii) a designated area for signatures or initials; (viii) a statement that funds may be available sooner, as permitted by § 1005.31(b)(2)(ii); (ix) instructions regarding the retrieval of funds, such as the number of days the funds will be available to the recipient before they are returned to the sender; and (x) a statement that the provider makes money from foreign currency exchange. In light of new § 1005.31(b)(1)(viii) permitting certain optional disclosures, the Bureau is amending this list to clarify that the optional disclosure of non-covered third-party fees and taxes collected by a person other than the provider is directly related information.

31(f) Accurate When Payment Is Made

Section 1005.31(f) of the 2012 Final Rule states that except as provided in § 1005.36(b), disclosures required by this section must be accurate when a sender makes payment for the remittance transfer, except to the extent estimates are permitted by § 1005.32. In light of the new disclaimer required by § 1005.31(b)(1)(viii), as well as the optional disclosures under that paragraph, the Bureau is making conforming edits to § 1005.31(f) and comment 31(f)–1 to note that the disclosures required by § 1005.31(b) or permitted by § 1005.31(b)(1)(viii) must be accurate when a sender makes payment for the remittance transfer, except to the extent estimates are permitted by § 1005.32. Comment 31(f)–1 further notes that while a remittance transfer provider is not required to guarantee the terms of the remittance transfer in the disclosures required or permitted by § 1005.31(b) for any specific period of time, if any of the disclosures required or permitted by § 1005.31(b) are not accurate when a sender makes payment for the remittance transfer, a provider must give new disclosures before accepting payment.

The Bureau believes that extending the accuracy requirement to the optional disclosures regarding non-covered third party fees and taxes collected by persons other than the remittance transfer provider is necessary in order to communicate accurately to the sender how confident the remittance transfer provider is concerning the information provided. As discussed above, the Bureau believes that such information can be useful to senders under certain circumstances and hopes to encourage use of increasingly reliable information over time. Although the vast majority of remittance transfer providers may choose to disclose any numbers provided as estimates due to the various uncertainties with regard to foreign taxes and fees discussed above, the Bureau believes it is important to preserve remittance transfer providers' ability to compete based on disclosure of actual figures.

31(g) Foreign Language Disclosures

31(g)(1) General

Section 1005.31(g) of the 2012 Final Rule explains that disclosures required

by the rule must be provided in English and, in certain circumstances, in other languages as well. Similar to the changes discussed above regarding § 1005.31(a)(1) concerning clear and conspicuous disclosures, the Bureau is making conforming edits to § 1005.31(g)(1) to reflect the addition of the optional disclosures elsewhere in the 2013 Final Rule. While the disclosures are optional (see §§ 1005.31(b)(1)(viii) and 1005.33(h)(3)), the Bureau believes it is important that they conform to the 2013 foreign language disclosure requirements. Thus, the Bureau is amending § 1005.31(g)(1) to state that except as provided in § 1005.31(g)(2), disclosures required by this subpart or permitted by § 1005.31(b)(1)(viii) or § 1005.33(h)(3) must be made in English and, if applicable in accordance with § 1005.31(g)(1)(i) and (ii).

Section 1005.32 Estimates

Consistent with EFTA section 919, the 2012 Final Rule generally requires that disclosures provided to senders state the actual exchange rate, fees, and taxes that will apply to a remittance transfer and the actual amount that will be received by the designated recipient of a remittance transfer. Section 1005.32, as adopted in the 2012 Final Rule, includes only three specific exceptions to this requirement. First, consistent with EFTA section 919(a)(4), § 1005.32(a) of the 2012 Final Rule provides a temporary exception for certain transfers by insured institutions. Second, consistent with EFTA section 919(c), § 1005.32(b)(1) provides a permanent exception for transfers to certain countries. Third, the 2012 Final Rule also includes an exception under § 1005.32(b)(2) for transfers scheduled five or more business days before the date of the transfer. Thus, a remittance transfer provider is permitted to estimate exchange rates, fees, and taxes that are required by § 1005.31 to be disclosed to the extent permitted in § 1005.32(a) and (b). The December Proposal would have created additional exceptions to permit estimation with respect to certain recipient institution fees under proposed § 1005.32(b)(4) and national foreign taxes under proposed § 1005.32(b)(3). The proposed related commentary would have described the particular methods that could be used to estimate under these two methods. As discussed above, under § 1005.31(d), in both cases, the provider would have been required to disclose that the amount was estimated pursuant to § 1005.31(b)(1)(vi) and (vii).

Given that the 2013 Final Rule does not require the disclosure of non-covered third-party fees or taxes collected by a person other than the remittance transfer provider (see § 1005.31(b)(1)(vi)), the two proposed estimation methods are now unnecessary. As a result, the proposed changes to the 2012 Final Rule under § 1005.32(b)(3) and (4) are not being adopted nor is the Bureau adopting the related proposed changes to the commentary. *See* proposed comments 32(b)(3) and (4).

Instead, as described below, the Bureau is adopting a new § 1005.32(b)(3) to describe possible reasonable estimation methods that can be used where a remittance transfer provider elects to disclose non-covered third-party fees or taxes collected by a person other than the provider.

32(b)(3) Estimates for Non-Covered Third-Party Fees and Taxes Collected by a Person Other Than the Provider

As described above, the Bureau is eliminating the requirement to disclose certain recipient institution fees and taxes collected on the remittance transfer by a person other than the provider and to include such amounts in the amount received, required to be disclosed under § 1005.31(b)(1)(vii) and (b)(2)(i). Nevertheless, the Bureau believes that where the remittance transfer provider knows or can reasonably estimate any applicable non-covered third-party fee or tax collected on the remittance transfer by a person other than the provider and elects to disclose one or both of such amounts, senders are likely to benefit from more accurate and informative disclosures. Consequently, § 1005.31(b)(1)(viii) permits a provider to disclose any applicable non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider applicable to a remittance transfer in conjunction with the required disclaimers.

In order to encourage the optional disclosure of such information, § 1005.32(b)(3) of the 2013 Final Rule permits remittance transfer providers latitude to estimate any applicable non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider. Such estimates may be based on reasonable sources of information. The Bureau acknowledges that permitting providers to estimate such amounts may result in providers providing disclosures that may not reflect the actual charge by individual recipient institutions or the taxes levied upon such transfers. Nonetheless, the Bureau believes that permitting a reasonable approximation of the amount of non-covered third-party fees and taxes collected on the remittance transfer by persons other than the remittance transfer provider that could be assessed based on reasonable sources would provide senders valuable information about the amount to be received while also allowing the provider sufficient flexibility to disclose such information.

New comment 32(b)(3)–1 further notes that reasonable sources of information may include, for example: Information obtained from recent transfers to the same institution or the same country or region; fee schedules from the recipient institution; fee schedules from the recipient institution's competitors; surveys of recipient institution fees in the same country or region as the recipient institution; information provided or surveys of recipient institutions' regulators or taxing authorities; commercially or publicly available databases, services or sources; and information or resources developed by international nongovernmental organizations or intergovernmental organizations. The 2013 Final Rule also includes new model forms that provides examples of how such information may be integrated within the disclaimers of § 1005.31(b)(1)(viii). *See* Model Forms 30(b)–(d).

Additional Conforming Edits to § 1005.32

In addition, because of the changes made to the disclosure requirements under § 1005.31(b)(1)(vi), § 1005.32(b)(2)(ii) and (c)(3)(i) have been amended to conform with the requirements of § 1005.31(b)(1)(vi), as amended, which requires that a party disclose only covered third-party fees. Conforming changes have also been made to comments 32(a)(1)–1, (a)(1)–2.ii, 32(a)(1)–3.ii, and 32(b)(2)–1 so that these comments and related headings, as finalized, use the term ''covered third-party fees'' rather than ''other fees.''

In § 1005.32(c)(3)(ii), however, the Bureau notes that it has retained a reference to fees imposed by both the intermediary and the final recipient's institution. Although fees imposed by the recipient institution are generally non-covered third-party fees, under § 1005.30(h), certain recipient institution fees may qualify as covered third-party fees if they are imposed by an agent of the provider. *See* comment 30(h)–2.ii.

In addition to the conforming changes related to the disclosure of covered third-party fees pursuant to § 1005.31(b)(1)(vi), references to taxes collected on the remittance transfer by

a person other than the provider in § 1005.32(b)(2)(ii) and (c)(4) of the 2012 Final Rule have been deleted and § 1005.32(c)(5) has been renumbered as § 1005.32(c)(4). Several comments clarifying how to estimate these taxes have also been deleted, including comments 32(a)(1)–2.iii, 32(a)(1)–3.iii and 32(c)(4)–1.

Section 1005.33 Procedures for Resolving Errors

EFTA section 919(d) provides that remittance transfer providers shall investigate and resolve errors where a sender provides a notice of an error within 180 days of the promised date of delivery of a remittance transfer. The statute generally does not define what types of transfers and inquiries constitute errors, but rather gives the Bureau broad authority to set standards for remittance transfer providers with respect to error resolution relating to remittance transfers. The 2012 Final Rule implements such error resolution standards in § 1005.33.

Under § 1005.33, as adopted in the 2012 Final Rule, an error occurs in various situations including when the remittance transfer is not made available to a designated recipient by the date of availability stated in the disclosure provided by § 1005.31(b)(2) or (3) for the remittance transfer. Such an error may result from a sender's provision of an incorrect account or routing number to a remittance transfer provider. Industry expressed concern after the February Final Rule was published about the remedies available when a sender provides an incorrect account number to the provider. Providers have stated that in some cases, as a result of such errors, remittance transfers may be deposited into the wrong account and, despite reasonable efforts by the provider, cannot be recovered. Under § 1005.33(c)(2)(ii) of the 2012 Final Rule, a provider is obligated to resend to the designated recipient or refund to the sender the total amount of the remittance transfer regardless of whether it can recover the funds. Industry has noted that this problem is of particular concern with respect to transfers of large sums, particularly for smaller institutions that might have more difficulty bearing the loss of the entire transfer amount. In addition, providers have expressed concern that the remedy provisions of the 2012 Final Rule create a potential for fraud, despite an exception that excludes transfers with fraudulent intent from the definition of error. *See* § 1005.33(a)(1)(iv)(C).

In response to these concerns, in the December Proposal the Bureau proposed a new exception to the definition of error in § 1005.33. The exception set forth in proposed § 1005.33(a)(1)(iv)(D) would have excluded from the definition of error under § 1005.33(a)(1)(iv) the sender having given the remittance transfer provider an incorrect account number, provided the provider met certain specified conditions. The Bureau also proposed several other changes to the error resolution procedures in § 1005.33 to address questions of how remittance transfer providers should provide remedies to senders for errors that occurred because the sender provided incorrect or insufficient information.

Based on comments received, the Bureau is adopting the proposed exception and is further revising these procedures as detailed below. The Bureau is also adopting conforming changes to the error resolution procedures to reflect revisions to the disclosure requirements concerning non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider as well as making several technical, non-substantive changes.

33(a) Definition of Error

33(a)(1) Types of Transfers or Inquiries Covered

Section 1005.33(a)(1) lists the types of remittance transfers or inquiries that constitute ''errors'' under the 2012 Final Rule. The types of errors relevant to this final rule are discussed below.

33(a)(1)(iii) Incorrect Amount Received by the Designated Recipient

Section 1005.33(a)(1)(iii), as adopted in the 2012 Final Rule, defines as an error the failure to make available to a designated recipient the amount of currency stated in the disclosure provided to the sender under § 1005.31(b)(2) or (3) for the remittance transfer. The commentary to § 1005.33(a)(1)(iii) explains that this category includes situations in which the designated recipient may receive an incorrect amount of currency. *See* comment 33(a)–2. Insofar as the Bureau is amending § 1005.31(b)(1)(vii) to exclude from the disclosed total to be received by the designated recipient non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider, the Bureau has adjusted the definition of error under § 1005.33(a)(1)(iii) to reflect that change. Thus, as adopted in the 2013 Final Rule, § 1005.33(a)(1)(iii) states that an error includes the failure to make available to a designated recipient the amount of currency disclosed pursuant to § 1005.31(b)(1)(vii) and stated in the disclosure provided to the sender under § 1005.31(b)(2) or (3) for the remittance transfer. Relatedly, the Bureau is adding a new exception, in § 1005.33(a)(1)(iii)(C), which states that no error under § 1005.33(a)(1)(iii) occurs if the difference results from the application of non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider and the provider provided the disclosure required by § 1005.31(b)(1)(viii). The Bureau is also making conforming edits to § 1005.33(a)(1)(iii)(A) and (B) to allow for the addition of § 1005.33(a)(1)(iii)(C).

The Bureau is also making conforming edits to the related commentary. In the 2013 Final Rule, the examples in comment 33(a)–3.ii are revised to reflect the changes discussed above regarding the disclosure of non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider. Comment 33(a)–3.ii, as revised, discusses as an example a situation in which the remittance transfer provider provides the sender a receipt stating an amount of currency that will be received by the designated recipient, which does not reflect the additional foreign taxes that will be collected in Colombia on the transfer but includes the disclaimer required by § 1005.31(b)(1)(viii). The comment explains that because the designated recipient will receive less than the amount of currency disclosed on the receipt due solely to the additional foreign taxes that the provider was not required to disclose, no error has occurred. Comment 33(a)–3.iii, as revised, addresses a situation where the receipt provided by the remittance transfer provider does not reflect additional fees that are imposed by the receiving agent in Colombia on the transfer. Because the designated recipient in this example will receive less than the amount of currency disclosed in the receipt due to the additional covered third-party fees, an error under § 1005.33(a)(1)(iii) has occurred.

The Bureau is also adding new comment 33(a)–3.vi, which provides an example of a situation where a sender requests that his bank send US$120 to a designated recipient's account at an institution in a foreign country. The foreign institution is not an agent of the provider. Only US$100 is deposited into the designated recipient's account because the recipient institution imposed a US$20 incoming wire fee and deducted the fee from the amount deposited into the designated recipient's

account. Because this fee is a non-covered third-party fee that the remittance transfer provider is not required to disclose under § 1005.31(b)(1)(vi), no error has occurred if the provider provided the disclosure required by § 1005.31(b)(1)(viii).

Separately, in the December Proposal, the Bureau proposed to make technical corrections to comment 33(a)–4, which, as published in the **Federal Register** as part of the February Final Rule had improperly cited to § 1005.33(a)(1)(iv)(B) rather than to § 1005.33(a)(1)(iii)(B) and thus improperly described the relevant exception. The Bureau received no comments on this proposed correction, and it is adopted as proposed with a change to reflect the revisions discussed above to § 1005.31(b)(1)(vii).

33(a)(1)(iv) Failure To Make Funds Available by Date of Availability

33(a)(1)(iv)(D)

Section 1005.33(a)(1)(iv) of the 2012 Final Rule defines as an error a remittance transfer provider's failure to make funds available to the designated recipient by the date of availability stated on the receipt or combined disclosure, subject to three listed exceptions, including an exception for remittance transfers made with fraudulent intent by the sender or a person working in concert with the sender. *See* § 1005.33(a)(1)(iv)(C). Comment 33(a)–5 to the 2012 Final Rule elaborates on the definition of the term ''error'' under § 1005.33(a)(1)(iv) and explains that such errors under subpart B of Regulation E include, among other things, the late delivery of funds, the total non-delivery of a remittance transfer, and the delivery of funds to the wrong account. *See* comments 33(a)–5.1 and .ii. The commentary further notes that if only a portion of the funds are made available by the disclosed date of availability, then § 1005.33(a)(1)(iv) does not apply, but § 1005.33(a)(1)(iii) may apply instead.

As explained under comment 33(c)–2 in the 2012 Final Rule, an error under § 1005.33(a)(1)(iv) would include situations where a remittance transfer provider failed to make funds in connection with a remittance transfer available to a designated recipient by the disclosed date of availability because the sender provided an incorrect account number to the remittance transfer provider. After issuance of the 2012 Final Rule, the Bureau received comments from industry that providers often have no means to verify designated recipients' account numbers for remittance transfers into foreign bank accounts. As a result, providers could have to bear the potentially significant costs of their customers' mistakes in cases in which funds were deposited in the wrong account and could not be recovered as a result of the sender's provision of an incorrect account number.

In the December Proposal, the Bureau proposed to revise the definition of error in § 1005.33(a)(1)(iv) by adding a fourth, conditional exception. Proposed § 1005.33(a)(1)(iv)(D) would have excluded from the definition of error a failure to make funds available to the designated recipient by the disclosed date of availability, where such failure resulted from the sender having given the remittance transfer provider an incorrect account number, provided that the provider met the conditions set forth in proposed § 1005.33(h). These proposed conditions, would have required providers to notify senders of the risk that their funds could be lost, to investigate reported errors, and to attempt to recover the missing funds. In addition, the exception would have been limited to situations in which the funds were actually deposited into the wrong account. Where these conditions were met, the proposed exception would not have required providers to bear the cost of refunding or resending transfers.

The Bureau sought comment on the proposed exception generally and whether it should be limited to mistakes regarding account numbers or expanded to include other incorrect information provided by senders in connection with remittance transfers, such as routing numbers. Each of these is discussed below.

Exception for Senders' Mistakes Regarding Account Numbers

Industry commenters uniformly supported the addition of the proposed exception to the definition of error where the error was caused by the sender's provision of an incorrect account number. They put forth a number of reasons why they favored the proposed change. In many respects, these comments expanded upon those received prior to the December Proposal.

Industry commenters reiterated earlier concerns about the large potential exposure given their general inability of remittance transfer providers to validate the accuracy of a designated recipient's account number provided in connection with a wire transfers and similar types of open network transfers sent to accounts at banks and other institutions abroad. These commenters argued that providers sending these transfers over open networks generally have limited ability to cross-check account numbers with the names of accountholders prior to sending transfers because they often have no direct relationships with recipient institutions and thus no means of accessing those institutions' account information. Commenters further stated that as a result, the only way for a provider to validate such numbers may be to contact the recipient institution manually, which may be time-consuming and difficult due to language and time zone issues. Such validation would necessitate manual handling of remittance transfers and limit the ability of providers to use automated systems, which are less costly than manual handling of each transfer. Commenters stated their concern that manual validation could substantially increase costs to senders and delay the processing of remittance transfers. Relatedly, several commenters claimed that it was infeasible to expect providers to develop account number verification systems, automated or otherwise, before the effective date of the 2012 Final Rule (which was scheduled to take effect on February 7, 2013) due to the number of institutions worldwide that would need to adjust their systems used for transmitting wires.

Industry commenters also reiterated concerns expressed prior to the issuance of the December Proposal regarding the potential for fraud if a sender's provision of an incorrect account number is considered an error under § 1005.33(a)(1)(iv). As discussed in the December Proposal, commenters had stated that the 2012 Final Rule could enable fraudulent activity to flourish because, if unscrupulous senders provided incorrect account numbers and funds were sent to a coconspirator, remittance transfer providers might have to send transfer amounts again to another coconspirator without first recovering them. Commenters argued that the fraud exception in the 2012 Final Rule—§ 1005.33(a)(1)(iv)(C)—is insufficient because for providers to use the exception would be difficult in most circumstances. Many industry commenters stated that providers in the United States typically have a limited ability to gather evidence of fraud from a recipient institution abroad or to mandate cooperation from foreign institutions with whom they have no direct relationship. Industry commenters also noted that even if a provider suspected fraud, the lack of evidence would cause providers to hesitate to accuse one of its own customers of fraud. Industry

commenters also stated that the 2012 Final Rule departed from current industry practice by requiring that remittance transfer providers resend or refund a remittance transfer even when a sender's mistake results in mis-delivery of funds that cannot be recovered.

Many industry commenters expressed concern that in light of the significant exposure under the 2012 Final Rule's sender error provisions, if the Bureau did not revise the error resolution procedures as it proposed to do in the December Proposal, many remittance transfer providers would curtail their remittance transfer offerings such as by limiting the amount permitted per transfer, limiting transfers to certain trusted customers, or by exiting the remittance transfer business altogether.

Industry commenters also argued that the Bureau should not have adopted the approach taken in the 2012 Final Rule to sender error because it was not mandated by statute. One of these commenters opined that because the Dodd-Frank Act was not specific with respect to who must bear the cost of a mis-directed remittance transfer, the Bureau's legal authority to require remittance transfer providers to bear the cost of mistakes made by senders was questionable.

In contrast to comments from industry, consumer group commenters were divided on whether the Bureau should adopt the proposed exception for certain sender errors. Two consumer groups supported the proposed change because, they contended, the proposed rule achieved the appropriate allocation of risk between senders and remittance transfer providers and incentivized providers to minimize the occurrence of errors. These commenters also stated that it would be difficult for providers, particularly small providers, to retrieve funds sent to the wrong account. They further asserted that it would be difficult for providers, and particularly credit unions, to accuse their customers or members of fraud in order to avail themselves of the fraud exception in § 1005.33(a)(1)(iv)(C). As a result, these consumer group commenters argued that absent the proposed revision, many providers might choose to exit the remittance transfer business altogether, resulting in a loss of access to senders.

Other consumer groups opposed the proposed changes and urged the Bureau not to amend the 2012 Final Rule with respect to sender mistakes regarding account numbers that result in the loss of the transfer amount. First, some of these groups argued that the Bureau would be undermining the intent of Congress, which, they argued, was to motivate industry to change existing practices to develop more secure means of sending remittance transfers. By adopting the proposed exception, these commenters argued, the Bureau would eliminate any incentive for remittance transfer providers to develop enhanced security procedures. Relatedly, some consumer groups also argued that the existing definition of error in subpart A of Regulation E, specifically § 1005.11(a)(ii), already addresses the situation in which a consumer provides an incorrect recipient account number by creating an error for ''incorrect'' electronic fund transfers.[8] These commenters noted that insofar as § 1005.11(a)(ii) is phrased in general terms and refers to an ''incorrect electronic fund transfer'' by its plain language it does not exclude incorrect information provided by a consumer (or any other party). Insofar as § 1005.11(a)(ii) has long applied to a portion of remittance transfers, the commenters contended that had Congress intended to deny the protections of this provision to consumers, it would have done so more explicitly.

Finally, some consumer group commenters suggested that the Bureau should not adopt the proposed exception to the definition of error, even if the 2012 Final Rule would result in some remittance transfer providers exiting the market because they are unable to implement adequate verification procedures today. Alternatively, these commenters suggested that, in order to reduce the risk of market exit, that the Bureau could adopt the proposed revisions, but limit the proposed exception to the definition of error to transfers over a certain dollar amount so that senders of smaller transfers would still benefit from the error provisions in the 2012 Final Rule.

Upon consideration of these comments and further consideration and to facilitate compliance, the Bureau is finalizing § 1005.33(a)(1)(iv)(D) with several changes from the proposed provision, which are discussed below. As in the December Proposal, the exception as finalized will only apply if a remittance transfer provider can meet certain conditions including warnings to senders and use of reasonable validation methods where available. These conditions are set forth in § 1005.33(h) and also are discussed in detail below. Where the exception applies, providers will not be required to bear the cost of refunding or resending transfers if funds ultimately cannot be recovered.

As it noted in the December Proposal, the Bureau believes that this exception appropriately allocates risk based on remittance transfer providers' existing methods for sending transfers, which often do not allow for or facilitate verification of designated recipients' account numbers. The Bureau continues to believe it is important for industry to develop improved security procedures and expects to engage in a dialogue with industry about how to encourage the growth of improved controls and communication mechanisms. But the Bureau understands that industry is unlikely to be reasonably able to implement such changes in the near future. Subpart B of Regulation E does not regulate most recipient institutions, and the Bureau has concluded that individual providers, and particularly those sending transfers through open networks have limited ability to influence the practices of financial institutions worldwide in the short term.

Absent such changes, the Bureau is concerned that remittance transfer providers will exit the market or reduce remittance offerings rather than risk having to bear the cost of the entire transfer amount where funds are deposited into the wrong account due to the sender's provision of an incorrect account number. The Bureau believes such an interim disruption would not be in consumers' best interests, and thus has finalized the proposed exception as discussed below. The Bureau, however, will continue to evaluate the development of procedures as it monitors providers' implementation of and compliance with the 2013 Final Rule.

The Bureau disagrees with those consumer group commenters that the 2012 Final Rule should be allowed to take effect absent the proposed exception for sender account number mistakes, and that the Bureau should instead monitor whether the concerns summarized in the December Proposal—such as increased fraud and remittance transfer providers exiting the market—actually materialize. As stated above and in the December Proposal, the Bureau is concerned that absent the proposed change, some providers would severely curtail their offerings or withdraw from the remittance transfer business altogether, and such a market change could have a negative impact on senders. The Bureau also does not believe, as commenters suggested, that it

[8] Section 1005.11 of subpart A of Regulation E contains error resolution provisions for electronic fund transfers. Section 1005.11(a)(ii) states that a potential error under the rule is an ''incorrect electronic fund transfer to or from the consumer's account.''

is appropriate to limit the scope of the exception to larger value transfers, because doing so could potentially encourage providers to limit senders' access to smaller value transfers. In addition, the Bureau does not believe it appropriate to engage in line drawing or to provide differential protections in this circumstance. Furthermore, the Bureau disagrees that the proposed exception would harm senders in that the exception in many ways maintains the status quo insofar as the Bureau believes that, today, senders typically bear the loss when their mistake leads to a mis-deposit. Nor does the Bureau believe that the problem of senders losing the transfer amount is particularly widespread today; insofar as the status quo is maintained, the Bureau does not expect this to change. The Bureau's outreach confirmed that in most cases where there is a problem in the transmission of a remittance transfer, the provider is able to retrieve the funds or have them routed properly.

With regard to commenters' arguments about the Bureau's statutory authority, the Bureau disagrees both with industry participant and consumer group arguments that the EFTA or section 1073 of the Dodd-Frank Act specifies which party must bear the cost of a sender's mistake with respect to remittance transfer. Rather, EFTA section 919 gives the Bureau broad discretion to set standards for remittance transfer providers with respect to error resolution, including to define errors, and does not mandate a specific result with regard to which party should bear the risk of loss under any particular circumstances. Nor does the Bureau believe that the definition of error in subpart A of Regulation E, which does not apply to all remittance transfers, precludes the Bureau from adopting more specifically tailored error resolutions, and corresponding definitions, applicable to all remittance transfers under subpart B of Regulation E. *See also* § 1005.33(f). Accordingly, the Bureau has adopted the proposed exception for sender account number mistakes subject to specific conditions discussed below.

The Scope of the Sender Error Exception

As noted above the Bureau also sought comment on the scope of the proposed exception to the definition of error under § 1005.33(a)(1)(iv) and whether it should apply to incorrect information provided by senders in addition to designated recipients' account numbers and, in particular, whether the proposed exception should apply in cases in which senders make mistakes regarding routing numbers or similar institution identifiers in addition to mistakes regarding account numbers.

In response, many industry commenters suggested that the proposed exception be expanded to refer to sender mistakes regarding any information provided by a sender in connection with a remittance transfer rather than just mistaken account numbers, as proposed. Other commenters listed specific types of incorrect information that should be addressed by the exception to § 1005.33(a)(1)(iv), such as: Routing numbers, Business Identifier Codes (BICs), Society for Worldwide Interbank Financial Telecommunication codes (SWIFT codes), International Bank Account Numbers (IBANs), local bank codes, prepaid, debit or credit card account numbers, recipient institutions' names, designated recipients' names, escrow account numbers, currencies in which transfers will be received, incomplete wire instructions, and recipients' email addresses, phone numbers, and addresses. Commenters offered different reasons as to why the proposed exception should be expanded to include sender mistakes regarding each suggested type of information. In addition to considering these comments, the Bureau conducted additional outreach to understand the nature of errors related to the suggested types of information and why remittance transfer providers thought they should be included in any exception to an error under § 1005.33(a)(1)(iv) in the 2012 Final Rule.

Many of the industry commenters that urged that the proposed exception should be extended to all mistakes made by senders argued, as noted above, that there is no statutory basis to make remittance transfer providers bear the cost of all senders' mistakes. Relatedly, one commenter argued that no other consumer finance statute protects consumers from their own errors and that there is a distinction between allocating risk to a provider for mistakes by third parties, or where fault cannot be determined, and requiring providers to bear the cost of senders' mistakes.

As for the specific types of information provided by senders, nearly all industry commenters and some consumer group commenters favored expanding the proposed exception to apply to sender mistakes regarding routing numbers and other recipient institution identifiers. Commenters explained that for many remittance transfers into accounts, remittance transfer providers request, in addition to the number of the designated recipient's account, an alphanumeric identifier of the recipient institution, similar to the routing numbers used to identify depository institutions in the United States.[9] Providers, and any other intermediaries involved in the transfer, then use this identifier to determine the institution to which the transfer should be sent. Commenters further explained that, in many cases, a sender's mistake regarding the identifier of a bank could pose a similar problem for a provider as an incorrect account number. The commenters stated that, like account numbers, many providers lack the ability to verify the accuracy of alphanumerical identifiers related to recipient institutions that are provided by senders. If a recipient institution identifier is incorrect and the provider does not match it with an institution name, funds could conceivably be mis-deposited if the institution represented by the incorrect routing number has an account matching the number provided by the sender.

In addition to sender mistakes regarding account numbers and recipient institution identifiers, several commenters asked that the Bureau exclude from the definition of error under § 1005.33(a)(1)(iv) senders' mistakes regarding correspondent routing instructions (*i.e.,* if the sender suggests that the remittance transfer provider send the transfer through a particular correspondent that is unable to complete the transfer). Several commenters stated that generally this sort of mistake generally would lead to a delay of a transfer and not its mis-deposit into the wrong account.

Finally, several industry commenters argued that the proposed exception should be expanded to apply to senders' mistakes regarding designated recipients' names and information that the designated recipient themselves might need to apply the proceeds of remittance transfers after receipt. For example, a trade association commenter asked that the Bureau expand the proposed exception to include sender mistakes about additional information a designated recipient needs to process a transfer it receives. The commenter stated that if, for example, the designated recipient is an insurer, it might need the designated recipient's policy number to process the funds received. Similarly, one commenter stated that if a designated recipient is a property lessor, the lessor might need an identifying apartment number in order

[9] For example, in order to route a wire transfer to a foreign bank, a bank in the United States may require that the sender provide the name of the designated recipient and the recipient's institution as well as the BIC for the recipient's institution, and the recipient's account number.

to process a transfer that is a rent payment.

After careful consideration of the comments received and upon further consideration, the Bureau is expanding the exception to the definition of error in § 1005.33(a)(1)(iv)(D) to include situations where a sender has provided an incorrect recipient institution identifier in addition to situations where a sender provides an incorrect account number, as long as the error results in a mis-deposit of the funds and that the remittance transfer provider meets the conditions set forth in § 1005.33(h). As discussed below, the 2013 Final Rule includes as one such condition, that the provider use reasonably available means to verify the recipient institution identifier provided by the sender. *See* § 1005.33(h)(2).

Based on its monitoring of the remittance market, review of comment letters, and other outreach, the Bureau believes that situations in which an incorrect recipient institution identifier could result in a transfer being deposited into the wrong account are exceedingly rare but not unheard of. More typically, the Bureau understands, a mistaken identifier will result in a transfer that is returned to the remittance transfer provider because either the identifier does not match any institution or the account number does not match an account at the institution to which the transfer is mistakenly directed. Nevertheless, the Bureau is expanding the exception in the 2013 Final Rule beyond what was proposed because, upon further consideration, it believes that it is appropriate to treat mistakes in recipient institution identifiers similarly to mistakes in account numbers. The two types of identifiers are similar in purpose and, in some cases, are combined into one. In addition, these identifiers may not be easily verifiable by providers sending remittance transfers over an open network and are used in straight-through, automated processing of transfers. Additionally, although less likely than as with respect to account numbers, under the 2012 Final Rule an unscrupulous sender could potentially provide an incorrect routing number to perpetrate a fraud with a coconspirator abroad.

Contrary to requests by commenters that the Bureau extend the proposed exception for sender mistakes regarding account numbers to mistakes regarding all types of information, the Bureau is limiting the exception in § 1005.33(a)(1)(iv)(D) to sender mistakes regarding account numbers and recipient institution identifiers because it does not believe it is appropriate to extend the exception to all mistakes a sender might make in connection with a remittance transfer for several reasons. While the chance of mis-deposit is limited for all sender mistakes, the Bureau believes there is a greater risk for mistakes regarding account numbers and recipient institution identifiers. However, for most other types of sender mistakes identified by commenters, such as mistakes regarding the recipient's address or wire instructions, the Bureau does not believe that the incorrect information would usually result in a mis-deposit of a remittance transfer. Instead, the Bureau believes that these mistakes will at most result in a delay of delivery or in non-delivery of the remittance transfer. In situations where the recipient institution identifies a customer with the same name as the designated recipient but is unable to match that customer's name to the provided account number, the Bureau believes that the recipient institution will generally be unable to apply the funds and that the transfer will be returned or otherwise delayed but that the funds will not be mis-deposited.

The Bureau does not believe that it is warranted to extend the exception to those sender mistakes that are likely to result only in either a delay or a return of the transfer to the remittance transfer provider, and not the loss of funds, because the cost to the provider of delay or non-delivery differs markedly from the cost of lost transfers. Under the 2012 Final Rule, when a transfer is delayed or returned to the provider, the provider must refund its fee to the sender. *See* § 1005.33(c)(2)(ii). Additionally, when the transfer is returned to the provider, the sender can request that the transfer be resent at no charge (although third-party fees may be imposed on the resend) or have the transfer amount refunded. *See* § 1005.33(c)(2)(ii). The cost to the provider in these circumstances differs markedly from the cost to the provider under the 2012 Final Rule for a transfer that is mis-deposited into the wrong account and cannot be retrieved. When a mis-deposit occurs, absent an exception, the provider may have to resend or refund the entire transfer amount if the transfer could not be retrieved from the wrong account rather than merely refund its fee or send a transfer at no cost. *See* § 1005.33(c)(2)(ii) and comment 33(c)–2 in the 2012 Final Rule. Thus, for mis-deposited transfers, the fact that the provider is potentially at risk of having to absorb a loss of principal is far higher than for other types of errors and thus is far more likely to lead to a significant curtailment of services. Furthermore, the Bureau believes that, in many respects, the remedy under the 2012 Final Rule for non-delivery is similar to many providers' existing practices in that they now resend funds at no charge with the corrected information. Therefore, to maintain as an error sender mistakes that merely result in delay or non-delivery of the remittance transfer as part of this final rule would not require a significant adjustment for those providers. Finally, the 2012 Final Rule already allows providers a mechanism to manage uncertainty regarding the date of delivery of funds. *See* § 1005.31(b)(2)(ii) and comment 32(b)(2)–1 (interpreting § 1005.31(b)(2)(ii) to allow a provider to disclose the ''latest date on which funds will be available'').

Several industry commenters suggested that the Bureau should make senders, rather than providers, bear the costs of their own mistakes because no other consumer protection regimes makes the regulated entities bear the costs of consumers' mistakes. The Bureau does not think it is necessary or appropriate that the remittances rules' remedy provisions match perfectly those in other consumer protection regimes, given the unique statutory structure and nature of the transactions at issue. The Bureau is maintaining the 2012 Final Rule's error provisions regarding sender mistakes other than those covered by the exception in § 1005.33(a)(1)(iv)(D), because it believes providers are generally in the best position to institute systems to limit their occurrence and to work with other industry participants to resolve particular mistakes in transmissions.

With respect to those mistakes that are likely to result only in a delay or non-delivery of a remittance transfer (*e.g.,* mistakes other than those regarding account number or the recipient institution identifier), the Bureau believes that retaining the current rule, which does not include an exception for such mistakes, strikes the appropriate balance been protecting senders and encouraging providers to limit the incidence of such errors without exposing providers to the risk of loss of the transfer amount. With respect to those sender mistakes that make it impossible for the recipient (as opposed to the recipient institution) to know how to use the funds received (*e.g.,* an apartment number to apply a rent payment), the Bureau does not believe that such mistakes would give rise to an error under § 1005.33(a)(1)(iv). This is true because the 2013 Final Rule only does not define as an error the inability of the designated recipient to

timely apply the funds for a particular purpose once a transfer is received.

The Bureau also does not believe that a sender's provision of an incorrect name would result in an error under the 2013 Final Rule, and thus a sender's provision of an incorrect name need not be included in the exception from the term error under § 1005.33(a)(1)(iv)(D). As defined under § 1005.30(c), a designated recipient is ''any person specified by the sender as the authorized recipient of a remittance transfer to be received at a foreign country.'' As noted above, comment 30(c)–1 in the 2012 Final Rule stated that a designated recipient can be either a natural person or an organization, such as a corporation. The Bureau is further clarifying this comment in the 2013 Final Rule to explain that the designated recipient is identified by the name of the person provided by the sender to the remittance transfer provider and disclosed by the provider to the sender pursuant to § 1005.31(b)(1)(iii). *See* comment 30(c)–1. Thus, assume for example that a sender tells a remittance transfer provider to send a transfer to ''Jane Doe'' at a foreign bank, the provider discloses ''Jane Doe'' pursuant to § 1005.31(b)(2)(iii), and the transfer is timely deposited by that bank into Jane Doe's account. If the sender later asserts that an error occurred because the sender in fact intended the transfer to be sent to ''John Doe'' but had not communicated that to the provider, no error has occurred under the final rule because ''Jane Doe'' was the name of the designated recipient stated on the receipt provided to the sender.

In some cases, however, a sender's name can result in an error. If, for example, the recipient institution could not deliver the remittance transfer described above because no one named ''Jane Doe'' had an account at the recipient institution, or more than one person named ''Jane Doe'' had an account at that institution such that the funds could not be applied, the transfer would be delayed or rejected resulting in an error because the sender provided incorrect or insufficient information. Insofar as this would not lead to the deposit of the transfer in the wrong account, the Bureau is not inclined to include these mistakes in the exception.

Commenters also urged the Bureau to include in the exception to § 1005.33(a)(1)(iv) to mistakes regarding mobile phone numbers, email addresses, and debit, credit and prepaid card numbers, arguing that these additional categories of identifiers warrant the same treatment as those covered by proposed § 1005.33(a)(1)(iv)(D). Commenters supporting expansion of the exception to include these identifiers generally put forth the same reasons as those discussed above regarding account numbers and recipient institution identifiers. These commenters generally did not address the practical differences between transfers sent between bank accounts and those sent to other types of accounts.

The Bureau does not think it appropriate to extend the exception to § 1005.33(a)(1)(iv)(D) to these sorts of identifiers for several reasons. First, § 1005.31(b)(2)(iii) requires that a remittance transfer provider disclose the name of the designated recipient to the sender and comment 30(c)–1 now clarifies that the designated recipient is identified by the name of the person stated on the disclosure provided pursuant to § 1005.31(b)(1)(iii) regardless of what other identifying information that the sender may also have provided to the provider. Insofar as a provider must disclose the name of the designated recipient on the receipt provided to the sender, the provider is not permitted to process a remittance transfer under the 2013 Final Rule by only disclosing a non-name identifier, such as a card number, email address, or mobile number. To the extent providers currently send transfers without disclosing a name to the sender, they will not be able to continue doing so once the 2013 Final Rule takes effect.

Second, the Bureau believes that in the current market, only a small number of providers send remittance transfers to designated recipients who are identified by mobile phone numbers, email addresses, and debit, credit and prepaid card numbers. These providers are often conducting transfers between two of their own customers through a closed network, and thus are in position to verify designated recipients' identities. In other words, for transfers conducted through these closed-networks, both the sender and recipient will have agreed to sign on to the provider's network in order to send or receive funds. The Bureau understands that, today, a number of the providers using these identifiers may not verify that the identifier matches the name of the designated recipient in every instance. However, the Bureau believes that unlike providers using account numbers to identify designated recipients in transfers through the open network system, these providers have a reasonable ability to implement security measures in order to limit the possibility that senders make mistakes regarding designated recipients' mobile phone numbers, email addresses, and debit, credit and prepaid card numbers. These measures might include confirmation codes, test transactions, or other methods to prevent transfers from being sent to the wrong person.

Third, the Bureau believes that the systems are still limited and nascent for transfers in which the mobile phone numbers, email addresses, and debit, credit and prepaid card numbers are used to identify designated recipients and the transfer is not sent entirely over the remittance transfer provider's own network. As these systems grow, the Bureau expects that providers can proactively design systems in such a way as to allow for the development of better verification protocols. If, in the future, providers intend to develop new systems to allow transfers using only names and mobile phone numbers to identify designated recipients, for example, the Bureau believes that such systems should be designed to verify that the provided names and numbers match before recipients can receive transfers. The Bureau does not believe that such methods can be implemented for most transfers sent to bank accounts. As described above, such transfers are generally sent as wire transfers, through an open network system.

As noted, the Bureau has limited the exception in § 1005.33(a)(1)(iv)(D) to account numbers and recipient institution identifiers in order to encourage the growth of improved controls and communication mechanisms that may generally limit the possibility of other errors in the transmission of remittance transfers. Furthermore, the Bureau intends to monitor closely industry's ability to verify account numbers and recipient institution identifiers and will consider modifying this exception if it thinks such verification methods become reasonably available and are able to prevent most errors from occurring.

Comment 33(a)–7

In the December Proposal, the Bureau proposed comment 33(a)–7 to explain further when the proposed exception in § 1005.33(a)(1)(iv)(D) would apply. The Bureau received no comments on this proposed comment and it is adopted with minor clarifying changes in light of the conditions in § 1005.33(h) in the 2013 Final Rule, which are discussed further below. Comment 33(a)–7 in the 2013 Final Rule now states that the exception in § 1005.33(a)(1)(iv)(D) applies where a sender gives the remittance transfer provider an incorrect account number or recipient institution identifier and all five conditions in § 1005.33(h) are satisfied. The exception does not apply, however, where the

failure to make funds available is the result of a mistake by a provider or a third party or due to incorrect or insufficient information provided by the sender other than an incorrect account number or recipient institution identifier, such as an incorrect name of the recipient institution.

Comments 33(a)–8 and 33(a)–9

To clarify what the Bureau means by account number and recipient institution identifier, the Bureau is also adopting new comment 33(a)–8. Comment 33(a)–8 states that, for purposes of the exception in § 1005.33(a)(1)(iv)(D), the terms account number and recipient institution identifier refer to alphanumerical account or institution identifiers other than names or addresses, such as account numbers, routing numbers, Canadian transit numbers, ISO 9362 or 13616 codes (including International Bank Account Numbers (IBANs) and Business Identifier Codes (BICs)) and other similar account or institution identifiers. In addition, for purposes of this exception, the term designated recipient's account refers only to an account held in the recipient's name at a bank, credit union, or equivalent institution that maintains savings or checking accounts or accounts used for the purchase or sale of securities. An account for purposes of this definition is not limited to accounts held by consumers. For the reasons discussed above, the comment states that the term does not, however, refer to a credit card, prepaid card, or a virtual account held by an Internet-based or mobile phone company that is not a bank, credit union, or equivalent institution.

The Bureau proposed to renumber comment 33(a)–7 in the 2012 Final Rule as comment 33)(a)–8. Due to the addition of both comments 33(a)–7 and –8 in the 2013 Final Rule, this comment will be renumbered as comment 33(a)–9 but is otherwise unchanged from the 2012 Final Rule.

33(a)(2) Types of Inquiries and Transfers Not Covered

Section 1005.33(a)(2) and the accompanying commentary address circumstances that do not constitute errors under the 2012 Final Rule. Section 1005.33(a)(2)(iv) provides that an error does not include a change in the amount or type of currency stated in the disclosure provided to the sender under § 1005.31(b)(2) or (3), if the remittance transfer provider relied on information provided by the sender as permitted by the commentary accompanying § 1005.31 in making such disclosure. Comment 33(a)–8 of the 2012 Final Rule provides two illustrative examples.

The December Proposal would have made revisions to § 1005.33(a)(2)(iv) in accordance with the proposed revisions to §§ 1005.31(b)(1)(vi) and (vii) and the accompanying commentary to make clear that an error does not include a change in the amount of currency received by the designated recipient from the amount disclosed because the remittance transfer provider did not disclose foreign taxes other than those imposed by a central government. This proposed change would have been consistent with the proposed elimination of the requirement to disclose subnational taxes pursuant to proposed § 1005.31(b)(1)(vi). Insofar as the Bureau is not adopting this part of the proposal these proposed changes to § 1005.33(a)(1)(iii) are not being adopted in the 2013 Final Rule.

The Bureau also proposed revisions to renumber and revise comment 33(a)–8 in the 2012 Final Rule in light of the revisions proposed to § 1005.31(b)(1)(vi) and (vii) to explain that a remittance transfer provider need not disclose regional, provincial, state or other local foreign taxes. Proposed comment 33(a)–9 would have revised the comment to explain that a provider need not disclose regional, provincial, state or other local foreign taxes. The proposed revisions also would have made clear that where, under the proposal, a provider was permitted to rely on a sender's representations, no error would have occurred. As proposed, comment 33(a)–9 would additionally have explained that any discrepancy between the amount disclosed and the actual amount received resulting from the provider's reliance upon the proposed provision that would not have required the disclosure of subnational taxes would not constitute an error under § 1005.33(a)(2)(iv). Insofar as the Bureau is not adopting the proposed changes regarding subnational taxes, the proposed revisions to the comment are no longer relevant and are not being adopted. The Bureau is, however, removing language from comment 33(a)–8 that referred to a provider's reliance on the sender's representations regarding variables that affect the amount of taxes imposed by a person other than the provider because such taxes are no longer required to be disclosed. The comment is finalized as comment 33(a)–10. In the 2013 Final Rule comment 33(a)–10 states that under the commentary accompanying § 1005.31, the remittance transfer provider may rely on the sender's representations in making certain disclosures. *See, e.g.,* comments 31(b)(1)(iv)–1 and 31(b)(1)(vi)–1. For example, suppose a sender requests U.S. dollars to be deposited into an account of the designated recipient and represents that the account is U.S. dollar-denominated. If the designated recipient's account is actually denominated in local currency and the recipient account-holding institution must convert the remittance transfer into local currency in order to deposit the funds and complete the transfer, the change in currency does not constitute an error pursuant to § 1005.33(a)(2)(iv).

33(c) Time Limits and Extent of Investigation

33(c)(2) Remedies

Section 1005.33(c)(2) of the 2012 Final Rule implements EFTA section 919(d)(1)(B) and establishes procedures and remedies for correcting an error under the rule. In particular, where there has been an error under § 1005.33(a)(1)(iv) for failure to make funds available to a designated recipient by the disclosed date of availability, § 1005.33(c)(2)(ii) of the 2012 Final Rule permits a sender to choose either to: (1) Obtain a refund of the amount tendered in connection with the remittance that was not properly transmitted, or an amount appropriate to resolve the error; or (2) have the remittance transfer provider resend to the designated recipient the amount appropriate to resolve the error, at no additional cost to the sender or designated recipient. *See* § 1005.33(c)(2)(ii)(A). However, if the error resulted from the sender having provided incorrect or insufficient information, § 1005.33(c)(2)(ii)(A)(*2*) permits third-party fees to be imposed for resending the remittance transfer with the corrected information although the provider may not charge its own fee again. In addition, comment 33(c)–2 explains that § 1005.33(c)(2) requires a remittance transfer provider to resend a transfer at the exchange rate it is using on the date of resend if funds were not already exchanged in the first unsuccessful remittance transfer attempt. Comment 33(c)–2 in the 2012 Final Rule also explains that the provider was required to disclose this new exchange rate to senders in accordance with § 1005.31.

The December Proposal would have allowed for additional flexibility in providing the required disclosures when funds are resent following errors that occurred because the sender provided incorrect or insufficient information. The December Proposal was intended to address concerns expressed by industry participants that the approach taken in

the 2012 Final Rule created certain operational tensions between the timing and accuracy provisions in § 1005.31(e) and (f), as referenced in comments 33(c)–2, 33(c)–3, and 33(c)–4, which together did not allow a remittance transfer provider to resend a transfer in some circumstances without contacting the sender because the sender either previously requested that the transfer be resent or the provider is employing its default remedy, which is to resend the transfer.

To reduce this tension, the December Proposal would have created a new § 1005.33(c)(3), revised comment 33(c)–2 and added a new comment 33(c)–11. Proposed § 1005.33(c)(3) would have provided new remedy procedures for errors that occurred pursuant to § 1005.33(a)(1)(iv) where a sender provides incorrect or insufficient information. These proposed procedures would have allowed remittance transfer providers to provide oral, streamlined disclosures. The proposed commentary would have made clear that providers need not treat resends of remittance transfers as entirely new remittance transfers. Under proposed § 1005.33(c)(3)(i), a provider would have been able to set a future date of transfer and to disclose an estimated exchange rate pursuant to § 1005.32(b)(2) if the provider did not make direct contact with the sender. If a provider had disclosed an estimated exchange rate under proposed § 1005.33(c)(3)(i), the rule would have required the sender to disclose the cancellation period pursuant to § 1005.36(c), as well as the date the provider will complete the resend, using the term ''Transfer Date'' or a substantially similar term. A sender would have been allowed to cancel the resend up to three business days before the date of transfer. In the alternative, proposed § 1005.33(c)(3)(ii) would have required a provider that made direct contact with the sender to disclose and apply the exchange rate used for remittance transfers on the date of resend, rather than providing an estimate.

Under § 1005.33(c)(2)(ii)(A)(*2*) of the 2012 Final Rule, a remittance transfer provider could impose third-party fees, but not include taxes, for resending the remittance transfer when an error occurred because the sender provided incorrect or insufficient information. Separately, the 2012 Final Rule did not state expressly whether a provider should be permitted to deduct third-party fees imposed or taxes collected on a remittance transfer when a transfer is returned from an institution abroad, following a failed delivery, to the provider before being resent or refunded. In the December Proposal, the Bureau also sought comment on whether the provider should be permitted to impose taxes incurred when resending funds or, more generally, whether other remedies were appropriate with respect to fees and taxes.

With respect to the appropriate remedy for errors that occurred because a sender provided incorrect or insufficient information, industry commenters generally stated that they appreciated the Bureau's attempt to revise the resend procedures in the 2012 Final Rule. However, those who commented on this issue stated that the Bureau's proposed approach was too complicated because proposed § 1005.33(c)(3) required disclosures with distinct content, timing and accuracy requirements that did not necessarily apply to other disclosures required by the 2012 Final Rule, particularly if the provider was not otherwise providing the disclosures unique to transfer scheduled before the date of transfer. *See* § 1005.36(a). As a result, these commenters contended that the new requirements would necessitate the development of additional disclosures, systems changes, and additional employee training. Commenters asserted that proposed § 1005.33(c)(3) would be difficult, costly, and time-consuming to implement and that they had concerns about the compliance costs and operation challenges posed by this part of the December Proposal. Instead, several industry trade association commenters suggested an alternative approach, under which a remittance transfer provider would provide notice that the sender provided incorrect or insufficient information in connection with a remittance transfer, that funds had been credited (at the current exchange rate) to the sender's account, and that the sender should notify the provider if the sender wished to initiate a new remittance transfer. Commenters argued that this approach would simplify the remedy in situations where an error occurs due a sender's mistake.

Commenters further suggested that the Bureau should not allow a sender to designate a resend remedy prior to the remittance transfer provider's investigation of the error, permitted under § 1005.33(c)(2) as explained by comment 33(c)–2. Instead, regardless of the sender's prior remedy election, the commenters advocated requiring the sender to elect affirmatively to resend funds after the provider completed its investigation and the sender received notice of that investigation and the related refund.

As for the amount appropriate to refund or resend, industry commenters generally urged the Bureau to revise the 2012 Final Rule so that remittance transfer providers are permitted to deduct from the amount refunded or resent the fees imposed or taxes collected on the first unsuccessful transfer by a party other than the provider both when the transfer was initially sent and when it was returned to the provider. These commenters contended that it was unfair that providers would also have to refund to senders any amounts actually deducted from the transfer amount when a mis-delivered transfer is returned to the provider (*i.e.,* lifting fees and taxes deducted from the transfer amount in the process of returning the funds to the provider in the United States after the failed delivery of the initial transaction).

Based on comments received and upon further consideration, the Bureau adopts new § 1005.33(c)(2)(iii), which states that in the case of an error under § 1005.33(a)(1)(iv) that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall refund to the sender the amount of funds provided by the sender in connection with the remittance transfer that was not properly transmitted, or the amount appropriate to resolve the error, within three business days of providing the report required by § 1005.33(c)(1) or (d)(1) except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund. The provider may deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt.

The Bureau is adopting this approach because it has concluded that for the small number of transactions to which these provisions would likely apply, the Bureau's proposed alternative to the 2012 Final Rule's approach could be complicated for remittance transfer providers to implement. The Bureau is adopting the revised provision in § 1005.33(c)(2)(iii) rather than in § 1005.33(c)(3), as originally proposed, because the Bureau believes it more appropriate to put all remedies for errors arising under § 1005.33(a)(1)(iv) under subsection § 1005.33(c)(2). Accordingly, the Bureau is revising §§ 1005.33(c)(2) and (c)(2)(ii) to make

clear that these provisions only apply when an error did not occur because the sender provided incorrect or insufficient information. Similarly, the Bureau is also revising §§ 1005.33(c)(2)(A)(*2*) and (c)(2)(B) to remove references to situations in which an error occurred because the sender provided incorrect or insufficient information. The provision that was § 1005.33(c)(2)(iii) in the 2012 Final Rule is finalized as § 1005.33(c)(2)(iv) with no substantive changes.

Specifically, the Bureau is adopting this new approach because of the challenges associated with both resending a transfer at a new exchange rate and timely disclosing such rate to the sender. The Bureau is convinced by commenters' assertions that the Bureau's attempts to make disclosures more streamlined and reduce the number of paper disclosures provided could potentially increase the cost of compliance for remittance transfer providers, by necessitating changes in disclosures and procedures. Furthermore, the Bureau believes that the new § 1005.33(c)(2)(iii) will preserve the 2012 Final Rule's protections for senders in event of a resend that follows an error that occurred due to a sender's mistake.

Although commenters suggested that an alternative where funds could be credited instantly to a sender's account, not all remittance transfers are made from an account. In some cases, a sender may not receive notice immediately or the sender would have to wait to resend funds until receiving the refund check. *See* comment 33(c)–6. As adopted, under § 1005.33(c)(2)(iii) in the 2013 Final Rule, in situations where a sender wants to resend the transfer, the sender would have to make a request to the remittance transfer provider after receipt of the error investigation report and the provider would treat the remittance transfer as a new remittance transfer request subject to the same disclosures and other procedures as any other new transfer requested. The transaction would be subject to applicable fees and taxes and processed at the exchange rate in effect at the time the sender authorizes the new transfer.

Additionally, the Bureau agrees with commenters that it is not appropriate, in situations where funds are returned because of a sender's mistake, for the remittance transfer provider to have to bear the cost of fees imposed by third parties and taxes that have been collected in connection with the unsuccessful remittance transfer and, if applicable, when the undelivered funds are returned to the provider.

Finally, although the Bureau had also sought comment on the exchange rate that should apply when transfers are resent following an error that occurred because the sender provided incorrect or insufficient information, that issue is largely moot insofar as the 2013 Final Rule requires these transactions to be treated as new remittance transfers. As explained by comment 33(c)–2 in the 2012 Final Rule, if a remittance transfer was to be resent because an error occurred following a sender's mistake, the original exchange rate applied to the resend of the transfer. Thus, the recipient would have received the same amount and type of currency that the sender had provided to fund the transfer. Industry commenters generally had argued that a sender should not benefit from an exchange rate that has changed in the sender's favor due to an error that occurred because of the sender's mistake and thus the same exchange rate that applied to the original transfer should apply to the resent transfer. Insofar as the Bureau is revising the remedy in the 2013 Final Rule for errors that occurred because of a sender's mistake, if a sender chooses to resend a remittance transfer under the revised rule and the remittance transfer provider agrees, the remittance transfer will be treated as a new remittance transfer, and thus the exchange rate used for transfers on the date of resend will necessarily apply to it. Insofar as providers are concerned with the exchange rate used when funds are refunded to the sender in the original currency, the Bureau believes it appropriate to maintain the originally disclosed exchange rate insofar as the refund should put the parties in the same position they were in prior to the transfer, less the taxes and fees that the provider may deduct.

Revisions to the Official Interpretations of § 1005.33(c)(2)

As noted above, in the December Proposal, the Bureau proposed to modify comment 33(c)–2 to eliminate a phrase stating that requests to resend (following an error that occurred because the sender provided incorrect or insufficient information) are considered requests for remittance transfers. Relatedly, proposed comment 33(c)–11 would have clarified how to provide the disclosures required by proposed § 1005.33(c)(3). Insofar as resends, as they existed in the 2012 Final Rule, will no longer be permitted as remedies for errors pursuant to § 1005.33(a)(1)(iv) where a sender provided incorrect or insufficient information, the Bureau is not adopting these proposed revisions to comment 33(c)–2. The December Proposal also would have revised comment 33(c)–2 to correspond with the proposed exception in § 1005.33(a)(1)(iv)(D) by removing the comment's reference to senders' mistakes about an account number and to make clear that no error would have occurred in this situation if the remittance transfer provider satisfied the requirements of proposed § 1005.33(h). The Bureau received no comments regarding the specific amendments to proposed § 1005.33(c)(2) and comment 33(c)–2, with respect to the proposed adjustments necessary to correspondent to the proposed exception in § 1005.33(a)(1)(iv)(D). Consequently, those portions of proposed comment 33(c)–2 are adopted as proposed with some alterations to improve clarity.

Comment 33(c)–2, as finalized in the 2013 Final Rule, now states that the remedy in § 1005.33(c)(2)(iii) applies if a remittance transfer provider's failure to make funds in connection with a remittance transfer available to a designated recipient by the disclosed date of availability occurred because the sender provided incorrect or insufficient information in connection with the transfer, such as by erroneously identifying the designated recipient's address or by providing insufficient information such that the entity distributing the funds cannot identify the correct designated recipient. A sender is not considered to have provided incorrect or insufficient information for purposes of § 1005.33(c)(2)(iii) if the provider discloses the incorrect location where the transfer may be picked up, gives the wrong confirmation number/code for the transfer, or otherwise miscommunicates information necessary for the designated recipient to pick-up the transfer. The remedies in § 1005.33(c)(2)(iii) do not apply if the sender provided an incorrect account number or recipient institution identifier and the provider has met the requirements of § 1005.33(h) because under § 1005.33(a)(1)(iv)(D) no error would have occurred. *See* § 1005.33(a)(1)(iv)(D) and comment 33(a)–7.

The Bureau is also adopting a new comment 33(c)–11, which reflects the new refund procedure, and which replaces language regarding resends from comment 33(c)–2. As revised in the 2013 Final Rule, comment 33(c)–11 states that § 1005.33(c)(2)(iii) generally requires a remittance transfer provider to refund the transfer amount to the sender even if the sender's previously designated remedy was a resend or if the provider's default remedy in other

circumstances is a resend. However, if before the refund is processed, the sender receives notice pursuant to § 1005.33(c)(1) or (d)(1) that an error occurred because the sender provided incorrect or insufficient information and then requests that the provider send the remittance transfer again, and the provider agrees to that request, § 1005.33(c)(2)(iii) requires that the request be treated as a new remittance transfer and the provider must provide new disclosures in accordance with § 1005.31 and all other applicable provisions of subpart B. However, § 1005.33(c)(2)(iii) does not obligate the provider to agree to a sender's request to send a new remittance transfer.

Section 1005.33(c)(2)(iii), as adopted in the 2013 Final Rule, applies in situations where an error occurs because the sender provided incorrect or insufficient information, and overrides provisions that generally permit both a sender's prior selection of a resend remedy, *see* comment 33(c)–3, and a remittance transfer provider's designation of a default remedy, *see* comment 33(c)–4, where that default is to resend a transfer. Accordingly, the Bureau is revising comments 33(c)–3 and –4.

As to comment 33(c)–3 in the 2012 Final Rule, which explains how a sender designates a preferred remedy insofar as the revisions to § 1005.33(c)(2) will no longer allow a sender to designate a remedy (or will nullify a designation of a resend remedy prior to the conclusion of an investigation) when an error occurs because the sender provided incorrect or insufficient information, the portion of the comment discussing advance designation of a remedy is revised in the 2013 Final Rule. Comment 33(c)–3 now states, like the 2012 Final Rule, that the provider may also request that the sender indicate the preferred remedy at the time the sender provides notice of the error. However, as finalized, the comment states that if the provider does so, it should indicate that if the sender chooses a resend at that time, the remedy may be unavailable if the error occurred because the sender provided incorrect or insufficient information. This will prevent senders from being confused as to why they did not receive their requested remedy. However, if the sender does not indicate the desired remedy at the time of providing notice of error, the provider must notify the sender of any available remedies in the report provided under § 1005.33(c)(1) or (d)(1) if the provider determines an error occurred.

Similarly, the Bureau is revising comment 33(c)–4 to explain that a remittance transfer provider's default remedy is overridden by the requirements of § 1005.33(c)(2)(iii), which sets forth a specific remedy that applies when an error occurs because a sender provides incorrect or insufficient information. The Bureau is also making conforming changes to comment 33(c)–5 to reflect the renumbering in § 1005.33(c)(2).

Finally, in light of the changes described above to § 1005.33(c)(2)(ii), the Bureau is adopting new comment 33(c)–12, which provides guidance on how a remittance transfer provider should determine the amount to refund to the sender, or to apply to a new transfer, pursuant to § 1005.33(c)(2)(iii). Comment 33(c)–12 explains that although § 1005.33(c)(2)(iii) permits the provider to deduct from the amount refunded, or applied towards a new transfer, any fees or taxes actually deducted from the transfer amount by a person other than the provider as part of the first unsuccessful remittance transfer attempt or that were deducted in the course of returning the transfer amount to the provider following a failed delivery. However, a provider may not deduct those fees and taxes that will ultimately be refunded to the provider. When the provider deducts fees or taxes from the amount refunded pursuant to § 1005.33(c)(2)(iii), the provider must inform the sender of the deduction as part of the notice required by either § 1005.33(c)(1) or (d)(1) and the reason for the deduction. Comment 33(c)–12 also contains several illustrative examples.

33(h) Incorrect Account Number Provided by the Sender

Proposed § 1005.33(h) contained several conditions that a remittance transfer provider would have been required to satisfy in order to benefit from the proposed exception in § 1005.33(a)(1)(iv)(D). Specifically, proposed § 1005.33(h)(1) through (4) would have provided four conditions, including: That the provider be able to demonstrate that the sender did in fact provide an incorrect account number, that the provider gave the sender notice that if the sender provided an incorrect account number that the transfer could be lost, that the incorrect account number resulted a deposit of the transfer into the wrong account, and that the provider used reasonable efforts to attempt to retrieve the mis-deposited funds.

In response to proposed § 1005.33(h), many industry commenters sought more specificity in the conditions, especially with respect to the form of notice required to inform senders that the transfer amount could be lost, what would satisfy as a reasonable effort to retrieve lost funds, and the timeframe in which such efforts would be deemed prompt. Other industry participants, however, supported the generality in the proposed conditions because the commenters believed that the conditions provided flexibility and accommodated existing practice. In addition, some industry commenters expressed concern with the proposed condition that funds actually be mis-deposited into the wrong account for the proposed exception to apply. These commenters argued that often it is difficult for remittance transfer providers to know whether funds have in fact been mis-deposited. The Bureau has considered these comments and is finalizing the rule with five conditions in § 1005.33(h)(1) through (5), each of which is discussed below.

Generally speaking, the Bureau believes that the conditions set forth in § 1005.33(h) are consistent with industry best practices today and will provide further incentive to continue improving safeguards against mis-deposit over time. Where a remittance transfer is deposited into the wrong account today, the Bureau believes that many, if not most, providers already attempt to recover the principal amount of the transfer. However, because providers have reported that they often do not have direct relationships with receiving institutions, and that in some instances those institutions may be unresponsive to requests for assistance, providers may face difficulties in recovering funds from the wrong account. The Bureau believes that, in many instances, to reverse these transactions requires the accountholder to authorize a debit from the account and, thus, the lack of this authority may prohibit a recipient institution from debiting the account in the amount of the incorrect deposit absent an authorization. Relatedly, a provider in the United States may be able to do little to assist the foreign institution in its attempt to persuade its accountholder to provide debit authorization due to the lack of privity between the provider and the recipient institution or the accountholder.

Thus, the 2013 Final Rule strikes an appropriate balance by limiting the exception in § 1005.33(a)(1)(iv)(D) to circumstances of actual mis-deposits and by requiring reasonable verification methods, without holding remittance transfer providers responsible for circumstances beyond their control.

33(h)(1)

Proposed § 1005.33(h)(1) would have required that a remittance transfer provider be able to demonstrate that the sender provided an incorrect account number in connection with the remittance transfer. The Bureau explained that it did not believe that this proposed condition represented a substantial change from the 2012 Final Rule, which incentivized providers to document whether the sender had provided inaccurate information in order to invoke the right to charge certain related fees in connection with a resent transaction. *See* § 1005.33(c)(2)(ii)(A)(*2*) in the 2012 Final Rule. The Bureau received no comments specific to this proposed condition. Accordingly, proposed § 1005.33(h)(1) is adopted substantially as proposed, except that it is expanded to apply both to account numbers and recipient institution identifiers, as discussed above. The comment is also revised to make clear that the provider must be able to demonstrate that the sender provided the incorrect account number or recipient institution identifier, language that was in proposed § 1005.33(h).

33(h)(2)

In the December Proposal, the Bureau noted that typically remittance transfer providers have no means to verify whether a sender provided account number for the designated recipient is accurate. Thus, the Bureau did not propose, as a condition of the proposed exception in § 1005.33(a)(1)(iv)(D), that providers verify account numbers before sending a remittance transfer to an account. However, and as noted above, the Bureau is expanding the exception to § 1005.33(a)(1)(iv) to include senders' mistakes regarding recipient institution identifiers, as well as mistakes regarding account numbers.

In response to the Bureau's request for comment on sender mistakes generally, some industry commenters acknowledged that, in some instances, institution identifier information provided by senders may be at least partially verifiable. Foremost among these are BICs (sometimes referred to as SWIFT codes) and other recipient institution identifiers. Commenters noted, however, that verification is neither ubiquitous nor perfect. Several consumer group commenters argued, on the other hand, that the Bureau should not expand the exception to mistakes regarding recipient institution identifiers because remittance transfer providers should be able to verify such identifiers.

As a result of the Bureau's inclusion of recipient institution identifiers in the exception to the definition of error under § 1005.33(a)(1)(iv)(D), the Bureau is adopting new § 1005.33(h)(2), which provides that for any instance in which the sender provided the incorrect recipient institution identifier, prior to or when sending the transfer, the provider used reasonably available means to verify that the recipient institution identifier provided by the sender corresponded to the recipient institution name provided by the sender.

As adopted, § 1005.33(h)(2) will permit remittance transfer providers to rely on the exception in § 1005.33(a)(1)(iv)(D) only in situations where no reasonable verification is possible or where reasonably available means were applied but were unable to prevent a mis-deposit that occurred because the sender provided an incorrect recipient institution identifier. The exception does not apply to account number mistakes insofar as the Bureau continues to believe that no reasonable means to verify that an account number matches the name of the designated recipient disclosed to the sender exists today for most transfers. The Bureau will continue to monitor whether expansion of the condition is appropriate. Furthermore, § 1005.33(h)(2) requires that the verification occur prior to or when the provider is sending the transfer because if the verification occurs later it may be too late to prevent a mis-deposit.

The Bureau is adopting new comment 33(h)–1, which explains that the exception in § 1005.33(a)(1)(iv)(D) applies only when a sender provides an incorrect recipient institution identifier, § 1005.33(h)(2) limits the exception in § 1005.33(a)(1)(iv)(D) to situations where the provider used reasonably available means to verify that the recipient institution identifier provided by the sender did correspond to the recipient institution name provided by the sender. Reasonably available means may include accessing a directory of Business Identifier Codes and verifying that the code provided by the sender matches the provided institution name, and, if possible, the specific branch or location provided by the sender. Comment 33(h)–1 explains that providers may also rely on other commercially available databases or directories to check other recipient institution identifiers. If reasonable verification means fail to identify that the recipient institution identifier is incorrect, the exception in § 1005.33(a)(1)(iv)(D) will apply, assuming that the provider can satisfy the other conditions in § 1005.33(h). Similarly, if no reasonably available means exist to verify the accuracy of the recipient institution identifier, § 1005.33(h)(2) would be satisfied and thus the exception in § 1005.33(a)(1)(iv)(D) also will apply, again assuming the provider can satisfy the other conditions in § 1005.33(h). However, where a provider does not employ reasonably available means to verify a recipient institution identifier, § 1005.33(h)(2) is not satisfied and the exception in § 1005.33(a)(1)(iv)(D) will not apply.

The Bureau is adopting this provision because upon further consideration, it concludes that if remittance transfer providers want to avail themselves of the exception to § 1005.33(a)(1)(iv) for mistakes regarding recipient institution identifiers, they must take reasonable steps to limit the occurrence of these mistakes. The Bureau believes that, in many instances providers can and currently do verify the accuracy of some identifiers, and that in many other instances verification is not feasible. For example, many providers require, and senders provide, BICs to identify recipient institutions. Providers, or their third-party partners, typically have access to a directory in which they can match the BIC with the institution name (and possibly location), and the Bureau believes many providers (or their business partners) perform such verifications today. The Bureau also recognizes, however, that some providers may not conduct such verification. In other instances, precise verification that the sender has identified the proper institution may be challenging, particularly if a recipient institution has no BIC code or other type of identifier for which there is an internationally accessible directory, or if a sender has not given all the information about the recipient institution that may be reflected in a numerical identifier, such as the branch location.[10] The Bureau believes the requirement appropriately requires verification where such mechanisms are reasonable available.

Finally, the Bureau notes that it intends to monitor the availability of other means to verify account numbers and recipient institution identifiers and it may propose to revise § 1005.33(a)(1)(iv)(D) and (h)(2) and the related commentary if such means become reasonably available.

[10] See *http://www.swift.com/products_services/bic_and_iban_format_registration_bic_details.*

33(h)(3)

Proposed § 1005.33(h)(2) would have required a remittance transfer provider to demonstrate that the sender had notice that, if the sender provided an incorrect account number, the sender could lose the transfer amount. Although the Bureau did not propose a specific form of notice under proposed § 1005.33(h)(2), it requested comment on whether the Bureau should specify the form of the notice and when and how such notice should be delivered.

Industry commenters were largely divided on whether the Bureau should provide specific form and content instructions for the required notice. However, no commenter objected to the basic requirement of notice, and several commenters affirmatively agreed that notice would be beneficial. Those commenters who preferred that the Bureau specify a specific form for the required notice, including several smaller depository institutions, argued that model language provided by the Bureau would ease their compliance burden, particularly if there were a safe harbor for its use. Those commenters who preferred the flexibility of the proposed notice provisions argued that remittance transfer providers may already provide this sort of notice in a number of different forms. To require, or encourage through a safe harbor, specific model language or a form, these commenters contended, would cause remittance transfer providers to incur additional compliance costs as they would be required to alter existing forms and practices to match whatever the Bureau has established. In addition, these commenters argued, providers would need additional time to comply with this final rule if they were required to use specific language to provide the proposed notice.

Several consumer group commenters argued that the proposed notice should be provided in a clear and conspicuous manner and in the same language that the rest of the transfer is conducted. These commenters urged the Bureau to adopt a notice that comports with the clarity and language requirements of similar disclosures in other consumer statutes.

The Bureau adopts proposed § 1005.33(h)(2) with three changes as § 1005.33(h)(3). New § 1005.33(h)(3) provides as a condition of § 1005.33(a)(1)(iv)(D) exception, a requirement that the remittance transfer provider provided notice to the sender before the sender made payment for the remittance transfer that, in the event the sender provided an incorrect account number or recipient institution identifier, the sender could lose the transfer amount. The provision also provides that for purposes of providing the § 1005.33(h)(3) notice, § 1005.31(a)(2) applies to this notice unless the notice is given at the same time as other disclosures required by subpart B for which information is permitted to be disclosed orally or via mobile application or text message, in which case this disclosure may be given in the same medium as the other disclosures

This provision reflects three changes from the December Proposal: (1) Mention of recipient institution identifiers in light of the expanded scope of § 1005.33(a)(1)(iv)(D); (2) clarification that the notice must be provided before the sender authorizes the remittance transfer; (3) clarification that this notice may be given orally if provided along with a prepayment disclosure provided orally in accordance with § 1005.31(a)(2).[11] The Bureau believes that the requirement that the notice be provided before authorization of the transfer is generally in accordance with how most providers currently provide notice today and thus should not be a significant change from existing practice. The 2013 Final Rule does not specify the form of such notice but the Bureau intends to monitor how providers implement this condition to determine whether additional specificity is appropriate.

The Bureau notes that, pursuant to the revisions to § 1005.31(a)(1) discussed above, the notice provided pursuant to § 1005.33(h)(3), like all disclosures required by subpart B of Regulation E, in § 1005.33(h)(3) must be clear and conspicuous. *See also* comment 33(a)(1)–1. In addition, insofar as the Bureau has also amended the foreign language requirements of § 1005.31(g) to apply to all disclosures permitted by the 2013 Final Rule, the notice permitted by § 1005.33(h)(3) must be disclosed in accordance with the foreign language disclosure requirements of § 1005.33(g)(1).

As explained in the December Proposal, the Bureau's goal is to ensure that senders are informed of the risks of a mistake. Given that many remittance transfer providers are already providing notices of this risk through various means, the Bureau wants to ensure that the practice is adopted across the remainder of the industry while minimizing the need to change existing notices if they were already sufficient for the purposes of proposed § 1005.33(h)(2). While the Bureau understands that providing model language might make compliance easier for some providers, the Bureau believes that there are sufficient models available in providers' existing materials that it is inappropriate to delay adoption of this condition while the Bureau designs and tests appropriate model language.

33(h)(4)

Proposed 33(h)(3) would have stated that for a remittance transfer provider to avail itself of the exception in proposed § 1005.33(a)(1)(iv)(D), the provider would be required to demonstrate that the incorrect account number resulted in the deposit of the remittance transfer into a customer's account that is not the designated recipient's.

The Bureau received a number of comments from industry commenters and some consumer group commenters encouraging the Bureau to eliminate this proposed condition. These commenters stated that even if funds are not deposited into another customer's account, other forms of improper routing due to erroneous information provided by a sender could cause transferred funds to be lost or, at the very least, delayed beyond the original date of availability. Other consumer group commenters disagreed, however, asserting that, in their opinion, remittance transfer providers typically can retrieve funds that have been misrouted unless the funds are deposited into the wrong customer's account. These consumer group commenters opined that so long as the funds remain in an institution's control, there is generally no concern that those funds will disappear.

The Bureau is adopting proposed § 1005.33(h)(3) substantially as proposed as § 1005.33(h)(4). The Bureau believes, as stated in the December Proposal, that when a remittance transfer is sent with the wrong account number for the designated recipient, a remittance transfer provider will be far more likely to recover the funds in situations where the funds are either rejected by another institution or otherwise reversed before they are deposited into the wrong account. To the extent that commenters' concerns related to the delay of funds rather than their disappearance, as noted above, the Bureau declines to expand the exception in § 1005.33(a)(1)(iv)(D) to cover delayed transfers rather than actual mis-deposited transfers.

33(h)(5)

Proposed 33(h)(4) would have required a remittance transfer provider

[11] Section 1005.31(a)(2) generally requires disclosures required by subpart B of Regulation E to be in writing. The provision makes exceptions for pre-payment disclosures, which may be provided electronically.

to promptly use reasonable efforts to recover the amount that was to be received by the designated recipient. Proposed comment 33(h)–1 would have clarified how a provider might use reasonable efforts to recover funds. The Bureau received several comments on the proposed provision and associated commentary.

Several industry commenters and consumer groups agreed with this proposed condition. These commenters approved of its flexibility and one industry commenter noted that it was in accordance with its preexisting practice, which is to exercise best efforts to recover missing funds. Two other commenters—a trade association and credit union—asked that the Bureau provide more explanation regarding the timeframe to meet the promptness requirement and the number of attempts to recover the funds required. These commenters were concerned that the lack of clarity would invite litigation as to whether a particular remittance transfer provider's efforts were in fact reasonable and prompt.

Finally, one commenter asked that the Bureau clarify that a recipient institution, even if also the remittance transfer provider, not be required to debit an account that has a zero balance. In other words, this commenter sought clarity on whether it would be required to advance funds on behalf of a customer if that customer has withdrawn the transfer amount from the customer's account. The Bureau does not believe clarification on this point is necessary, insofar as nothing in the 2013 Final Rule states that a provider is required to advance funds that the recipient institution cannot retrieve from a customer if the exception in § 1005.33(a)(1)(iv)(D) applies. Rather, the 2013 Final Rule has the opposite intent—the exception is intended to apply when funds cannot be retrieved.

Accordingly, the Bureau is finalizing proposed § 1005.33(h)(4) substantially as proposed as § 1005.33(h)(5). The Bureau continues to believe—as it explained in the December Proposal—that it is not appropriate to mandate specific methods that a remittance transfer provider must use to attempt to recover funds. The Bureau believes the circumstances around individual transfers can vary greatly and that what may be reasonable in one circumstance may be unreasonable in another.

In addition, the Bureau is adopting proposed comment 33(h)–1 substantially as proposed as comment 33(h)–2 with minor revisions to improve clarity and to replace one of the proposed examples. The Bureau is also incorporating proposed comment 33(h)–1.iii to comment 33(h)–1, which now states that § 1005.33(h)(5) requires a remittance transfer provider to use reasonable efforts to recover the amount that was to be received by the designated recipient. Whether a provider has used reasonable efforts does not depend on whether the provider is ultimately successful in recovering the amount that was to be received by the designated recipient. Under § 1005.33(h)(5), if the remittance transfer provider is requested to provide documentation or other supporting information in order for the pertinent institution or authority to obtain the proper authorization for the return of the incorrectly credited amount, reasonable efforts to recover the amount include timely providing any such documentation to the extent that it is available and permissible under law. The two examples in proposed comments 33(h)–1.i and .ii are finalized as proposed as comments 33(h)–2.i. and .ii.

Proposed comment 33(h)–2 would have explained that the proposed condition requires a remittance transfer provider to act promptly in using reasonable efforts to recover the amount that was to be received by the designated recipient. The Bureau received comments from industry that it should clarify when exactly reasonable efforts are considered to be prompt and also that it should create a safe harbor time period in which efforts would be deemed prompt. The Bureau continues to believe that whether a particular provider's efforts are prompt depends on the facts and circumstances, for instance when the fact of an error is first identified. In general, the Bureau believes a provider acts promptly where it acts before the date that the funds are expected to be made available to the recipient, but a provider may not have notice that there is a problem with the transfer that early. Accordingly, the Bureau has adopted proposed comment 33(h)–2 as comment 33(h)–3 and is expanding its discussion. The comment adopts the proposed language explaining that § 1005.33(h)(5) requires that a remittance transfer provider act promptly in using reasonable efforts to recover the amount that was to be received by the designated recipient and that whether a provider acts promptly to use reasonable efforts depends on the facts and circumstances. The comment also provides an example stating that where a sender informs the provider that he or she had provided a mistaken account number before the date of availability disclosed pursuant to § 1005.31(b)(2)(ii), the provider has acted promptly if it attempts to contact the institution that received the incorrect remittance transfer before the disclosed date of availability.

Section 1005.36 Transfers Scheduled Before the Date of Transfer

Under § 1005.36 of the 2012 Final Rule, the Bureau established disclosure requirements specifically applicable to remittance transfers scheduled before the date of transfer. Section 1005.36(a) and (b) address specific requirements for the timing and accuracy of disclosures for these remittance transfers. Section 1005.36(c) addresses the cancellation requirements applicable to any remittance transfer scheduled by the sender at least three business days before the date of the transfer, including preauthorized remittance transfers. As described above, there is no longer a requirement to disclose taxes collected by a person other than the provider. *See* § 1005.31(b)(1)(vi). As a result, comment 36(a)(2)–1, which relates to disclosures required for preauthorized transfers, has been amended to refer solely to the required disclosure of taxes collected by the provider and not those collected by a third party.

Appendix A—Model Disclosure Clauses and Forms

In Appendix A of the 2012 Final Rule, the Bureau provides twelve model forms that a remittance transfer provider may use in connection with remittance transfers. The 2012 Final Rule also provides instructions related to the use of these model forms. In particular, Instruction 4 to Appendix A provides general instructions for how providers may use the model forms, including instructions as to formatting and necessary disclosures. Instruction 4 also describes what portions of the disclosures are optional, and states that the Bureau will not review or approve providers' disclosure forms.

In light of the changes to the 2012 Final Rule's disclosure requirements discussed above, the 2013 Final Rule amends the model forms, as well as the related instructions in Appendix A, and includes several additional model forms reflecting the new requirements. First, the Bureau is removing from all of the model forms references to ''Other Taxes'' because the Bureau has eliminated this disclosure requirement. *See* § 1005.31(b)(1)(vi). Second, although there is no longer a requirement to disclose recipient institution fees in certain circumstances, there remains a requirement that remittance transfer providers disclose covered third-party fees under

§ 1005.31(b)(1)(vi). As a result, the line on the model forms that relates to the disclosure of the amount of ''Other Fees'' has been retained and will now reflect only covered third-party fees imposed upon the remittance transfer.

Third, insofar as § 1005.31(b)(1)(viii) requires a remittance transfer provider to include disclaimers on the required disclosures where non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider may apply, the model forms have been amended to include versions of these disclaimers. These disclaimers are required unless a provider knows that neither non-covered third-party fees nor taxes collected on the remittance transfer by a person other than the provider apply. *See* § 1005.31(b)(1)(viii) and comment 31(b)(1)(viii)–1. Thus, where a disclaimer is necessary, there are now three potential disclaimer statements that could be used depending on the nature of the transaction: (1) A disclaimer that states that the recipient may receive less due to fees charged by the recipient's bank; [12] (2) A disclaimer that states that the recipient may receive less due to foreign taxes; [13] or (3) A disclaimer that states that the recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

In addition to the requirement to include these disclaimers, a remittance transfer provider may also elect to disclose the actual or estimated amounts of non-covered third-party fees and taxes collected by a person other than the provider. *See* §§ 1005.31(b)(1)(viii) and 1005.32(b)(3). Model forms A–30(a) through (d) include samples of how a provider may include versions of these required disclaimers, as well as the optional disclosures regarding the actual or estimated amount of such fees and taxes.

Specifically, Model Form A–30(a) provides sample disclaimer language that ''a recipient may receive less due to fees charged by the recipient's bank and foreign taxes.'' Model Forms A–30(b) through (d) include examples of how a remittance transfer provider could include the optional estimates of non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider. Specifically, Model Form A–30(b) includes a sample disclaimer that shows a parenthetical containing an estimate of the applicable non-covered third-party fees that may apply to the sample transfer, while Model Form A–30(c) includes a sample disclaimer that shows a parenthetical with an estimate for the taxes collected on the remittance transfer by a person other than the provider that may apply. Model Form A–30(d) includes an example for how a provider could provide an estimate for both non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider. Finally, although not included in a model form, if a provider knows that fees or taxes will be deducted, the disclaimer could indicate that the recipient ''will receive less,'' rather than ''may receive less,'' due to non-disclosed fees and taxes. A provider also may elect to include the precise amounts for fees and/or taxes.

Instruction 4 also has been amended to indicate that the disclosure of the actual or estimated amounts for non-covered third-party fees and taxes collected by a person other than the provider is optional as provided in § 1005.31(b)(1)(viii) in the 2013 Final Rule. Instruction 4 also now includes language that a remittance transfer provider cannot include disclaimers that cannot apply to the particular transfer. For example, if the provider knows that the only fees that can apply to the transfer are covered third-party fees, a provider should not include a fee disclaimer. *See* § 1005.31(b)(1)(viii) and comment 31(b)(1)(viii)–1.

Finally, because additional model forms have been added, the Appendix and Instructions are revised to indicate that there are now 15 model forms.

Effective Date

This final rule is effective on October 28, 2013. As discussed below, the Bureau believes that this effective date will, on balance, facilitate the implementation of both the remaining requirements of the 2012 Final Rule and the new requirements of the 2013 Final Rule.

In the December Proposal, the Bureau proposed to temporarily delay the effective date of the 2012 Final Rule from February 7, 2013, until 90 days after the publication of the 2013 Final Rule in the **Federal Register**. The Bureau stated then that it believed that this modest delay would balance the need for consumers to receive the protections afforded by the rule as quickly as possible with industry's need to make adjustments to comply with the provisions of the rule. As part of the December Proposal, the Bureau sought comment on this proposed 90-day extension period. On January 29, 2013, in the Temporary Delay Rule, the Bureau temporarily delayed the February 7, 2013 effective date pending completion of this rulemaking.

All commenters—including consumer group commenters—generally agreed that the Bureau should extend the effective date of the 2013 Final Rule until at least 90 days after it is published in the **Federal Register**. Although no commenters suggested an implementation period of fewer than 90 days following publication of the 2013 Final Rule, one consumer group commenter noted that while it did not object to a 90 day-extension, it saw no need for any implementation period longer than 90 days after the finalization of this rule. Additionally, one industry trade association suggested a 90-day implementation period could be workable depending on the scope of the final rule. Most industry commenters, however, urged the Bureau to extend the effective date beyond 90 days. In doing so, industry commenters suggested a range of periods—with many industry commenters suggesting periods of between 180 and 365 days following the publication of the 2013 Final Rule. One industry trade association provided an example of an implementation timeline suggesting that a large correspondent would need at least 121 days from when the final rule is released in order to integrate a compliance solution within its client banks' systems. Industry commenters in general contended that remittance transfer providers, their vendors, and other business partners all would need additional time to adjust their computer systems and compliance procedures, renegotiate contracts, and train staff.

Separately, commenters representing smaller insured institutions in particular requested a longer implementation period, stating that many of these remittance transfer providers depend on larger third-parties to aid their compliance. These commenters uniformly stated that smaller providers might face particular challenges with implementing necessary changes over a short time period because smaller providers will only be able to integrate compliance solutions after the third parties have incorporated necessary updates and conduct testing, and include the changes in their scheduled releases. Relatedly, a number of these commenters referenced the Bureau's recent rulemakings pursuant to

[12] In the interest of clarity on the model forms, non-covered third-party fees are referred to as ''fees charged by a recipient's bank.'' However, to the extent that the term ''bank'' is imprecise, a provider may use an alternate term to describe the recipient institution.

[13] Also in the interest of clarity, these taxes are described as ''foreign taxes,'' although it is possible that the taxes collected by a person other than the provider could include taxes imposed by a U.S. state or the Federal government where such taxes are not collected by the provider.

title XIV of the Dodd-Frank Act [14] and indicated that implementing all of the requirements of those rules and the requirements of this final rule at the same time will create a significant cumulative burden. These industry commenters also expressed concern over both the breadth and complexity of new rules expected from the Bureau.

The industry commenters' concerns regarding the implementation period, particularly those relating to necessary system changes, were largely focused around three expected results of the 2012 Final Rule, as it would have been modified by the December Proposal: (1) The need to build and maintain a database of applicable taxes imposed by foreign countries' central governments; (2) the need to obtain fee schedules or other information regarding applicable recipient institution fees in order to compute estimates of the applicable fees; and (3) the need to adjust systems and processes to accommodate the provisions discussing resends to correct errors that occurred because the sender provided incorrect or insufficient information. Furthermore, some industry commenters suggested that the appropriate effective date would depend on the scope of the final rule. Noting the difficulty of collecting certain information concerning recipient institution fees and foreign taxes, as indicated above, one industry trade association commenter indicated that if the Bureau eliminated the requirement to disclose recipient institution fees and foreign taxes and simplified the procedure for resends, then this commenter thought that a 90-day implementation period could be workable.

The Bureau is adopting an effective date of October 28, 2013. In light of the way the Bureau has streamlined the requirements of the 2012 Final Rule, the Bureau believes that an effective date of October 28, 2013 (or approximately 180 days after the release of the 2013 Final Rule) will allow sufficient time for providers, both large and small, to implement any necessary changes to their systems in order to comply with the 2013 Final Rule. The Bureau is adopting a date certain in order to eliminate the risks of delay and provide greater assurances to both consumers and industry as to when to expect the valuable protections of the new rule. The Bureau also believes that this implementation period allows sufficient time because the Bureau is not adopting the aspects of the December Proposal that commenters identified as requiring the most time to implement.

The primary additional substantive requirements in the 2013 Final Rule are the requirement that remittance transfer providers include disclaimers regarding non-covered third-party fees and taxes collected by a person other than the provider and adopt additional verification measures and provide notice to senders of the potential loss of funds to take advantage of the Bureau's expansion of the exception to the definition of the term error under § 1005.33(a)(1)(iv)(D). The Bureau believes that any programmatic changes required by these provisions should not take most providers a particularly long period of time to implement. To the extent providers need to change the terms of their consumer contracts or other communications to provide senders the notice contemplated by § 1005.33(h)(3), the Bureau expects the required time to produce this notice will be modest, particularly because the 2013 Final Rule does not mandate any particular notice form, or format apart from requiring that such notice be clear and conspicuous and meet certain foreign language requirements. Although translating such notice may require testing and certain systems changes, and the Bureau expects that many providers will integrate any such notice into existing communications or the required prepayment disclosures.

Moreover, based on its outreach and monitoring of the market, the Bureau believes that responsible providers and correspondents are already using reasonable methods of verification to reduce the risk of errors. Nonetheless, recognizing that the 2013 Final Rule will likely require changes to informational technology and operational procedures and that small providers may benefit from additional time in order to test compliance solutions for their customers, the Bureau believes a modest increase in the implementation period from what was proposed may limit potential disruptions in the remittance transfer market.

For these reasons, the Bureau is expanding the implementation period for this final rule beyond what was proposed by making it effective October 28, 2013.

VI. Dodd-Frank Act Section 1022(b)(2)

Section 1022(b)(2) Analysis

A. Overview

In developing the 2013 Final Rule, the Bureau has considered potential benefits, costs, and impacts [15] and has consulted or offered to consult with the prudential regulators and the Federal Trade Commission, including regarding the consistency of the 2013 Final Rule with prudential, market, or systemic objectives administered by such agencies.[16]

The analysis below considers the benefits, costs, and impacts of the key provisions of the 2013 Final Rule against the baseline provided by the 2012 Final Rule. Those provisions regard: The disclosure of non-covered third-party fees and taxes collected by a person other than the remittance transfer provider, error resolution requirements with respect to situations in which senders provide incorrect or insufficient information regarding remittance transfers (including account numbers and recipient institution identifiers), and the effective date. With respect to these provisions, the analysis considers the benefits and costs to senders (consumers) and remittance transfer providers (covered persons).[17] The Bureau has discretion in future rulemakings to choose the most appropriate baseline for that particular rulemaking.

The Bureau notes at the outset that quantification of the potential benefits, costs, and impacts of the 2013 Final Rule is not possible due to the lack of available data. As discussed in the February Final Rule, there is a limited

[14] *See* Escrow Requirements under the Truth in Lending Act (Regulation Z), 78 FR 4725 (Jan. 22, 2013); Ability to Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z), 78 FR 6407 (Jan. 30, 2013; High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X), 78 FR 6855 (Jan. 31, 2013); Real Estate Settlement Procedures Act (Regulation X) and Truth in Lending Act (Regulation Z) Mortgage Servicing Final Rules, 78 FR 10695 (Feb. 14, 2013); Disclosure and Delivery Requirements for Copies of Appraisals and Other Written Valuations Under the Equal Credit Opportunity Act (Regulation B), 78 FR 7215 (Jan. 31, 2013); Appraisals for Higher-Priced Mortgage Loans, 78 FR 10367 (Feb. 13, 2013); Loan Originator Compensation Requirements under the Truth in Lending Act (Regulation Z), 78 FR 11279 (Feb. 15, 2013).

[15] Section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

[16] The Bureau also solicited feedback from other agencies with supervisory and enforcement authority regarding the 2013 Final Rule.

[17] Benefits and costs incurred by remittance transfer providers may, in practice, be shared among providers' business partners, such as agents, correspondent banks, or foreign exchange providers. To the extent that any of these business partners are covered persons, the 2013 Final Rule could have benefits or costs for these covered persons as well.

amount of data about remittance transfers and remittance transfer providers that are publicly available and representative of the full market. Similarly, there are limited data on consumer behavior, which would be essential for quantifying the benefits or costs to consumers. Furthermore, as the Bureau has delayed the effective date of the 2012 Final Rule, providers are still in the process of implementing its requirements. Therefore, this analysis generally provides a qualitative discussion of the benefits, costs, and impacts of the 2013 Final Rule. As discussed in more detail below, the Bureau expects that the 2013 Final Rule will generally benefit providers by facilitating compliance, while maintaining many of the 2012 Final Rule's valuable new consumer protections and ensuring that these protections can effectively be delivered to consumers.

B. Potential Benefits and Costs to Consumers and Covered Persons

1. Non-Covered Third-Party Fees and Taxes Collected by a Person Other Than the Provider

a. Benefits and Costs to Covered Persons

Compared to the 2012 Final Rule, the 2013 Final Rule benefits remittance transfer providers by eliminating some of the information that they were previously required to disclose, which will likely reduce the cost of providing required disclosures for most providers. The changes regarding fee and tax disclosures might additionally benefit providers by facilitating their continued participation in the market. Industry commenters suggested that due in part to the 2012 Final Rule's third-party fee and foreign tax disclosure requirements, some providers might eliminate or reduce their remittance transfer offerings, such as by not sending transfers to markets where tax or fee information is particularly difficult to obtain in light of the lack of ongoing reliable and complete information sources. By reducing the amount of information needed to provide disclosures, the Bureau expects that the 2013 Final Rule will encourage more providers to retain their current services (and thus any associated profit, revenue, and customers).

The 2013 Final Rule requires remittance transfer providers to add an additional disclaimer to disclosure forms in instances where non-covered third-party fees imposed and taxes collected by a person other than the provider may apply. The Bureau believes that the cost of adding these disclaimers will be small, particularly compared to the costs of complying with the disclosure requirements of the 2012 Final Rule. Affected providers will also have to reprogram systems to conform to the new requirements for calculating ''Other Fees'' (pursuant to § 1005.31(b)(1)(vi)) and the amount to be disclosed pursuant to § 1005.31(b)(1)(vii)). All providers will have to remove references to ''Other Taxes'' from their forms, and make any necessary system changes, insofar as the Bureau has eliminated this disclosure. The modification to existing forms and systems changes may be minimal for many providers whose processes allow for them to adjust forms and systems more easily, and the Bureau expects that some providers may not have finished any systems modifications necessary to comply with the 2012 Final Rule, and thus may be able to incorporate any changes into previously planned work. Furthermore, to the extent any provider elects to provide optional disclosures of non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider, providers may bear some costs in determining these amounts and programming disclosures to allow for the dynamic disclosure of this information.

The Bureau expects that the provisions regarding fee and tax disclosures will have the largest impact on depository institutions, credit unions, and broker-dealers that are remittance transfer providers. These types of providers tend to send most or all of their remittances transfers to foreign accounts, for which non-covered third-party fees could be charged. Furthermore, due to the mechanisms these providers use to send money, they generally have the ability to send transfers to virtually any destination country (for which tax research might be required) and thus many different recipient institutions. By contrast, money transmitters that are providers are more likely to send remittance transfers to be received by agents, for which non-covered third-party fees will not be relevant. Furthermore, with some exceptions, most money transmitters, and particularly small ones, generally send transfers to a limited number of countries and institutions; consequently, the benefits, in terms of avoided costs, of eliminating the requirement that taxes be disclosed may not be as large for these money transmitters as for other remittance transfer providers.

b. Benefits and Costs to Consumers

The changes regarding the disclosure of non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider may allow senders to avoid increased costs to the extent that remittance transfer providers pass along any cost savings from the new requirements in the form of lower prices. Also, if the 2013 Final Rule facilitates providers' continued participation in the market, it will prevent senders from having their access to remittance transfers limited, by giving them a wider set of options for sending transfers.

The Bureau believes that a minority of transfers will be affected by the refinements in the 2013 Final Rule concerning non-covered third-party fees insofar as a minority of remittance transfers are deposited into accounts. The Bureau is retaining the requirement to disclose covered third-party fees and, therefore, senders will retain the benefits derived from the disclosure of such fees. Specifically, the Bureau believes that the majority of remittance transfers are received in cash; therefore, the senders of those transfers will generally receive complete information about the fees applicable to the transfer. The Bureau, however, believes that most, if not all, transfers will be affected by the refinements concerning taxes collected on a remittance transfer by a person other than the provider, as providers may not be able to verify whether taxes may apply to particular transactions. It is important to note that the Bureau expects that fee and tax disclosures that would have been required by the 2012 Final Rule but that will not be required by the 2013 Final Rule will generally not vary across providers sending money to the same recipient account using the same mechanism.

The 2013 Final Rule may impose costs on senders that want a guarantee that the designated recipient receives a particular amount, to the extent that it makes disclosures for a particular transfer less accurate because disclosures will now contain disclaimers in lieu of actual figures regarding non-covered third-party fees, for transfer that could involve such fees, and taxes collected on the remittance transfer by a person other than the provider.

In addition, without the tax and fee disclosures, senders may have a more difficult time ensuring that an exact amount of money reaches a designated recipient and thus also may have difficulty determining if an error occurred because the designated recipient did not receive the amount disclosed. However, this difficulty should be mitigated when a sender

repeatedly transfers funds to the same recipient via the same method, as the recipient can inform the sender about taxes and fees that routinely apply to the transfer.

Eliminating the requirement that non-covered third-party fees be disclosed also may have varied effects on the ability of senders to comparison shop. As to those senders who are only shopping between providers that can send remittance transfers to a particular account via the same method, the 2013 Final Rule should not significantly reduce the ability of senders to compare costs across remittance transfer providers that can send remittances to this account. In fact, to the extent that providers are not providing differing estimates of the same recipient institution fees, consumers may benefit because comparisons will be easier. However, senders may have a more difficult time comparing costs across providers sending funds via different mechanisms. For example, if a sender is agnostic as to whether the designated recipient should receive the transfer in cash verses the transfer being deposited in the designated recipient's account, to the extent non-covered third-party fees are not disclosed, the sender may not appreciate the full costs of the latter option for sending the remittance transfer, or understand which method of transfer is likely to be most cost effective. For the transfer to an account, the pre-payment disclosure may not contain a disclosure of non-covered third-party fees, while the disclosure for the transfer to be received in cash must disclose all fees. Therefore, whether a sender's ability to comparison shop has been impaired by the changes in the 2013 Final Rule may depend on the type of comparison undertaken by the sender.

Nevertheless, as important as this information is for senders, requiring disclosure of non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider would likely require a substantial delay in implementation of all of the 2012 Final Rule or would produce a significant contraction in senders' access to remittance transfer services, particularly in smaller corridors. The Bureau believes that both of these results would impose significant costs on consumers and undermine the broader purposes of the statutory scheme.

2. Incorrect or Insufficient Information

a. Benefits and Costs to Covered Persons

The 2013 Final Rule includes two sets of changes related to errors caused by the sender's provision of incorrect or insufficient information in connection with a remittance transfer. First, the 2013 Final Rule creates a new exception to the definition of error for situations in which a sender provides an incorrect account number or recipient institution identifier, and the remittance transfer provider meets certain conditions. Second, the 2013 Final Rule also adjusts the remedy in certain situations, other than those covered by this new exception, in which an error occurred because the sender provided incorrect or insufficient information.

The exception to the definition of error benefits remittance transfer providers in instances in which senders' mistakes regarding account numbers or recipient institution identifiers, which would have resulted in errors under the 2012 Final Rule, will not constitute errors under the 2013 Final Rule, provided that providers satisfies the conditions enumerated in § 1005.33(h). There are several cumulative benefits of these changes to providers. First, to the extent that the new exception applies, providers will no longer bear the costs of funds that they cannot recover. The magnitude of the benefit will depend on the frequency of senders' mistakes regarding account numbers or recipient institution identifiers that result in funds being deposited in the wrong account with the provider unable to recover funds, and the sizes of those lost transfers.[18] The magnitude will also depend on the extent to which providers maintain procedures necessary to satisfy the conditions enumerated in § 1005.33(h).

Second, remittance transfer providers may derive additional benefit if the 2013 Final Rule reduces the potential for fraudulent account number mistakes made by unscrupulous senders, which providers have cited as a risk under the 2012 Final Rule. By eliminating the requirement, in some circumstances, that the provider resend or refund the transfer amount, the 2013 Final Rule reduces the direct costs of fraud and the indirect costs of fraud prevention and facilitates providers' continued participation in the remittance transfer market, without (or with fewer) new limitations on service. Industry commenters indicated that, at least in part, due to the risk of such fraud under the 2012 Final Rule, providers might exit the market or limit the size or type of transfers sent. The cumulative magnitude of these benefits will depend on the magnitude of the actual and perceived risk of account number- or recipient institution identifier-related fraud under the 2012 Final Rule.

The new exception to the definition of error does not impose any new requirements on remittance transfer providers and therefore will not directly impose costs on providers. But, to ensure that they can satisfy the conditions enumerated in § 1005.33(h) and thus trigger the new exception, providers may choose to bear some costs. For instance, providers may change their customer contracts or other communications to provide to senders the notice contemplated by § 1005.33(h)(3). However, the Bureau expects that the cost of doing so will be modest, particularly because the 2013 Final Rule does not mandate any particular notice wording, form, or format (apart from being clear and conspicuous and meeting certain foreign language requirements), and the Bureau expects that many providers already have included any such notice in their existing communications or the required prepayment disclosures. While the notice required by § 1005.33(h)(3) must generally be in writing, the Bureau believes that providers typically provide this notice in writing today. Relatedly, providers may change their existing procedures to implement the verification procedures contemplated by § 1005.33(h)(2). Again, however, insofar as most providers are already implementing verification methods like those contemplated by the 2013 Final Rule, most providers will bear minimal cost in complying with this requirement.

The Bureau expects that remittance transfer providers will generally not experience any other costs if they choose to satisfy the remainder of the conditions in § 1005.33(h), because their existing practices generally will already satisfy those conditions. In particular, based on outreach, the Bureau believes that keeping records or other documents that can satisfy the conditions described in § 1005.33(h) will generally match providers' usual and customary practices to serve their customers, to manage their risk, and to satisfy the requirements under the 2012 Final Rule to retain records of the findings of investigations of alleged errors. *See* § 1005.33(g)(2).

The extent to which remittance transfer providers will choose to bear any costs related to § 1005.33(h) and the magnitude of such costs will depend on providers' existing business practices, their expectations about the frequency

[18] Prior to the February Final Rule, the Credit Union National Association reported a rate of less than 1% for international wire ''exceptions.'' In more recent outreach, other industry participants suggested that investigation or exception rates for international wire transfers tend to be between 1 percent and 3 percent of all wire transfers.

and size of transfers that are deposited into the wrong accounts and not recovered because of account number or recipient institution identifier mistakes by senders, their expectations about the risk of fraud, as well as the extent to which providers have already begun adapting their practices to the 2012 Final Rule. The Bureau expects that providers will only develop their practices to comply with § 1005.33(h) if doing so will benefit the providers by reducing the costs of losses due to account number and recipient institution identifier mistakes by senders or fraud by more than the costs of implementing these practices. The Bureau believes that this could be the case for most providers that make transfers to accounts covered by the exception, particularly because the practices described in § 1005.33(h) closely match existing practice, and for those providers for whom it does not match existing practice, the practices that providers would have otherwise developed to comply with the 2012 Final Rule.

The changes regarding remedies for certain errors that occurred because the sender provided incorrect or insufficient information (other than those errors covered by the exception in § 1005.33(a)(1)(iv)(D)) will also benefit remittance transfer providers. In instances in which they are applicable, as discussed above, the changes will allow a provider to refund the transfer amount to the sender without having to meet the timing and other requirements of the 2012 Final Rule. In addition, insofar as the 2013 Final Rule permits providers, for errors that occurred because the sender provided incorrect or insufficient information, to deduct from the amount refunded any fees or taxes actually deducted from the transfer amount as part of the first unsuccessful transfer attempt, providers will no longer have to bear the cost of these fees and taxes, which previously providers could not pass on to senders. The changes regarding these remedies could impose a cost on remittance transfer providers to revise their procedures. Providers may need to arrange to send refunds when previously they were going to resend funds. Providers may also have to bear costs from the need to adjust their default remedies, procedures for requesting senders' preferred remedies, and error resolution reports, but the Bureau believes these costs should be minimal.

b. Benefits and Costs to Consumers

The new exception to the definition of error will allow senders to avoid increased prices, compared to the 2012 Final Rule, to the extent that remittance transfer providers pass along any cost savings in the form of lower prices. The new exception will also allow senders to avoid disruptions in available remittance transfer services, to the extent it would enable more providers to stay in the market or preserve the breadth of their current offerings, thus preserving competition.

Under certain conditions, a sender who provides an incorrect account or recipient institution identifier resulting in funds being delivered to the wrong account will bear the costs of those mis-deposited funds. However, as discussed above, the Bureau expects that the incidence of such losses will be rare; furthermore, the risk of incurring such costs may be mitigated, because senders will have stronger incentives to ensure the accuracy of account number and recipient institution identifier information to the extent possible. In addition, with respect to recipient institution identifiers, the exception is limited to situations in which the provider could not reasonably be expected to verify that the recipient institution identifier matches the institution's name or location or in which the verification does not prevent an error from occurring.

The Bureau expects that the changes regarding remedies for errors that occur because a sender provided incorrect or insufficient information will have very small impacts on senders. As described above, the Bureau expects that the circumstances in which the changes apply will arise infrequently. However, the changes impose a modest cost on senders for two reasons. First, for those senders that want to resend funds, they will be unable ask the provider to do so until the provider's investigation is complete (and the provider is not obligated to resend the funds at all). Second, insofar as the 2013 Final Rule permits providers to deduct from the amount refunded any fees or taxes actually deducted from the transfer amount by a person other than the provider as part of the first unsuccessful remittance transfer, this provision will impose a cost for senders in that they will now have to bear the cost of these fees and taxes that were to be absorbed by the provider under the 2012 Final Rule.

3. Effective Date

The extension of the 2012 Final Rule's effective date generally benefits remittance transfer providers by delaying the start of any ongoing compliance costs. The additional time may also enable providers (and their vendors) to build solutions that cost less than those that might otherwise have been possible. Senders also benefit to the extent that the changes eliminate any disruptions in the provision of remittance transfer services. But the delay also imposes costs on senders by delaying the time when they will receive the benefits of the 2012 Final Rule.

C. Access to Consumer Financial Products and Services

As discussed above, the Bureau expects that the 2013 Final Rule will not decrease consumers' (senders') access to consumer financial products and services relative to the 2012 Final Rule and may significantly preserve access by refining certain provisions of the rule that were likely to drive some remittance transfer providers to suspend or curtain their remittance services. By avoiding some of the costs that providers might otherwise have had to bear in order to provide disclosures and resolve errors under the 2012 Final Rule, the 2013 Final Rule may lead providers to reduce their prices and may reduce the likelihood that providers will exit the remittance market, compared to what might have occurred under the 2012 Final Rule. By facilitating providers' participation in the market, the 2013 Final Rule may give senders a wider set of options for sending transfers, as well as preserve competition within this market.

D. Impact on Depository Institutions and Credit Unions With $10 Billion or Less in Total Assets

Given the lack of data on the characteristics of remittance transfers, the ability of the Bureau to distinguish the impact of the 2013 Final Rule on depository institutions and credit unions with $10 billion or less in total assets (as described in section 1026 of the Dodd-Frank Act) from the impact on depository institutions and credit unions in general is quite limited. Overall, the impact of the 2013 Final Rule on depository institutions and credit unions will depend on a number of factors, including whether they are remittance transfer providers, the importance of remittance transfers for the institutions, how many institutions or countries they send to, the cost of complying with the 2012 Final Rule, and the progress made toward compliance with the 2012 Final Rule.

However, information that the Bureau obtained prior to finalizing the August Final Rule suggests that among depository institutions and credit unions that provide any remittance transfers, an institution's asset size and

the number of remittance transfers sent by the institution are positively, though imperfectly, related. There are several inferences that can be drawn from this relationship. First, the Bureau expects that among depository institutions and credit unions with $10 billion or less in total assets that provide any remittance transfers, compared to larger such institutions, a greater share qualify for the safe harbor related to the definition of ''remittance transfer provider'' and therefore are entirely unaffected by the 2013 Final Rule because they are not subject to the requirements of the 2012 Final Rule. *See* § 1005.30(f)(2). Second, the Bureau believes that depository institutions and credit unions with $10 billion or less in total assets that are covered by the 2012 Final Rule will experience, on a per-institution basis, less of the variable benefits and costs described above because they generally perform fewer remittance transfers than larger institutions. However, to the extent that the 2013 Final Rule will reduce any fixed costs of compliance, such as the costs of gathering information on taxes and fees if these institutions were to attempt to do that themselves, these institutions may experience more of the benefits described above, on a per-transfer basis because that is likely how they pay the third party for the compliance services.

Additionally, the Bureau believes that the magnitude of the 2013 Final Rule's impact on smaller depository institutions and credit unions will be affected by these institutions' likely tendency to rely on correspondents or other service providers to obtain recipient institution fee and foreign tax information, as well as provide standard disclosure forms. In some cases, this reliance will mitigate the impact on these providers of 2013 Final Rule's provisions regarding such information because those third parties will likely spread the cost of any required work (or cost savings) across its customer institutions.

E. Impact of the 2013 Final Rule on Consumers in Rural Areas

Senders in rural areas may experience different impacts from the 2013 Final Rule than other senders. The Bureau does not have data with which to analyze these impacts in detail. However, to the extent that the 2013 Final Rule leads to more remittance transfer providers to continue to provide remittance transfers, the 2013 Final Rule may disproportionately benefit senders living in rural areas. Senders in rural areas may have fewer options for sending remittance transfers, and therefore may benefit more than other senders from changes that keep more providers in the market.

VII. Regulatory Flexibility Act

A. Overview

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required. 5 U.S.C. 609.

The Bureau is certifying the 2013 Final Rule. Therefore, a FRFA is not required for this rule because it will not have a significant economic impact on a substantial number of small entities.

B. Affected Small Entities

The analysis below evaluates the potential economic impact of the 2013 Final Rule on small entities as defined by the RFA.[19] The 2013 Final Rule applies to entities that satisfy the definition of ''remittance transfer provider'': any person that provides remittance transfers for a consumer in the normal course of its business, regardless of whether the consumer holds an account with such person. *See* § 1005.30(f).[20] Potentially affected small entities include insured depository institutions and credit unions that have $175 million or less in assets and that provide remittance transfers in the normal course of their business, as well as non-depository institutions that have average annual receipts that do not exceed $7 million and that provide remittance transfers in the normal course of their business.[21] These affected small non-depository entities may include state-licensed money transmitters, broker-dealers, and other money transmission companies.[22]

This analysis examines the benefits, costs, and impacts of the key provisions of the 2013 Final Rule relative to the baseline provided by the 2012 Final Rule. The Bureau has discretion in future rulemakings to choose the most appropriate baseline for that particular rulemaking.

C. Non-Covered Third-Party Fees and Taxes Collected on the Remittance Transfer by a Person Other Than the Provider

The 2013 Final Rule eliminates the requirement that remittance transfer providers disclose non-covered third-party fees imposed and taxes collected on the remittance transfer by a person other than the provider. Under the 2013 Final Rule, providers are required to provide disclaimers, where applicable, noting that additional fees and taxes may apply and reduce the amount disclosed pursuant to § 1005.31(b)(1)(vii). The Bureau believes that the cost of adding these disclaimers will be small. Affected providers will also have to reprogram systems to conform to the new requirements for calculating ''Other Fees'' (pursuant to § 1005.31(b)(1)(vi)) and the amount to be disclosed (pursuant to § 1005.31(b)(1)(vii)). All providers will have to remove references to ''Other Taxes'' from their forms, and make any necessary systems changes, insofar as the Bureau has eliminated this disclosure. The modifications to existing forms and systems changes may be minimal for many providers whose processes allow for them to adjust forms and systems more easily, and the Bureau expects that some providers may not have finished any systems modifications necessary to comply with the 2012 Final Rule, and thus may be

[19] For purposes of assessing the impacts of the 2013 Final Rule on small entities, ''small entities'' is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A ''small business'' is determined by application of Small Business Administration regulations and reference to the North American Industry Classification System (''NAICS'') classifications and size standards. 5 U.S.C. 601(3). A ''small organization'' is any ''not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. 601(4). A ''small governmental jurisdiction'' is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5).

[20] The definition of ''remittance transfer provider'' includes a safe harbor that means that if a person provided 100 or fewer remittance transfers in the previous calendar year and provides 100 or fewer such transfers in the current calendar year, it is deemed not to be providing remittance transfers for a consumer in the normal course of its business, and is thus not a remittance transfer provider. *See* § 1005.30(f)(2).

[21] Small Bus. Admin., *Table of Small Business Size Standards Matched to North American Industry Classification System Codes, http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* Effective October 1, 2012.

[22] Many state-licensed money transmitters act through agents. However, the 2012 Final Rule applies to remittance transfer providers and explains, in official commentary, that a person is not deemed to be acting as a provider when it performs activities as an agent on behalf of a provider. Comment 30(f)–1. Furthermore, for the purpose of this analysis, the Bureau assumes that providers, and not their agents, will assume any costs associated with implementing the modifications.

able to incorporate any changes into previously planned work. Furthermore, to the extent any provider elects to provide optional disclosures of non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider, providers may bear some costs in determining these amounts and programming disclosures to allow for the dynamic disclosure of this information. Also, the Bureau expects that many small depository institutions and credit unions are relying on correspondent institutions or other service providers to provide standard disclosure forms; as a result, related costs will often be spread across multiple institutions.

The 2013 Final Rule's elimination of the requirement to disclose non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider may provide meaningful benefits to remittance transfer providers. The benefits include a reduced cost to prepare required disclosures. Furthermore, industry has suggested that due in part to the 2012 Final Rule's third party fee and foreign tax disclosure requirements, some providers might have eliminated or reduced their remittance transfer offerings, such as by not sending to countries where tax or fee information is particularly difficult to obtain, due to the lack of ongoing reliable and complete information sources. By reducing the amount of information needed to provide disclosures, the 2013 Final Rule will encourage more providers (including small entities) to retain their current services (and thus any associated profit, revenue, and customers).

The Bureau expects that, amongst small entities, the revised provisions regarding recipient institution fees will have the largest effect on remittance transfer providers that are depository institutions, credit unions, and broker-dealers that are remittance transfer providers. These types of providers tend to send most or all of their remittances transfers to foreign accounts, for which recipient institution fees may be charged. Furthermore, due to the mechanisms these providers use to send money, they generally have the ability to send transfers to virtually any destination country for which tax research might be required. By contrast, money transmitters that are providers are more likely to send remittance transfers to be received by agents, for which non-covered third-party fees will not be relevant. Furthermore, with some exception, most money transmitters, and particularly small ones, generally send transfers to a limited number of countries and institutions, so the benefits, in avoided costs, of eliminating the requirement that taxes be disclosed may not be as large for money transmitters as for other providers.

D. Incorrect or Insufficient Information

The 2013 Final Rule includes two sets of changes related to errors caused by the sender's provision of incorrect or insufficient information. First, the 2013 Final Rule creates a new exception to the definition of the error for situations in which a sender provides an incorrect account number or recipient institution identifier, and the remittance transfer provider meets certain conditions. Second, the 2013 Final Rule also adjusts the remedy in certain situations in which an error occurred because the sender provided incorrect or insufficient information (other than those covered by the new exception).

The Bureau expects that a number of small remittance transfer providers will be unaffected by the changes regarding the definition of error as they only apply to remittance transfers that are received in accounts. Though some money transmitters send money to be deposited into bank accounts, the Bureau's outreach suggests that, unlike most small depository institutions, credit unions, and broker-dealers, many small money transmitters only send money to be received in cash, and some of those that do send money to be deposited into accounts may be doing so through agent relationships.

With regard to small remittance transfer providers that do send money to accounts at recipient institutions that are not agents, the new exception to the definition of error does not impose any mandatory costs. Under the 2013 Final Rule, certain account number and recipient institution identifier mistakes will no longer generate ''errors'' if the provider satisfied certain conditions enumerated in § 1005.33(h). Instead of satisfying these conditions, providers can continue under the 2012 Final Rule's definition of error.

If remittance transfer providers choose to satisfy the conditions enumerated in § 1005.33(h), they may incur some costs for implementing certain verification procedures pursuant to § 1005.33(h)(2) and changing the terms of their consumer contracts or other communications to provide senders the notice contemplated by § 1005.33(h)(3). However, the Bureau expects that the cost of providing this notice will be modest, particularly because the 2013 Final Rule does not mandate any particular notice, form, or format (apart from requiring that the notice be clear and conspicuous and meeting certain foreign language requirements), and the Bureau expects that many providers already have included any such notice into existing communications or the required prepayment disclosures. While the notice required by § 1005.33(h)(3) must generally be in writing, the Bureau also believes that providers already provide this notice in writing.

The Bureau believes that satisfying the remainder of the conditions in § 1005.33(h) will not impose new costs on remittance transfer providers because their existing practices generally will already satisfy those conditions. In particular, based on outreach, the Bureau believes that that keeping records or other documents that can satisfy the conditions described in § 1005.33(h) will generally match providers' usual and customary practices to serve their customers, to manage their risk, and to satisfy the requirements under the 2012 Final Rule to retain records of the findings of investigations of alleged errors. *See* § 1005.33(g)(2).

In any case, the Bureau expects that remittance transfer providers will only develop their practices to comply with § 1005.33(h), and thus take advantage of the new exception to the definition of error, if doing so will reduce the costs of losses due to account number and recipient institution identifier mistakes by senders or fraud by more than the costs of implementing these practices. The Bureau believes that for most providers, including small ones, the changes to the definition of error likely will provide greater benefits than implementation costs. If the new exception applies, providers will no longer bear the cost of funds that they could not recover if they are able to satisfy the conditions of § 1005.33(h). Providers will further benefit if the 2013 Final Rule reduces the potential for fraudulent account number and recipient institution identifier mistakes made by unscrupulous senders, which providers have cited as a risk under the 2012 Final Rule. By reducing the remedies available in such cases, the 2013 Final Rule will reduce the direct costs of fraud and the indirect costs of fraud prevention and facilitate providers' continued participation in the remittance transfer market, without (or with fewer) new limitations on service. Industry commenters indicated that, at least in part, due to the risk of such fraud under the 2012 Final Rule, providers might exit the market or limit the size or type of transfers sent.

The change regarding remedies for certain errors that occurred because the

sender provided incorrect or insufficient information will also benefit small remittance transfer providers, though the Bureau expects that the benefits would be small because the circumstances covered by the change will arise very infrequently.[23] In instances in which they are applicable, the changes will require a provider to refund the transfer amount unless the sender requested a resend after being informed of the results of the error investigation and the provider agreed to such a resend. Any request to resend the funds will be treated as a new remittance transfer. Similarly, the changes will benefit providers insofar as they may deduct from the amount refunded, or applied towards a new transfer, any fees or taxes actually deducted from the transfer amount by a person other than the provider and thus they will no longer have to bear the cost of these fees and taxes, which previously providers could not pass on to senders. The changes regarding certain instances in which remittance transfer providers resend transactions to correct errors could impose a cost on providers to revise their procedures. Providers may also have to bear costs from the need to adjust their default remedies, procedures for requesting senders' preferred remedies, and error resolution reports, but the Bureau believes these costs will be modest.

E. Effective Date

The 2013 Final Rule will not take effect until October 28, 2013. This change will generally benefit small remittance transfer providers, by delaying the start of any ongoing compliance costs. The additional time might also enable providers (and their vendors) to build solutions that cost less than those that might otherwise have been possible.

F. Cost of Credit for Small Entities

The 2013 Final Rule does not apply to credit transactions or to commercial remittances. Therefore, the Bureau does not expect this rule to increase the cost of credit for small businesses. With a few exceptions, the 2013 Final Rule generally does not change or lowers the cost of compliance for depositories and credit unions, many of which offer small business credit. Any effect of the 2013 Final Rule on small business credit, however, would be highly attenuated. The 2013 Final Rule also generally does not change or lowers the cost of compliance for money transmitters. Money transmitters typically do not extend credit to any entity, including small businesses.

G. Certification

Accordingly, the undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) requires that the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a respondent is not required to respond to an information collection unless the collection displays a valid OMB control number. Regulation E, 12 CFR part 1005, contains collections of information that have previously approved by OMB. The Bureau's OMB control number for Regulation E is 3170–0014. Certain provisions of the 2013 Final Rule contain revisions to the information collection requirements as currently approved under OMB No. 3170–0014. The revised information collection requirements as contained in the 2013 Final Rule and identified as such have been submitted to OMB for review under section 3507(d) of the PRA and are not effective until OMB approval is obtained. The unapproved revised information collection requirements are contained in §§ 1005.31(b)(1)(viii), 1005.33(h), and 1005.33(g) of this final rule. Documentation prepared in support of this submission to OMB is available at *www.reginfo.gov*. This documentation contains among other things a description of likely respondents to these information collection requirements and detailed burden analysis. The Bureau will publish a separate notice in the **Federal Register** announcing OMB's action on this submission.

A. Overview

The title of these information collections is Electronic Fund Transfer Act (Regulation E) 12 CFR part 1005. The frequency of collection is on occasion. As described below, the 2013 Final Rule amends portions of the collections of information currently in Regulation E. Some portions of these information collections are required to provide benefits for consumers and are mandatory. However, some portions are voluntary because certain information collections under the 2013 Final Rule would simply give remittance transfer providers optional methods of compliance. Because the Bureau does not collect any information under the 2013 Final Rule, no issue of confidentiality arises. The likely respondents are providers, including small businesses. Respondents are required to retain records for 24 months, but this regulation does not specify the types of records that must be maintained. *See* §§ 1005.13(c) and 1005.33(g)(2).

Under the 2013 Final Rule, the Bureau generally accounts for the paperwork burden associated with Regulation E for the following respondents pursuant to its administrative enforcement authority: Insured depository institutions and insured credit unions with more than $10 billion in total assets, and their depository institution and credit union affiliates (together, ''the Bureau depository respondents''), and certain non-depository remittance transfer providers, such as certain state-licensed money transmitters and broker-dealers (''the Bureau non-depository respondents'').

Using the Bureau's burden estimation methodology, the Bureau estimates that the total one-time burden for the estimated 5,915 respondents potentially affected by the 2013 Final Rule would be approximately 385,000 hours.[24] The Bureau estimates that the ongoing burden to comply with Regulation E would be reduced by approximately 276,000 hours per year by the 2013 Final Rule. The aggregate estimates of total burdens presented in this analysis are based on estimated costs that are averages across respondents. The Bureau expects that the amount of time required to implement the changes for a given remittance transfer provider may

[23] The Bureau expects that remittance transfer providers will generally experience low error rates. Prior to the February Final Rule, the Credit Union National Association reported a rate of less than 1% for international wire ''exceptions.'' In more recent outreach, other industry participants suggested that investigation or exception rates for international wire transfers tend to be between 1 percent and 3 percent of all wire transfers.

[24] The decrease in respondents relative to the PRA analysis for the August Final Rule reflects a change in the number of insured depository institutions and credit unions supervised by the Bureau, a focus on the Bureau's estimate of the number of insured depository institutions and credit unions that will qualify as remittance transfer providers, and a revision by the Bureau of the estimated number of state-licensed money transmitters that offer remittance services. The revised estimate of the number of state-licensed money transmitters that offer remittance services is based on subsequent analysis of publicly available state registration lists and other information about the business practices of licensed entities. The decrease in burden relative to what was previously reported for the 2012 Final Rule from this revision is not included in the change in burden reported here. However, the revised entity counts are used for calculating other changes in burden that will arise from the 2013 Final Rule. The total estimated number of respondents also includes an estimated 162 broker-dealers that may be remittance transfer providers.

vary based on the size, complexity, and practices of the respondent.

For the 153 Bureau depository respondents, the Bureau estimates for the purpose of this PRA analysis that the 2013 Final Rule will increase one-time burden by approximately 9,900 hours and reduce ongoing burden by approximately 7,300 hours per year. For the estimated 300 Bureau non-depository respondents, the Bureau estimates that the 2013 Final Rule will increase one-time burden by approximately 20,000 hours and reduce ongoing burden by 6,300 hours per year.[25] The Bureau and the Federal Trade Commission (FTC) generally both have enforcement authority over non-depository institutions under Regulation E, including state-licensed money transmitters. The Bureau has allocated to itself half of its estimated burden to Bureau non-depository respondents, (or approximately 10,000 hours in one-time burden and a reduction in ongoing burden of 3,150 hours) which is based on an estimate of the number of state-licensed money transmitters that are remittance transfer providers. The FTC is responsible for estimating and reporting to OMB its total paperwork burden for the institutions for which it has administrative enforcement authority. It may, but is not required to, use the Bureau's burden estimation methodology.

B. Analysis of Potential Burden

1. Recipient Institution Fees and Foreign Taxes

As described in parts V and VI above, in lieu of disclosing certain recipient institution fees and foreign taxes, remittance transfer providers will be required to bear some cost of modifying their systems to include the disclaimer required by § 1005.31(b)(1)(viii). Effected providers will also have to reprogram systems to conform to the new requirements for calculating ''Other Fees'' (pursuant to § 1005.31(b)(1)(vi)) and the amount to be disclosed (pursuant to § 1005.31(b)(1)(vii)). In addition, certain providers may choose to program their systems to include the option to disclose non-covered third-party fees and taxes collected by a person other than the provider pursuant to § 1005.31(b)(1)(viii). All providers will have to remove references to ''Other Taxes'' from their forms. The Bureau also expects that many depository institutions and credit unions are relying on correspondent institutions or other service providers to provide recipient institution fee and foreign tax information, as well as standard disclosure forms; as a result, any development cost associated with the 2013 Final Rule will be spread across multiple institutions.

Furthermore, the Bureau expects that some remittance transfer providers may not have finished any systems modifications necessary to comply with the 2012 Final Rule, and thus may be able to incorporate any changes into previously accounted-for work. In the interest of providing a conservative estimate, however, the Bureau assumes that all providers will need to modify their systems to calculate disclosures and to add the new disclaimers. The Bureau estimates that making revisions to systems to adjust to the new disclosure requirements will take, on average, 40 hours per provider. Because the forms to be modified are existing forms, the Bureau estimates that adding the disclaimer will require eight hours per form per provider.

On the other hand, the 2013 Final Rule will eliminate remittance transfer providers' ongoing cost of obtaining and updating information on foreign taxes and, for some providers, eliminate the ongoing cost of obtaining and updating information on recipient institution fees. By eliminating these ongoing costs, the Bureau estimates that insured depository institutions and credit unions will save, on average, 48 hours per year and non-depository institutions will save, on average, 21 hours per year. The Bureau cannot estimate the number of providers that will choose to provide optional disclosures of foreign taxes and non-covered third-party fees. The Bureau believes even for such providers there will be significant time savings as providers may choose to focus on heavily trafficked corridors where information may be more easily obtainable.

2. Incorrect or Insufficient Information

As described in parts V and VI above, the Bureau expects that remittance transfer providers that send money to accounts, in order to benefit from the changes to the definition of the term error, may choose to provide senders with notice that if they provide incorrect account numbers, they could lose the transfer amount, and providers may also choose to maintain sufficient records to satisfy, wherever possible, the conditions enumerated in § 1005.33(h) (though no such recordkeeping is required). These enumerated conditions include: Being able to demonstrate facts regarding senders' responsibility for any account number or recipient institution identifier mistake; verification of recipient institution identifiers; the above-referenced notice; the results of an incorrect account number or recipient institution identifier; and the provider's effort to recover funds. In addition, § 1005.33(h) may encourage providers to implement security procedures for verifying account and recipient institution identifiers that they did not previously utilize.

Because this will likely involve modifications to existing communications, the Bureau estimates that providing senders with the notice described above will require a one-time burden of eight hours per remittance transfer provider and will not generate any ongoing burden. With regard to satisfying compliance with the conditions enumerated in § 1005.33(h), the Bureau believes that any related record retention will be a usual and customary practice by providers under the 2012 Final Rule, and that therefore there will be no additional burden associated with these aspects of the 2013 Final Rule. Many commenters indicated that their existing disclosures to consumers already contain a notice of the sort contemplated by this provision.

Under the 2013 Final Rule, to correct an error caused by incorrect or insufficient information provided by a sender, a remittance transfer provider must refund a transfer amount to the sender, unless the sender specifically requests that the provider resend the funds as a new remittance transfer and the provider agrees to do so. When a sender and provider agree to send a new transfer, the procedures for sending that new transfer should not result in any increased burden.[26]

The Bureau also estimates that to reflect the changes regarding certain errors, remittance transfer providers will

[25] The Bureau's estimate of non-depository respondents is based on an estimate of the number of state-licensed money transmitters that are remittance transfer providers. Furthermore, the Bureau notes that while its analysis in the February Final Rule attributed burden to the agents of state-licensed money transmitters, in this case, the Bureau expects that the changes in burden discussed in this PRA analysis will generally be borne only by money transmitters themselves, not their agents. In particular, the Bureau believes that money transmitters will generally gather and prepare recipient institution fee and foreign tax information centrally, rather than requiring their agents to do so. Similarly, the Bureau expects that money transmitters will generally investigate and respond to errors centrally, rather than asking their agents to take responsibility for such functions. Comment 30(f)–1 states that a person is not deemed to be acting as a remittance transfer provider when it performs activities as an agent on behalf of a remittance transfer provider.

[26] In the December Proposal, the Bureau proposed that providers be permitted to use simplified disclosures that would have contained one additional piece of information that was not otherwise required on existing disclosures. Insofar as the Bureau is not finalizing this part of the December Proposal, the burden allotted to this disclosure is not included in this analysis.

spend, on average, one hour, to update written policies and procedures designed to ensure compliance with respect to the error resolution requirements applicable to providers, pursuant to § 1005.33(g).

The Bureau expects that the revised remedy for certain errors will also reduce remittance transfer providers' ongoing burden, by eliminating the need to provide both a pre-payment disclosure and a receipt under covered circumstances. However, because the Bureau expects that the covered circumstances will arise very infrequently, the Bureau expects that this burden reduction would be minimal.

In summary, the 2013 Final Rule will result in an increase in one-time burden for CFPB respondents of approximately 20,000 hours and a decrease in ongoing burden for CFPB respondents of 10,000 hours per year. The current total annual burden for OMB No. 3170–0014 is 4,005,122 hours. As a result of the 2013 Final Rule, the new burden for OMB No. 3170–0014 will be 4,014,323 hours.

List of Subjects in 12 CFR Part 1005

Banking, Banks, Consumer protection, Credit unions, Electronic fund transfers, National banks, Remittance transfers, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Bureau further amends 12 CFR part 1005, as amended February 7, 2012 (77 FR 6194) and August 20, 2012 (77 FR 50244) and delayed January 29, 2013 (78 FR 6025), as set forth below:

PART 1005—ELECTRONIC FUND TRANSFERS (REGULATION E)

■ 1. The authority citation for part 1005 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1693b.

Subpart B is also issued under 12 U.S.C. 5601.

Subpart B—Requirements for Remittance Transfers

■ 2. Section 1005.30 is amended by revising the introductory text and adding paragraph (h) to read as follows:

§ 1005.30 Remittance transfer definitions.

Except as otherwise provided, for purposes of this subpart, the following definitions apply:

* * * * *

(h) *Third-party fees.* (1) ''Covered third-party fees.'' The term ''covered third-party fees'' means any fees imposed on the remittance transfer by a person other than the remittance transfer provider except for fees described in paragraph (h)(2) of this section.

(2) ''Non-covered third-party fees.'' The term ''non-covered third-party fees'' means any fees imposed by the designated recipient's institution for receiving a remittance transfer into an account except if the institution acts as an agent of the remittance transfer provider.

■ 3. Section 1005.31 is amended by revising paragraphs (a)(1), (b)(1)(ii), (b)(1)(v), (b)(1)(vi), (b)(1)(vii), (b)(2)(i), (c)(1), (c)(2), (c)(3), (f), and (g)(1), and adding paragraph (b)(1)(viii) to read as follows:

§ 1005.31 Disclosures.

(a) *General form of disclosures*—(1) *Clear and conspicuous.* Disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section or § 1005.33(h)(3) must be clear and conspicuous. Disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section or § 1005.33(h)(3) may contain commonly accepted or readily understandable abbreviations or symbols.

* * * * *

(b) * * *

(1) * * *

(ii) Any fees imposed and any taxes collected on the remittance transfer by the provider, in the currency in which the remittance transfer is funded, using the terms ''Transfer Fees'' for fees and ''Transfer Taxes'' for taxes, or substantially similar terms;

* * * * *

(v) The amount in paragraph (b)(1)(i) of this section, in the currency in which the funds will be received by the designated recipient, but only if covered third-party fees are imposed under paragraph (b)(1)(vi) of this section, using the term ''Transfer Amount'' or a substantially similar term. The exchange rate used to calculate this amount is the exchange rate in paragraph (b)(1)(iv) of this section, including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate;

(vi) Any covered third-party fees, in the currency in which the funds will be received by the designated recipient, using the term ''Other Fees,'' or a substantially similar term. The exchange rate used to calculate any covered third-party fees is the exchange rate in paragraph (b)(1)(iv) of this section, including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate;

(vii) The amount that will be received by the designated recipient, in the currency in which the funds will be received, using the term ''Total to Recipient'' or a substantially similar term except that this amount shall not include non-covered third party fees or taxes collected on the remittance transfer by a person other than the provider regardless of whether such fees or taxes are disclosed pursuant to paragraph (b)(1)(viii) of this section. The exchange rate used to calculate this amount is the exchange rate in paragraph (b)(1)(iv) of this section, including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate.

(viii) A statement indicating that non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider may apply to the remittance transfer and result in the designated recipient receiving less than the amount disclosed pursuant to paragraph (b)(1)(vii) of this section. A provider may only include this statement to the extent that such fees or taxes do or may apply to the transfer, using the language set forth in Model Forms A–30(a) through (c) of Appendix A to this part, as appropriate, or substantially similar language. In this statement, a provider also may, but is not required, to disclose any applicable non-covered third-party fees or taxes collected by a person other than the provider. Any such figure must be disclosed in the currency in which the funds will be received, using the language set forth in Model Forms A–30(b) through (d) of Appendix A to this part, as appropriate, or substantially similar language. The exchange rate used to calculate any disclosed non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider is the exchange rate in paragraph (b)(1)(iv) of this section, including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate;

(2) * * *

(i) The disclosures described in paragraphs (b)(1)(i) through (viii) of this section;

* * * * *

(c) *Specific format requirements*—(1) *Grouping.* The information required by paragraphs (b)(1)(i), (ii), and (iii) of this section generally must be grouped together. The information required by paragraphs (b)(1)(v), (vi), (vii), and (viii) of this section generally must be grouped together. Disclosures provided via mobile application or text message, to the extent permitted by paragraph (a)(5) of this section, generally need not comply with the grouping requirements

of this paragraph, however information required or permitted by paragraph (b)(1)(viii) of this section must be grouped with information required by paragraph (b)(1)(vii) of this section.

(2) *Proximity.* The information required by paragraph (b)(1)(iv) of this section generally must be disclosed in close proximity to the other information required by paragraph (b)(1) of this section. The information required by paragraph (b)(2)(iv) of this section generally must be disclosed in close proximity to the other information required by paragraph (b)(2) of this section. The information required or permitted by paragraph (b)(1)(viii) must be in close proximity to the information required by paragraph (b)(1)(vii) of this section. Disclosures provided via mobile application or text message, to the extent permitted by paragraph (a)(5) of this section, generally need not comply with the proximity requirements of this paragraph, however information required or permitted by paragraph (b)(1)(viii) of this section must follow the information required by paragraph (b)(1)(vii) of this section.

(3) *Prominence and size.* Written disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section must be provided on the front of the page on which the disclosure is printed. Disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section that are provided in writing or electronically must be in a minimum eight-point font, except for disclosures provided via mobile application or text message, to the extent permitted by paragraph (a)(5) of this section. Disclosures required by paragraph (b) of this section or permitted by paragraph (b)(1)(viii) of this section that are provided in writing or electronically must be in equal prominence to each other.

* * * * *

(f) *Accurate when payment is made.* Except as provided in § 1005.36(b), disclosures required by this section or permitted by paragraph (b)(1)(viii) of this section must be accurate when a sender makes payment for the remittance transfer, except to the extent estimates are permitted by § 1005.32.

(g) *Foreign language disclosures*—(1) *General.* Except as provided in paragraph (g)(2) of this section, disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section or § 1005.33(h)(3) must be made in English and, if applicable, either in:

* * * * *

■ 4. Section 1005.32 is amended by revising paragraphs (b)(2)(ii) and (c)(3), adding paragraph (b)(3), revising paragraph (c)(4) and removing paragraph (c)(5) to read as follows:

§ 1005.32 Estimates.

* * * * *

(b) * * *

(2) * * *

(ii) Covered third-party fees described in § 1005.31(b)(1)(vi) may be estimated under paragraph (b)(2)(i) of this section only if the exchange rate is also estimated under paragraph (b)(2)(i) of this section and the estimated exchange rate affects the amount of such fees.

* * * * *

(3) *Permanent exception for optional disclosure of non-covered third-party fees and taxes collected by a person other than the provider.* For disclosures described in §§ 1005.31(b)(1) through (3) and 1005.36(a)(1) and (2), estimates may be provided for applicable non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider, which are permitted to be disclosed under § 1005.31(b)(1)(viii), provided such estimates are based on reasonable sources of information.

(c) * * *

(3) *Covered third-party fees.* (i) *Imposed as percentage of amount transferred.* In disclosing covered third-party fees, as described under § 1005.31(b)(1)(vi), that are a percentage of the amount transferred to the designated recipient, an estimated exchange rate must be based on the estimated exchange rate provided in accordance with paragraph (c)(1) of this section, prior to any rounding of the estimated exchange rate.

(ii) *Imposed by the intermediary or final institution.* In disclosing covered third-party fees pursuant to § 1005.31(b)(1)(vi), an estimate must be based on one of the following:

* * * * *

(4) Amount of currency that will be received by the designated recipient. In disclosing the amount of currency that will be received by the designated recipient as required under § 1005.31(b)(1)(vii), an estimate must be based on the information provided in accordance with paragraphs (c)(1) through (3) of this section, as applicable.

■ 5. Section 1005.33 is amended by revising paragraphs (a)(1)(iii), (a)(1)(iv)(B), (c)(2) introductory text, (c)(2)(ii) introductory text, (c)(2)(ii)(A)(*2*) and (c)(2)(ii)(B), redesignating paragraph (c)(2)(iii) as paragraph (c)(2)(iv), and adding paragraphs (a)(1)(iv)(D), (c)(2)(iii) and (h) to read as follows:

§ 1005.33 Procedures for resolving errors.

(a) * * *

(1) * * *

(iii) The failure to make available to a designated recipient the amount of currency disclosed pursuant to § 1005.31(b)(1)(vii) and stated in the disclosure provided to the sender under § 1005.31(b)(2) or (3) for the remittance transfer, unless:

(A) The disclosure stated an estimate of the amount to be received in accordance with § 1005.32(a), (b)(1) or (b)(2) and the difference results from application of the actual exchange rate, fees, and taxes, rather than any estimated amounts; or

(B) The failure resulted from extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated; or

(C) The difference results from the application of non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider and the provider provided the disclosure required by § 1005.31(b)(1)(viii).

(iv) * * *

(B) Delays related to the remittance transfer provider's fraud screening procedures or in accordance with the Bank Secrecy Act, 31 U.S.C. 5311 *et seq.,* Office of Foreign Assets Control requirements, or similar laws or requirements;

* * * * *

(D) The sender having provided the remittance transfer provider an incorrect account number or recipient institution identifier for the designated recipient's account or institution, provided that the remittance transfer provider meets the conditions set forth in paragraph (h) of this section;

* * * * *

(c) * * *

(2) *Remedies.* Except as provided in paragraph (c)(2)(iii) of this section, if, following an assertion of an error by a sender, the remittance transfer provider determines an error occurred, the provider shall, within one business day of, or as soon as reasonably practicable after, receiving the sender's instructions regarding the appropriate remedy, correct the error as designated by the sender by:

* * * * *

(ii) Except as provided in paragraph (c)(2)(iii) of this section, in the case of an error under paragraph (a)(1)(iv) of this section

(A) * * *

(*2*) Making available to the designated recipient the amount appropriate to resolve the error. Such amount must be

made available to the designated recipient without additional cost to the sender or to the designated recipient; and

(B) Refunding to the sender any fees imposed and, to the extent not prohibited by law, taxes collected on the remittance transfer;

(iii) In the case of an error under paragraph (a)(1)(iv) of this section that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall refund to the sender the amount of funds provided by the sender in connection with the remittance transfer that was not properly transmitted, or the amount appropriate to resolve the error, within three business days of providing the report required by paragraph (c)(1) or (d)(1) of this section except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund. The provider may deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt.

* * * * *

(h) *Incorrect account number or recipient institution identifier provided by the sender.* The exception in paragraph (a)(1)(iv)(D) of this section applies if:

(1) The remittance transfer provider can demonstrate that the sender provided an incorrect account number or recipient institution identifier to the provider in connection with the remittance transfer;

(2) For any instance in which the sender provided the incorrect recipient institution identifier, prior to or when sending the transfer, the provider used reasonably available means to verify that the recipient institution identifier provided by the sender corresponded to the recipient institution name provided by the sender;

(3) The provider provided notice to the sender before the sender made payment for the remittance transfer that, in the event the sender provided an incorrect account number or recipient institution identifier, the sender could lose the transfer amount. For purposes of providing this disclosure, § 1005.31(a)(2) applies to this notice unless the notice is given at the same time as other disclosures required by this subpart for which information is permitted to be disclosed orally or via mobile application or text message, in which case this disclosure may be given in the same medium as those other disclosures;

(4) The incorrect account number or recipient institution identifier resulted in the deposit of the remittance transfer into a customer's account that is not the designated recipient's account; and

(5) The provider promptly used reasonable efforts to recover the amount that was to be received by the designated recipient.

■ 6. Appendix A to part 1005 is amended as follows:

■ a. Title A–30 is removed and reserved and new titles A–30(a) through A–30(d) are added.

■ b. New Model Forms A–30(a), A–30(b), A–30(c), A–30(d) are added, and Model Forms A–31 through A–41 are revised.

The additions and revisions read as follows:

Appendix A to Part 1005—Model Disclosures and Forms

* * * * *

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

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

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

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

* * * * *

A–30(a)—Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency (§ 1005.31(b)(1))

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

NOT A RECEIPT

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Exchange Rate: US$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	-30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

A–30(b)—Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency (§ 1005.31(b)(1))

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

NOT A RECEIPT

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Exchange Rate: US$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	-30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank (Est. 40 MXN).

A–30(c)—Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency (§ 1005.31(b)(1))

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

NOT A RECEIPT

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Exchange Rate: US$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	-30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to foreign taxes (Est. 10 MXN).

A–30(d)—Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged into Local Currency (§ 1005.31(b)(1))

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

NOT A RECEIPT

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Exchange Rate: US$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	-30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank (Est. 30 MXN) and foreign taxes (Est. 10 MXN).

A–31—Model Form for Receipts for Remittance Transfers Exchanged into Local Currency (§ 1005.31(b)(2))

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

RECEIPT

SENDER:
Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

RECIPIENT:
Carlos Gomez
123 Calle XXX
Mexico City
Mexico

PICK-UP LOCATION:
ABC Company
65 Avenida YYY
Mexico City
Mexico

Confirmation Code: ABC 123 DEF 456

Date Available: March 4, 2014

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Exchange Rate: US$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	-30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

For questions or complaints about ABC Company, contact:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

A–32—Model Form for Combined Disclosures for Remittance Transfers Exchanged into Local Currency (§ 1005.31(b)(3))

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

SENDER:
Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

RECIPIENT:
Carlos Gomez
123 Calle XXX
Mexico City
Mexico

PICK-UP LOCATION:
ABC Company
65 Avenida YYY
Mexico City
Mexico

Confirmation Code: ABC 123 DEF 456

Date Available: March 4, 2014

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Exchange Rate: US$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	-30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

For questions or complaints about ABC Company, contact:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

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

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

NOT A RECEIPT

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Transfer Amount:	$100.00
Other Fees:	-$4.00
Total to Recipient:	$96.00

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

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

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

RECEIPT

SENDER:
Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
301-555-1212

RECIPIENT:
Carlos Gomez
106 Calle XXX
Mexico City
Mexico

PICK-UP LOCATION:
ABC Company
65 Avenida YYY
Mexico City
Mexico

Confirmation Code:	ABC 123 DEF 456
Date Available:	March 4, 2014
Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00
Transfer Amount:	$100.00
Other Fees:	-$4.00
Total to Recipient:	$96.00

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

For questions or complaints about ABC Company, contact:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

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

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

SENDER:	RECIPIENT:
Pat Jones	Carlos Gomez
100 Anywhere Street	106 Calle XXX
Anytown, Anywhere 54321	Mexico City
301-555-1212	Mexico
	PICK-UP LOCATION:
	ABC Company
	65 Avenida YYY
	Mexico City
	Mexico

Confirmation Code:	ABC 123 DEF 456
Date Available:	March 4, 2014

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Transfer Amount:	$100.00
Other Fees:	-$4.00
Total to Recipient:	$96.00

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

For questions or complaints about ABC Company, contact:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

A–36—Model Form for Error Resolution and Cancellation Disclosures (Long) (§ 1005.31(b)(4))

What to do if you think there has been an error or problem:

If you think there has been an error or problem with your remittance transfer:

- Call us at [insert telephone number][; or]
- Write us at [insert address][; or]
- [E-mail us at [insert electronic mail address]].

You must contact us within 180 days of the date we promised to you that funds would be made available to the recipient. When you do, please tell us:

(1) Your name and address [or telephone number];

(2) The error or problem with the transfer, and why you believe it is an error or problem;

(3) The name of the person receiving the funds, and if you know it, his or her telephone number or address; [and]

(4) The dollar amount of the transfer; [and

(5) The confirmation code or number of the transaction.]

We will determine whether an error occurred within 90 days after you contact us and we will correct any error promptly. We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of any documents we used in our investigation.

What to do if you want to cancel a remittance transfer:
You have the right to cancel a remittance transfer and obtain a refund of all funds paid to us, including any fees. In order to cancel, you must contact us at the [phone number or e-mail address] above within 30 minutes of payment for the transfer.

When you contact us, you must provide us with information to help us identify the transfer you wish to cancel, including the amount and location where the funds were sent. We will refund your money within three business days of your request to cancel a transfer as long as the funds have not already been picked up or deposited into a recipient's account.

A–37—Model Form for Error Resolution and Cancellation Disclosures (Short) (§ 1005.31(b)(2)(iv) and (b)(2)(vi))

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at [insert telephone number] or [insert website]. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

For questions or complaints about [insert name of remittance transfer provider], contact:

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

ABC Company

1000 XYZ Avenue
Anytown, Anystate 12345

Fecha: 3 de marzo de 2014

ESTE NO ES UN RECIBO

Cantidad de Envío:	$100.00
Cargos por Envío:	+$7.00
Impuestos de Envío:	+$3.00
Total:	$110.00

Tasa de Cambio: US$1.00 = 12.27 MXN

Cantidad de Envío:	1,227.00 MXN
Otros Cargos por Envío:	-30.00 MXN
Total al Destinatario:	1,197.00 MXN

El beneficiario podría recibir menos dinero debido a las comisiones cobradas por el banco del beneficiario e impuestos extranjeros.

A–39—Model Form for Receipts for Remittance Transfers Exchanged into Local Currency—Spanish (§ 1005.31(b)(2))

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Fecha: 3 de marzo de 2014

RECIBO

REMITENTE:
Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

DESTINATARIO:
Carlos Gomez
123 Calle XXX
Ciudad de Mexico, D.F.
Mexico

PUNTO DE PAGO:
ABC Company
65 Avenida YYY
Ciudad de Mexico, D.F.
Mexico

Código de Confirmación: ABC 123 DEF 456

Fecha Disponible: 4 de marzo de 2014

Cantidad de Envío:	$100.00
Cargos por Envío:	+$7.00
Impuestos de Envío:	+$3.00
Total:	$110.00

Tasa de Cambio: US$1.00 = 12.27 MXN

Cantidad de Envío:	1,227.00 MXN
Otros Cargos por Envío:	-30.00 MXN
Total al Destinatario:	1,197.00 MXN

El beneficiario podría recibir menos dinero debido a las comisiones cobradas por el banco del beneficiario e impuestos extranjeros.

Usted tiene el derecho de discutir errores en su transaccion. Si cree que hay un error, contáctenos dentro de 180 días al 800-123-4567 o www.abccompany.com. También puede contactarnos para obtener una explicación escrita de sus derechos.

Puede cancelar el envío y recibir un reembolso total dentro de 30 minutos de haber realizado el pago, a no ser que los fondos hayan sido recogidos o depositados.

Para preguntas o presentar una queja sobre ABC Company, contacte a:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

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

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Fecha: 3 de marzo de 2014

REMITENTE:
Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

DESTINATARIO:
Carlos Gomez
123 Calle XXX
Ciudad de Mexico, D.F.
Mexico

PUNTO DE PAGO:
ABC Company
65 Avenida YYY
Ciudad de Mexico, D.F.
Mexico

Código de Confirmación: ABC 123 DEF 456

Fecha Disponible: 4 de marzo de 2014

Cantidad de Envío:	$100.00
Cargos por Envío:	+$7.00
Impuestos de Envío:	+$3.00
Total:	$110.00

Tipo de Cambio: US$1.00 = 12.27 MXN

Cantidad de Envío:	1,227.00 MXN
Otros Cargos por Envío:	-30.00 MXN
Total al Destinatario:	1,197.00 MXN

El beneficiario podría recibir menos dinero debido a las comisiones cobradas por el banco del beneficiario e impuestos extranjeros.

Usted tiene el derecho de discutir errores en su transaccion. Si cree que hay un error, contáctenos dentro de 180 días al 800-123-4567 o www.abccompany.com. También puede contactarnos para obtener una explicación escrita de sus derechos.

Puede cancelar el envío y recibir un reembolso total dentro de 30 minutos de haber realizado el pago, a no ser que los fondos hayan sido recogidos o depositados.

Para preguntas o presentar una queja sobre ABC Company, contacte a:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

A–41—Model Form for Error Resolution and Cancellation Disclosures (Long)—Spanish (§ 1005.31(b)(4))

Lo que usted debe hacer si cree que hay un error o problema:

Si cree que hay un error o problema con su envío de dinero:

- Llámenos a [inserte número de teléfono][; o]
- Escríbanos a [inserte dirección][; o]
- [Envíenos un correo electrónico a [inserte dirección de correo electrónico]].

Debe contactarnos dentro de 180 días a partir de la fecha en que se le prometió que los fondos estarían disponibles al destinatario. Cuando se comunique con nosotros, por favor provea la siguiente información:

(1) Su nombre y dirección [o número de teléfono];

(2) El error o problema con su envío de dinero, y por qué cree que hay un error o problema;

(3) El nombre del destinatario, y si lo sabe, su número de teléfono o dirección; [y]

(4) El monto del envío en dólares; [y

(5) El código de confirmación o el número de la transacción.]

Nosotros determinaremos si ocurrió un error dentro de 90 días después de que usted nos contacte y lo corregiremos rápidamente. Le diremos los resultados dentro de tres días hábiles después de terminar nuestra investigación. Si decidimos que no hubo un error, le enviaremos a usted una explicación escrita. Usted puede pedir copias de los documentos que usamos en nuestra investigación.

Lo que usted debe hacer si quiere cancelar un envío de dinero:

Tiene el derecho de cancelar un envío de dinero y obtener un reembolso de todo el dinero, incluyendo tarifas o gastos que usted nos pagó. Para cancelar debe contactarnos al [número de teléfono o dirección de correo electrónico] que se encuentra arriba dentro de 30 minutos de haber realizado el pago para el envío de dinero.

Cuando nos contacte, debe proveernos información que nos ayudará a identificar el envío de dinero que quiere cancelar, incluyendo la cantidad del envío y el lugar adonde fue enviado. Le reembolsaremos su dinero dentro de tres días hábiles de su petición de cancelar, a no ser que los fondos hayan sido recogidos o depositados en la cuenta del destinatario.

* * * * *

■ 7. In Supplement I to Part 1005—Official Interpretations:

■ A. Under *Section 1005.30:*

■ i. Under comment 30(c), paragraph 1 is revised.

■ ii. Comment 30(h) is added.

■ B. Under *Section 1005.31:*

■ i. Under comment 31(b), paragraphs 1 and 2 are revised.

■ ii. Under comment 31(b)(1), paragraphs 1, 2, and 3 are revised.

■ iii. The heading of comment 31(b)(1)(vi) is revised.

■ iv. Under newly designated comment 31(b)(1)(vi), paragraph 1 is revised and paragraph 2 is removed.

■ v. Under comment 31(b)(1)(vii), paragraph 1 is revised.

■ vi. Comment 31(b)(1)(viii) is added.

■ vii. Under comment 31(c)(1), paragraph 1 is revised.

■ viii. Under comment 31(c)(4), paragraph 2.xi.is added.
■ ix. Under comment 31(f), paragraph 1 is revised.
■ C. Under *Section 1005.32 Estimates:*
■ i. Under comment 32(a)(1), paragraphs 1, 2.ii, and 3.ii. are revised, and paragraphs 2.iii and 3.iii are removed.
■ ii. Under comment 32(b)(2), paragraph 1 is revised.
■ iii. Comment 32(b)(3) is added.
■ iv. The heading of comment 32(c)(3) is revised.
■ v. Comment 32(c)(4) is removed.
■ D. Under *Section 1005.33:*
■ i. Under comment 33(a):
■ a. Paragraphs 7 and 8 are redesignated as paragraphs 9 and 10.
■ b. Paragraphs 3.ii, 3.iii, 4 and newly redesignated paragraph 10 are revised.
■ c. Paragraphs 3.vi, 7, and 8 are added.
■ ii. Under comment 33(c), paragraphs 2, 3, 4 and 5 are revised, and paragraphs 11 and 12 are added.
■ iii. Comment 33(h) is added.
■ E. Under *Section 1005.36:*
■ i. Under comment *36(a)(2),* paragraph 1 is revised.
■ G. Under Subheading Appendix A, paragraph 2. and paragraph 4. are revised.
■ The additions and revisions read as follows:

Supplement I to Part 1005—Official Interpretations

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■ Section 1005.30—Remittance Transfer Definitions

* * * * *

30(c) Designated Recipient

1. *Person.* A designated recipient can be either a natural person or an organization, such as a corporation. *See* § 1005.2(j) (definition of person). The designated recipient is identified by the name of the person provided by the sender to the remittance transfer provider and disclosed by the provider to the sender pursuant to § 1005.31(b)(1)(iii).

* * * * *

30(h) Third-Party Fees

1. *Fees imposed on the remittance transfer.* Fees imposed on the remittance transfer by a person other than the remittance transfer provider include only those fees that are charged to the designated recipient and are specifically related to the remittance transfer. For example, overdraft fees that are imposed by a recipient's bank or funds that are garnished from the proceeds of a remittance transfer to satisfy an unrelated debt are not fees imposed on the remittance transfer because these charges are not specifically related to the remittance transfer. Account fees are also not specifically related to a remittance transfer if such fees are merely assessed based on general account activity and not for receiving transfers. Where an incoming remittance transfer results in a balance increase that triggers a monthly maintenance fee, that fee is not specifically related to a remittance transfer. Similarly, fees that banks charge one another for handling a remittance transfer or other fees that do not affect the total amount of the transaction or the amount that will be received by the designated recipient are not fees imposed on the remittance transfer. For example, an interchange fee that is charged to a provider when a sender uses a credit or debit card to pay for a remittance transfer is not a fee imposed upon the remittance transfer. Fees that specifically relate to a remittance transfer may be structured on a flat per-transaction basis, or may be conditioned on other factors (such as account status or the quantity of remittance transfers received) in addition to the remittance transfer itself. For example, where an institution charges an incoming transfer fee on most customers' accounts, but not on preferred accounts, such a fee is nonetheless specifically related to a remittance transfer. Similarly, if the institution assesses a fee for every transfer beyond the fifth received each month, such a fee would be specifically related to the remittance transfer regardless of how many remittance transfers preceded it that month.

2. *Covered third-party fees.* i. Under § 1005.30(h)(1), a covered third-party fee means any fee that is imposed on the remittance transfer by a person other than the remittance transfer provider that is not a non-covered third-party fee.

ii. Examples of covered third-party fees include:

A. Fees imposed on a remittance transfer by intermediary institutions in connection with a wire transfer (sometimes referred to as ''lifting fees'').

B. Fees imposed on a remittance transfer by an agent of the provider at pick-up for receiving the transfer.

3. *Non-covered third-party fees.* Under § 1005.30(h)(2), a non-covered third-party fee means any fee imposed by the designated recipient's institution for receiving a remittance transfer into an account except if such institution acts as the agent of the remittance transfer provider. For example, a fee imposed by the designated recipient's institution for receiving an incoming transfer into an account is a non-covered third-party fee, provided such institution is not acting as the agent of the remittance transfer provider. *See also* comment 31(b)(1)(viii)–1. Furthermore, designated recipient's account in § 1005.30(h)(2) refers to an asset account, regardless of whether it is a consumer asset account, established for any purpose and held by a bank, savings association, credit union, or equivalent institution. A designated recipient's account does not, however, include a credit card, prepaid card, or a virtual account held by an Internet-based or mobile telephone company that is not a bank, savings association, credit union or equivalent institution.

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Section 1005.31—Disclosures

* * * * *

31(b) Disclosure Requirements

1. *Disclosures provided as applicable.* Disclosures required by § 1005.31(b) need only be provided to the extent applicable. A remittance transfer provider may choose to omit an item of information required by § 1005.31(b) if it is inapplicable to a particular transaction. Alternatively, for disclosures required by § 1005.31(b)(1)(i) through (vii), a provider may disclose a term and state that an amount or item is ''not applicable,'' ''N/A,'' or ''None.'' For example, if fees or taxes are not imposed in connection with a particular transaction, the provider need not provide the disclosures about fees and taxes generally required by § 1005.31(b)(1)(ii), the disclosures about covered third-party fees generally required by § 1005.31(b)(1)(vi), or the disclaimers about non-covered third-party fees and taxes collected by a person other than the provider generally required by § 1005.31(b)(1)(viii). Similarly, a Web site need not be disclosed if the provider does not maintain a Web site. A provider need not provide the exchange rate disclosure required by § 1005.31(b)(1)(iv) if a recipient receives funds in the currency in which the remittance transfer is funded, or if funds are delivered into an account denominated in the currency in which the remittance transfer is funded. For example, if a sender in the United States sends funds from an account denominated in Euros to an account in France denominated in Euros, no exchange rate would need to be provided. Similarly, if a sender funds a remittance transfer in U.S. dollars and requests that a remittance transfer be delivered to the recipient in U.S. dollars, a provider need not disclose an exchange rate.

2. *Substantially similar terms, language, and notices.* Certain

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

31(b)(1) Pre-Payment Disclosures

1. *Fees and taxes.* i. Taxes collected on the remittance transfer by the remittance transfer provider include taxes collected on the remittance transfer by a State or other governmental body. A provider need only disclose fees imposed or taxes collected on the remittance transfer by the provider in § 1005.31(b)(1)(ii), as applicable. For example, if no transfer taxes are imposed on a remittance transfer, a provider would only disclose applicable transfer fees. *See* comment 31(b)–1. If both fees and taxes are imposed, the fees and taxes must be disclosed as separate, itemized disclosures. For example, a provider would disclose all transfer fees using the term ''Transfer Fees'' or a substantially similar term and would separately disclose all transfer taxes using the term ''Transfer Taxes'' or a substantially similar term.

ii. The fees and taxes required to be disclosed by § 1005.31(b)(1)(ii) include all fees imposed and all taxes collected on the remittance transfer by the provider. For example, a provider must disclose any service fee, any fees imposed by an agent of the provider at the time of the transfer, and any State taxes collected on the remittance transfer at the time of the transfer. Fees imposed on the remittance transfer by the provider required to be disclosed under § 1005.31(b)(1)(ii) include only those fees that are charged to the sender and are specifically related to the remittance transfer. *See also* comment 30(h)–1. In contrast, the fees required to be disclosed by § 1005.31(b)(1)(vi) are any covered third-party fees as defined in § 1005.30(h)(1).

iii. The term used to describe the fees imposed on the remittance transfer by the provider in § 1005.31(b)(1)(ii) and the term used to describe covered third-party fees under § 1005.31(b)(1)(vi) must differentiate between such fees. For example the terms used to describe fees disclosed under § 1005.31(b)(1)(ii) and (vi) may not both be described solely as ''Fees.''

2. *Transfer amount.* Sections 1005.31(b)(1)(i) and (v) require two transfer amount disclosures. First, under § 1005.31(b)(1)(i), a provider must disclose the transfer amount in the currency in which the remittance transfer is funded to show the calculation of the total amount of the transaction. Typically, the remittance transfer is funded in U.S. dollars, so the transfer amount would be expressed in U.S. dollars. However, if the remittance transfer is funded, for example, from a Euro-denominated account, the transfer amount would be expressed in Euros. Second, under § 1005.31(b)(1)(v), a provider must disclose the transfer amount in the currency in which the funds will be made available to the designated recipient. For example, if the funds will be picked up by the designated recipient in Japanese yen, the transfer amount would be expressed in Japanese yen. However, this second transfer amount need not be disclosed if covered third-party fees as described under § 1005.31(b)(1)(vi) are not imposed on the remittance transfer. The terms used to describe each transfer amount should be the same.

3. *Exchange rate for calculation.* The exchange rate used to calculate the transfer amount in § 1005.31(b)(1)(v), the covered third-party fees in § 1005.31(b)(1)(vi), the amount received in § 1005.31(b)(1)(vii), and the optional disclosures of non-covered third-party fees and other taxes permitted by § 1005.31(b)(1)(viii) is the exchange rate in § 1005.31(b)(1)(iv), including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate. For example, if one U.S. dollar exchanges for 11.9483779 Mexican pesos, a provider must calculate these disclosures using this rate, even though the provider may disclose pursuant to § 1005.31(b)(1)(iv) that the U.S. dollar exchanges for 11.9484 Mexican pesos. Similarly, if a provider estimates pursuant to § 1005.32 that one U.S. dollar exchanges for 11.9483 Mexican pesos, a provider must calculate these disclosures using this rate, even though the provider may disclose pursuant to § 1005.31(b)(1)(iv) that the U.S. dollar exchanges for 11.95 Mexican pesos (Estimated). If an exchange rate need not be rounded, a provider must use that exchange rate to calculate these disclosures. For example, if one U.S. dollar exchanges for exactly 11.9 Mexican pesos, a provider must calculate these disclosures using this exchange rate.

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31(b)(1)(vi) Disclosure of Covered Third-Party Fees

1. *Fees disclosed in the currency in which the funds will be received.* Section 1005.31(b)(1)(vi) requires the disclosure of covered third-party fees in the currency in which the funds will be received by the designated recipient. A covered third-party fee described in § 1005.31(b)(1)(vi) may be imposed in one currency, but the funds may be received by the designated recipient in another currency. In such cases, the remittance transfer provider must calculate the fee to be disclosed under § 1005.31(b)(1)(vi) in the currency of receipt using the exchange rate in § 1005.31(b)(1)(iv), including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate. For example, an intermediary institution involved in sending an international wire transfer funded in U.S. dollars may impose a fee in U.S. dollars, but funds are ultimately deposited in the recipient's account in Euros. In this case, the provider would disclose the covered third-party fee to the sender expressed in Euros, calculated using the exchange rate disclosed under § 1005.31(b)(1)(iv), prior to any rounding of the exchange rate. For purposes of § 1005.31(b)(1)(v), (vi), and (vii), if a provider does not have specific knowledge regarding the currency in which the funds will be received, the provider may rely on a sender's representation as to the currency in which funds will be received. For example, if a sender requests that a remittance transfer be deposited into an account in U.S. dollars, the provider may provide the disclosures required in § 1005.31(b)(1)(v), (vi), and (vii) in U.S. dollars, even if the account is actually denominated in Mexican pesos and the funds are subsequently converted prior to deposit into the account. If a sender does not know the currency in which funds will be received, the provider may assume that the currency in which funds will be received is the currency in which the remittance transfer is funded.

31(b)(1)(vii) Amount Received

1. Amount received. The remittance transfer provider is required to disclose the amount that will be received by the designated recipient in the currency in which the funds will be received. The amount received must reflect the exchange rate, all fees imposed and all taxes collected on the remittance transfer by the remittance transfer provider, as well as any covered third-party fees required to be disclosed by § 1005.31(b)(1)(vi). The disclosed

amount received must be reduced by the amount of any fee or tax—except for a non-covered third-party fee or tax collected on the remittance transfer by a person other than the provider—that is imposed on the remittance transfer that affects the amount received even if that amount is imposed or itemized separately from the transaction amount.

31(b)(1)(viii) Statement When Additional Fees and Taxes May Apply

1. *Required disclaimer when non-covered third-party fees and taxes collected by a person other than the provider may apply.* If non-covered third-party fees or taxes collected by a person other than the provider apply to a particular remittance transfer or if a provider does not know if such fees or taxes may apply to a particular remittance transfer, § 1005.31(b)(1)(viii) requires the provider to include the disclaimer with respect to such fees and taxes. Required disclosures under § 1005.31(b)(1)(viii) may only be provided to the extent applicable. For example, if the designated recipient's institution is an agent of the provider and thus, non-covered third-party fees cannot apply to the transfer, the provider must disclose all fees imposed on the remittance transfer and may not provide the disclaimer regarding non-covered third-party fees. In this scenario, the provider may only provide the disclaimer regarding taxes collected on the remittance transfer by a person other than the provider, as applicable. *See* Model Form A–30(c).

2. *Optional disclosure of non-covered third-party fees and taxes collected by a person other than the provider.* When a remittance transfer provider knows the non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider that will apply to a particular transaction, § 1005.31(b)(1)(viii) permits the provider to disclose the amount of such fees and taxes. Section 1005.32(b)(3)–1 additionally permits a provider to disclose an estimate of such fees and taxes, provided any estimates are based on reasonable source of information. *See* comment 32(b)(3). For example, a provider may know that the designated recipient's institution imposes an incoming wire fee for receiving a transfer. Alternatively, a provider may know that foreign taxes will be collected on the remittance transfer by a person other than the remittance transfer provider. In these examples, the provider may choose, at its option, to disclose the amounts of the relevant recipient institution fee and tax as part of the information disclosed pursuant to § 1005.31(b)(1)(viii). The provider must not include that fee or tax in the amount disclosed pursuant to § 1005.31(b)(1)(vi) or (b)(1)(vii). Fees and taxes disclosed under § 1005.31(b)(1)(viii) must be disclosed in the currency in which the funds will be received. *See* comment 31(b)(1)(vi)–1. Estimates of any non-covered third-party fees and any taxes collected on the remittance transfer by a person other than the provider must be disclosed in accordance with § 1005.32(b)(3).

* * * * *

31(c)(1) Grouping

1. *Grouping.* Information is grouped together for purposes of subpart B if multiple disclosures are in close proximity to one another and a sender can reasonably calculate the total amount of the transaction and the amount that will be received by the designated recipient. Model Forms A–30(a)–(d) through A–35 in Appendix A illustrate how information may be grouped to comply with the rule, but a remittance transfer provider may group the information in another manner. For example, a provider could provide the grouped information as a horizontal, rather than a vertical, calculation. A provider could also send multiple text messages sequentially to provide the full disclosure.

31(c)(4) Segregation

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2. *Directly related.* * * *

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xi. Disclosure of any non-covered third-party fees and any taxes collected by a person other than the provider pursuant to § 1005.31(b)(1)(viii).

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31(f) Accurate When Payment Is Made

1. *No guarantee of disclosures provided before payment.* Except as provided in § 1005.36(b), disclosures required by § 1005.31(b) or permitted by § 1005.31(b)(1)(viii) must be accurate when a sender makes payment for the remittance transfer. A remittance transfer provider is not required to guarantee the terms of the remittance transfer in the disclosures required or permitted by § 1005.31(b) for any specific period of time. However, if any of the disclosures required by § 1005.31(b) or permitted by § 1005.31(b)(1)(viii) are not accurate when a sender makes payment for the remittance transfer, a provider must give new disclosures before accepting payment.

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Section 1005.32—Estimates

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32(a) Temporary Exception for Insured Institutions

32(a)(1) General

1. *Control.* For purposes of this section, an insured institution cannot determine exact amounts ''for reasons beyond its control'' when a person other than the insured institution or with which the insured institution has no correspondent relationship sets the exchange rate required to be disclosed under § 1005.31(b)(1)(iv) or imposes a covered third-party fee required to be disclosed under § 1005.31(b)(1)(vi). For example, if an insured institution has a correspondent relationship with an intermediary financial institution in another country and that intermediary institution sets the exchange rate or imposes a fee for remittance transfers sent from the insured institution to the intermediary institution, then the insured institution must determine exact amounts for the disclosures required under § 1005.31(b)(1)(iv) or (vi), because the determination of those amounts are not beyond the insured institution's control.

2. * * *

ii. *Covered third-party fees.* An insured institution cannot determine the exact covered third-party fees to disclose under § 1005.31(b)(1)(vi) if an intermediary institution with which the insured institution does not have a correspondent relationship, imposes a transfer or conversion fee.

3. * * *

ii. *Covered third-party fees.* An insured institution can determine the exact covered third-party fees required to be disclosed under § 1005.31(b)(1)(vi) if it has agreed upon the specific fees with an intermediary correspondent institution, and this correspondent institution is the only institution in the transmittal route to the designated recipient's institution.

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32(b) Permanent Exceptions

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32(b)(2) Permanent Exceptions for Transfers Scheduled Before the Date of Transfer

1. *Fixed amount of foreign currency.* The following is an example of when and how a remittance transfer provider may disclose estimates for remittance transfers scheduled five or more business days before the date of transfer where the provider agrees to the sender's request to fix the amount to be transferred in a currency in which the

transfer will be received and not the currency in which it was funded. If on February 1, a sender schedules a 1000 Euro wire transfer to be sent from the sender's bank account denominated in U.S. dollars to a designated recipient on February 15, § 1005.32(b)(2) allows the provider to estimate the amount that will be transferred to the designated recipient (*i.e.,* the amount described in § 1005.31(b)(1)(i)), any fees imposed or taxes collected on the remittance transfer by the provider (if based on the amount transferred) (*i.e.,* the amount described in § 1005.31(b)(1)(ii)), and the total amount of the transaction (*i.e.,* the amount described in § 1005.31(b)(1)(iii)). The provider may also estimate any covered third-party fees if the exchange rate is also estimated and the estimated exchange rate affects the amount of fees (as allowed by § 1005.32(b)(2)(ii)).

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

1. *Reasonable sources of information.* Pursuant to § 1005.32(b)(3) a remittance transfer provider may estimate applicable non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider using reasonable sources of information. Reasonable sources of information may include, for example: information obtained from recent transfers to the same institution or the same country or region; fee schedules from the recipient institution; fee schedules from the recipient institution's competitors; surveys of recipient institution fees in the same country or region as the recipient institution; information provided or surveys of recipient institutions' regulators or taxing authorities; commercially or publicly available databases, services or sources; and information or resources developed by international nongovernmental organizations or intergovernmental organizations.

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32(c)(3) Covered Third-Party Fees

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Section 1005.33—Procedures for Resolving Errors

33(a) Definition of Error

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3. * * *

ii. A consumer requests to send funds to a relative in Colombia to be received in local currency. The remittance transfer provider provides the sender a receipt stating an amount of currency that will be received by the designated recipient, which does not reflect the additional foreign taxes that will be collected in Colombia on the transfer but does include the statement required by § 1005.31(b)(1)(viii). If the designated recipient will receive less than the amount of currency disclosed on the receipt due solely to the additional foreign taxes that the provider was not required to disclose, no error has occurred.

iii. Same facts as in ii., except that the receipt provided by the remittance transfer provider does not reflect additional fees that are imposed by the receiving agent in Colombia on the transfer. Because the designated recipient will receive less than the amount of currency disclosed in the receipt due to the additional covered third-party fees, an error has occurred.

* * * * *

vi. A sender requests that his bank send US$120 to a designated recipient's account at an institution in a foreign country. The foreign institution is not an agent of the provider. Only US$100 is deposited into the designated recipient's account because the recipient institution imposed a US$20 incoming wire fee and deducted the fee from the amount transferred. Because this fee is a non-covered third-party fee that the provider is not required to disclose under § 1005.31(b)(1)(vi), no error has occurred if the provider provided the disclosure required by § 1005.31(b)(1)(viii).

4. *Incorrect amount of currency received—extraordinary circumstances.* Under § 1005.33(a)(1)(iii)(B), a remittance transfer provider's failure to make available to a designated recipient the amount of currency disclosed pursuant to § 1005.31(b)(1)(vii) and stated in the disclosure provided pursuant to § 1005.31(b)(2) or (3) for the remittance transfer is not an error if such failure was caused by extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated. Examples of extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated under § 1005.33(a)(1)(iii)(B) include circumstances such as war or civil unrest, natural disaster, garnishment or attachment of some of the funds after the transfer is sent, and government actions or restrictions that could not have been reasonably anticipated by the remittance transfer provider, such as the imposition of foreign currency controls or foreign taxes unknown at the time the receipt or combined disclosure is provided under § 1005.31(b)(2) or (3).

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7. *Sender account number or recipient institution identifier error.* The exception in § 1005.33(a)(1)(iv)(D) applies where a sender gives the remittance transfer provider an incorrect account number or recipient institution identifier and all five conditions in § 1005.33(h) are satisfied. The exception does not apply, however, where the failure to make funds available is the result of a mistake by a provider or a third party or due to incorrect or insufficient information provided by the sender other than an incorrect account number or recipient institution identifier, such as an incorrect name of the recipient institution.

8. *Account number or recipient institution identifier.* For purposes of the exception in § 1005.33(a)(1)(iv)(D), the terms account number and recipient institution identifier refer to alphanumerical account or institution identifiers other than names or addresses, such as account numbers, routing numbers, Canadian transit numbers, International Bank Account Numbers (IBANs), Business Identifier Codes (BICs)) and other similar account or institution identifiers used to route a transaction. In addition and for purposes of this exception, the term designated recipient's account in § 1005.30(h)(2) refers to an asset account, regardless of whether it is a consumer asset account, established for any purpose and held by a bank, savings association, credit union, or equivalent institution. A designated recipient's account does not, however, include a credit card, prepaid card, or a virtual account held by an Internet-based or mobile telephone company that is not a bank, savings association, credit union or equivalent institution.

* * * * *

10. *Change from disclosure made in reliance on sender information.* Under the commentary accompanying § 1005.31, the remittance transfer provider may rely on the sender's representations in making certain disclosures. *See, e.g.,* comments 31(b)(1)(iv)–1 and 31(b)(1)(vi)–1. For example, suppose a sender requests U.S. dollars to be deposited into an account of the designated recipient and represents that the account is U.S. dollar-denominated. If the designated recipient's account is actually denominated in local currency and the recipient account-holding institution must convert the remittance transfer into local currency in order to deposit

the funds and complete the transfer, the change in currency does not constitute an error pursuant to § 1005.33(a)(2)(iv).

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33(c) Time Limits and Extent of Investigation

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2. *Incorrect or insufficient information provided for transfer.* The remedy in § 1005.33(c)(2)(iii) applies if a remittance transfer provider's failure to make funds in connection with a remittance transfer available to a designated recipient by the disclosed date of availability occurred because the sender provided incorrect or insufficient information in connection with the transfer, such as by erroneously identifying the designated recipient's address or by providing insufficient information such that the entity distributing the funds cannot identify the correct designated recipient. A sender is not considered to have provided incorrect or insufficient information for purposes of § 1005.33(c)(2)(iii) if the provider discloses the incorrect location where the transfer may be picked up, gives the wrong confirmation number/code for the transfer, or otherwise miscommunicates information necessary for the designated recipient to pick-up the transfer. The remedies in § 1005.33(c)(2)(iii) do not apply if the sender provided an incorrect account number or recipient institution identifier and the provider has met the requirements of § 1005.33(h) because under § 1005.33(a)(1)(iv)(D) no error would have occurred. *See* § 1005.33(a)(1)(iv)(D) and comment 33(a)–7.

3. *Designation of requested remedy.* Under § 1005.33(c)(2)(ii), the sender may generally choose to obtain a refund of funds that were not properly transmitted or delivered to the designated recipient or, request redelivery of the amount appropriate to correct the error at no additional cost unless the error is determined to have occurred because the sender provided incorrect or insufficient information. Upon receiving the sender's request, the remittance transfer provider shall correct the error within one business day, or as soon as reasonably practicable, applying the same exchange rate, fees, and taxes stated in the disclosure provided under § 1005.31(b)(2) or (3), if the sender requests delivery of the amount appropriate to correct the error and the error did not occur because the sender provided incorrect or insufficient information. The provider may also request that the sender indicate the preferred remedy at the time the sender provides notice of the error although if provider does so, it should indicate that the if the sender chooses a resend at the time, the remedy may be unavailable if the error occurred because the sender provided incorrect or insufficient information. However, if the sender does not indicate the desired remedy at the time of providing notice of error, the remittance transfer provider must notify the sender of any available remedies in the report provided under § 1005.33(c)(1) or (d)(1) if the provider determines an error occurred.

4. *Default remedy.* Unless the sender provided incorrect or insufficient information and § 1005.33(c)(2)(iii) applies, the remittance transfer provider may set a default remedy that the provider will provide if the sender does not designate a remedy within a reasonable time after the sender receives the report provided under § 1005.33(c)(1). A provider that permits a sender to designate a remedy within 10 days after the provider has sent the report provided under § 1005.33(c)(1) or (d)(1) before imposing the default remedy is deemed to have provided the sender with a reasonable time to designate a remedy. In the case a default remedy is provided, the provider must correct the error within one business day, or as soon as reasonably practicable, after the reasonable time for the sender to designate the remedy has passed, consistent with § 1005.33(c)(2).

5. *Form of refund.* For a refund provided under § 1005.33(c)(2)(i)(A), (c)(2)(ii)(A)(1), (c)(2)(ii)(B), or (c)(2)(iii), a remittance transfer provider may generally, at its discretion, issue a refund either in cash or in the same form of payment that was initially provided by the sender for the remittance transfer. For example, if the sender originally provided a credit card as payment for the transfer, the remittance transfer provider may issue a credit to the sender's credit card account in the appropriate amount. However, if a sender initially provided cash for the remittance transfer, a provider may issue a refund by check. For example, if the sender originally provided cash as payment for the transfer, the provider may mail a check to the sender in the amount of the payment.

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11. *Procedure for sending a new remittance transfer after a sender provides incorrect or insufficient information.* Section 1005.33(c)(2)(iii) generally requires a remittance transfer provider to refund the transfer amount to the sender even if the sender's previously designated remedy was a resend or if the provider's default remedy in other circumstances is a resend. However, if before the refund is processed, the sender receives notice pursuant to § 1005.33(c)(1) or (d)(1) that an error occurred because the sender provided incorrect or insufficient information and then requests that the provider send the remittance transfer again, and the provider agrees to that request, § 1005.33(c)(2)(iii) requires that the request be treated as a new remittance transfer and the provider must provide new disclosures in accordance with § 1005.31 and all other applicable provisions of subpart B. However, § 1005.33(c)(2)(iii) does not obligate the provider to agree to a sender's request to send a new remittance transfer.

12. *Determining amount of refund.* Section 1005.33(c)(2)(iii) permits the provider to deduct from the amount refunded, or applied towards a new transfer, any fees or taxes actually deducted from the transfer amount by a person other than the provider as part of the first unsuccessful remittance transfer attempt or that were deducted in the course of returning the transfer amount to the provider following a failed delivery. However, a provider may not deduct those fees and taxes that will ultimately be refunded to the provider. When the provider deducts fees or taxes from the amount refunded pursuant to § 1005.33(c)(2)(iii), the provider must inform the sender of the deduction as part of the notice required by either § 1005.33(c)(1) or (d)(1) and the reason for the deduction. The following examples illustrate these concepts.

i. A sender instructs a remittance transfer provider to send US$100 to a designated recipient in local currency, for which the provider charges a transfer fee of US$10 and its correspondent imposes a fee of US$15. The sender provides incorrect or insufficient information that results in non-delivery of the remittance transfer as requested. Once the provider determines that an error occurred because the sender provided incorrect or insufficient information, the provider must provide the report required by § 1005.33(c)(1) or (d)(1) and inform the sender, pursuant to § 1005.33(c)(1) or (d)(1), that it will refund US$85 to the sender within three business days unless the sender chooses to apply the US$85 towards a new remittance transfer. The provider is required to refund its own $10 fee but not the US$15 fee imposed by the correspondent (unless the $15 will be

refunded to the provider by the correspondent).

ii. A sender instructs a remittance transfer provider to send US$100 to a designated recipient in a foreign country, for which the provider charges a transfer fee of US$10 (and thus the sender pays the provider US$110) and an intermediary institution charges a lifting fee of US$5, such that the designated recipient is expected to receive only US$95, as indicated in the receipt. If an error occurs because the sender provides incorrect or insufficient information that results in non-delivery of the remittance transfer by the date of availability stated in the disclosure provided to the sender for the remittance transfer under § 1005.31(b)(2) or (3), the provider is required to refund, or reapply if requested and the provider agrees, $105 unless the intermediary institution refunds to the provider the US$5 fee. If the sender requests to have the transfer amount applied to a new remittance transfer pursuant to § 1005.33(c)(2)(iii) and provides the corrected or additional information, and the remittance transfer provider agrees to a resend remedy, the remittance transfer provider may charge the sender another transfer fee of US$10 to send the remittance transfer again with the corrected or additional information necessary to complete the transfer. Insofar as the resend is an entirely new remittance transfer, the provider must provide a prepayment disclosure and receipt or combined disclosure in accordance with, among other provisions, the timing requirements of § 1005.31(f) and the cancellation provision of § 1005.34(a).

iii. In connection with a remittance transfer, a provider imposes a $15 tax that it then remits to a State taxing authority. An error occurs because the sender provided incorrect or insufficient information that resulted in non-delivery of the transfer to the designated recipient. The provider may deduct $15 from the amount it refunds to the sender pursuant to § 1005.33(c)(2)(iii) unless the relevant tax law will result in the $15 tax being refunded to the provider by the State taxing authority because the transfer was not completed.

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33(h) Incorrect Account Number Supplied

1. *Reasonable methods of verification.* When a sender provides an incorrect recipient institution identifier, § 1005.33(h)(2) limits the exception in § 1005.33(a)(1)(iv)(D) to situations where the provider used reasonably available means to verify that the recipient institution identifier provided by the sender did correspond to the recipient institution name provided by the sender. Reasonably available means may include accessing a directory of Business Identifier Codes and verifying that the code provided by the sender matches the provided institution name, and, if possible, the specific branch or location provided by the sender. Providers may also rely on other commercially available databases or directories to check other recipient institution identifiers. If reasonable verification means fail to identify that the recipient institution identifier is incorrect, the exception in § 1005.33(a)(1)(iv)(D) will apply, assuming that the provider can satisfy the other conditions in § 1005.33(h). Similarly, if no reasonably available means exist to verify the accuracy of the recipient institution identifier, § 1005.33(h)(2) would be satisfied and thus the exception in § 1005.33(a)(1)(iv)(D) also will apply, again assuming the provider can satisfy the other conditions in § 1005.33(h). However, where a provider does not employ reasonably available means to verify a recipient institution identifier, § 1005.33(h)(2) is not satisfied and the exception in § 1005.33(a)(1)(iv)(D) will not apply.

2. *Reasonable efforts.* Section 1005.33(h)(5) requires a remittance transfer provider to use reasonable efforts to recover the amount that was to be received by the designated recipient. Whether a provider has used reasonable efforts does not depend on whether the provider is ultimately successful in recovering the amount that was to be received by the designated recipient. Under § 1005.33(h)(5), if the remittance transfer provider is requested to provide documentation or other supporting information in order for the pertinent institution or authority to obtain the proper authorization for the return of the incorrectly credited amount, reasonable efforts to recover the amount include timely providing any such documentation to the extent that it is available and permissible under law. The following are examples of reasonable efforts:

i. The remittance transfer provider promptly calls or otherwise contacts the institution that received the transfer, either directly or indirectly through any correspondent(s) or other intermediaries or service providers used for the particular transfer, to request that the amount that was to be received by the designated recipient be returned, and if required by law or contract, by requesting that the recipient institution obtain a debit authorization from the holder of the incorrectly credited account.

ii. The remittance transfer provider promptly uses a messaging service through a funds transfer system to contact institution that received the transfer, either directly or indirectly through any correspondent(s) or other intermediaries or service providers used for the particular transfer, to request that the amount that was to be received by the designated recipient be returned, in accordance with the messaging service's rules and protocol, and if required by law or contract, by requesting that the recipient institution obtain a debit authorization from the holder of the incorrectly credited account.

3. *Promptness of Reasonable Efforts.* Section 1005.33(h)(5) requires that a remittance transfer provider act promptly in using reasonable efforts to recover the amount that was to be received by the designated recipient. Whether a provider acts promptly to use reasonable efforts depends on the facts and circumstances. For example, if, before the date of availability disclosed pursuant to § 1005.31(b)(2)(ii), the sender informs the provider that the sender provided a mistaken account number, the provider will have acted promptly if it attempts to contact the recipient's institution before the date of availability.

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Section 1005.36—Transfers Scheduled Before the Date of Transfer

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36(a) Timing

36(a)(2) Subsequent Preauthorized Remittance Transfers

1. *Changes in Disclosures.* When a sender schedules a series of preauthorized remittance transfers, the provider is generally not required to provide a pre-payment disclosure prior to the date of each subsequent transfer. However, § 1005.36(a)(1)(i) requires the provider to provide a pre-payment disclosure and receipt for the first in the series of preauthorized remittance transfers in accordance with the timing requirements set forth in § 1005.31(e). While certain information in those disclosures is expressly permitted to be estimated (see § 1005.32(b)(2)), other information is not permitted to be estimated, or is limited in how it may be estimated. When any of the information on the most recent receipt provided pursuant to § 1005.36(a)(1)(i) or (a)(2)(i), other than the temporal disclosures required by § 1005.31(b)(2)(ii) and (b)(2)(vii), is no longer accurate with respect to a

subsequent preauthorized remittance transfer for reasons other than as permitted by § 1005.32, the provider must provide, within a reasonable time prior to the scheduled date of the next preauthorized remittance transfer, a receipt that complies with § 1005.31(b)(2) and which discloses, among the other disclosures required by § 1005.31(b)(2), the changed terms. For example, if the provider discloses in the pre-payment disclosure for the first in the series of preauthorized remittance transfers that its fee for each remittance transfer is $20 and, after six preauthorized remittance transfers, the provider increases its fee to $30 (to the extent permitted by contract law), the provider must provide the sender a receipt that complies with §§ 1005.31(b)(2) and 1005.36(b)(2) within a reasonable time prior to the seventh transfer. Barring a further change, this receipt will apply to transfers after the seventh transfer. Or, if, after the sixth transfer, a tax collected by the provider increases from 1.5% of the amount that will be transferred to the designated recipient to 2.0% of the amount that will be transferred to the designated recipient, the provider must provide the sender a receipt that complies with §§ 1005.31(b)(2) and 1005.36(b)(2) within a reasonable time prior to the seventh transfer. In contrast, § 1005.36(a)(2)(i) does not require an updated receipt where an exchange rate, estimated as permitted by § 1005.32(b)(2), changes.

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Appendix A—Model Disclosure Clauses and Forms

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2. *Use of forms.* The appendix contains model disclosure clauses for optional use by financial institutions and remittance transfer providers to facilitate compliance with the disclosure requirements of §§ 1005.5(b)(2) and (3), 1005.6(a), 1005.7, 1005.8(b), 1005.14(b)(1)(ii), 1005.15(d)(1) and (2), 1005.18(c)(1) and (2), 1005.31, 1005.32 and 1005.36. The use of appropriate clauses in making disclosures will protect a financial institution and a remittance transfer provider from liability under sections 916 and 917 of the act provided the clauses accurately reflect the institution's EFT services and the provider's remittance transfer services, respectively.

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4. *Model forms for remittance transfers.* The Bureau will not review or approve disclosure forms for remittance transfer providers. However, this appendix contains 15 model forms for use in connection with remittance transfers. These model forms are intended to demonstrate several formats a remittance transfer provider may use to comply with the requirements of § 1005.31(b). Model Forms A–30 through A–32 demonstrate how a provider could provide the required disclosures for a remittance transfer exchanged into local currency. Model Forms A–30(a), (b), (c), and (d) demonstrate four options regarding model language related to the required disclaimer, where applicable, of non-covered third-party fees and taxes on the remittance transfer collected by a person other than the provider under § 1005.31(b)(1)(viii). Model forms 30(b) through (d) also include language that may be used if a provider elects to estimate either these non-covered third-party fees or taxes collected by a person other than the provider as part of the disclaimer. Model Forms A–33 through A–35 demonstrate how a provider could provide the required disclosures for dollar-to-dollar remittance transfers. These forms also demonstrate disclosure of the required content, in accordance with the grouping and proximity requirements of § 1005.31(c)(1) and (2), in both a register receipt format and an 8.5 inch by 11 inch format. Model Form A–36 provides long form model error resolution and cancellation disclosures required by § 1005.31(b)(4), and Model Form A–37 provides short form model error resolution and cancellation disclosures required by § 1005.31(b)(2)(iv) and (vi). Model Forms A–38 through A–41 provide language for Spanish language disclosures.

i. The model forms contain information that is not required by subpart B, including a confirmation code, the sender's name and contact information, and the optional disclosure of the estimated amount of these non-covered third-party fees and taxes collected by a person other than the provider as part of the disclaimer. Additional information not required by subpart B may be presented on the model forms as permitted by § 1005.31(b)(1)(viii) and (c)(4). Any additional information must be presented consistent with a remittance transfer provider's obligation to provide required disclosures in a clear and conspicuous manner.

ii. Use of the model forms is optional. A remittance transfer provider may change the forms by rearranging the format or by making modifications to the language of the forms, in each case without modifying the substance of the disclosures. Any rearrangement or modification of the format of the model forms must be consistent with the form, grouping, proximity, and other requirements of § 1005.31(a) and (c). Providers making revisions that do not comply with this section will lose the benefit of the safe harbor for appropriate use of Model Forms A–30 to A–41.

iii. Permissible changes to the language and format of the model forms include, for example:

A. Substituting the information contained in the model forms that is intended to demonstrate how to complete the information in the model forms—such as names, addresses, and Web sites; dates; numbers; and State-specific contact information—with information applicable to the remittance transfer. In addition, if the applicable non-covered third-party fees are imposed by an institution other than a bank, a provider could modify the disclaimer accordingly.

B. Eliminating disclosures that are not applicable to the transfer, as described under § 1005.31(b). For example, if only covered third-party fees are imposed, a provider would not use a disclaimer related to additional fees that may apply because all applicable fees are covered and included in the disclosure as required under § 1005.31(b)(1)(vi).

C. Correcting or updating telephone numbers, mailing addresses, or Web site addresses that may change over time.

D. Providing the disclosures on a paper size that is different from a register receipt and 8.5 inch by 11 inch formats.

E. Adding a term substantially similar to ''estimated'' in close proximity to the specified terms in § 1005.31(b)(1) and (2), as required under § 1005.31(d).

F. Providing the disclosures in a foreign language, or multiple foreign languages, subject to the requirements of § 1005.31(g).

G. Substituting cancellation language to reflect the right to a cancellation made pursuant to the requirements of § 1005.36(c).

iv. Changes to the model forms that are not permissible include, for example, adding information that is not segregated from the required disclosures, other than as permitted by § 1005.31(c)(4).

Dated: April 30, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–10604 Filed 5–21–13; 8:45 am]

BILLING CODE 4810–AM–P