

109TH CONGRESS
1ST SESSION

H. R. 928

To amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Mr. GUTIERREZ (for himself, Mr. FRANK of Massachusetts, Mrs. MALONEY, Mr. HINOJOSA, Mr. MEEKS of New York, Ms. SOLIS, Ms. WATERS, Mr. CROWLEY, Mr. AL GREEN of Texas, Ms. LEE, Mr. ACKERMAN, and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “International Remit-

5 tance Consumer Protection Act of 2005” .

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

3 (1) In 2003, worker remittances from the
4 United States to Latin America reached
5 \$31,000,000,000 and that volume is expected to rise
6 as the region is both the fastest growing remittance
7 market in the world and has the highest volume of
8 remittances in the world.

9 (2) Of the \$31,000,000,000 in remittances to
10 Latin America, \$14,000,000,000 went to Mexico: an
11 amount exceeding the country's total revenues from
12 tourism, and representing more than $\frac{2}{3}$ of the value
13 of petroleum exports and roughly 180 percent of the
14 amount of agricultural exports.

15 (3) Remittances account for at least 10 percent
16 of the gross domestic product of 6 countries in Latin
17 America: Haiti, Nicaragua, El Salvador, Jamaica,
18 the Dominican Republic, and Guyana.

19 (4) The Declaration of Nuevo León from the
20 January 2004 Special Summit of the Americas rec-
21 ognized that “. . . remittances are an important
22 source of capital in many countries of the Hemi-
23 sphere . . .”.

24 (5) The Declaration of Nuevo León also com-
25 mitted the countries of the Americas to “. . . take
26 concrete actions to promote the establishment, as

1 soon as possible, of necessary conditions, in order to
2 achieve the goal of reducing by at least half the re-
3 gional average cost of these transfers no later than
4 2008”.

5 (6) Studies have shown that that, on average,
6 around 10 percent of remittances received are saved
7 or invested by the recipients which supports 2 con-
8 clusions: That some percentage of recipients are
9 therefore in a position to use remittance money to
10 create new businesses and that financial institutions
11 can also use remittances as the basis of credit for
12 entrepreneurs starting small or micro-enterprises.

13 (7) Since affordable, long-term mortgages are
14 not widely available in many countries of the West-
15 ern Hemisphere, financial institutions can increase
16 the number of mortgages they provide to poor people
17 in the region by using remittances as the basis for
18 credit.

19 (8) The Multilateral Investment Fund of the
20 Inter-American Development Bank estimates that in
21 February of 2004, the average cost in the United
22 States of sending a remittance to a Latin American
23 country was roughly 8 percent of the amount remit-
24 ted.

1 (9) The Multilateral Investment Fund also esti-
2 mates that roughly 61 percent of adult foreign-born
3 Hispanic persons living in the United States, about
4 10,000,000 people, send remittances to their coun-
5 tries of origin in Latin America and that the amount
6 of the average remittance to Latin America ranges
7 between \$200 and \$300.

8 (10) The Multilateral Investment Fund esti-
9 mates that the States of California, New York,
10 Texas, Florida, Illinois, and New Jersey each remit
11 more than \$1,000,000,000 annually to Latin Amer-
12 ica, and will account for \$21,700,000,000, or rough-
13 ly 70 percent of the \$31,000,000,000 in remittances
14 going to Latin America in 2004.

15 (11) Recent surveys show that nearly 80 per-
16 cent of individuals sending remittances use inter-
17 national money transfer companies, and fewer than
18 10 percent use banks and credit unions.

19 (12) Roughly $\frac{1}{2}$ of Latin American immigrants
20 in the United States hold bank accounts, and only
21 10 percent of the recipients in Latin America of re-
22 mittances from the United States hold bank ac-
23 counts.

24 (13) Individuals and families without access to
25 the banking system, in the United States and else-

1 where in the Americas, pay higher fees, have dif-
2 ficulty conducting financial transactions, and lack
3 the ability to establish credit records or obtain other
4 benefits from financial institutions.

5 (14) The Federal banking agencies (as defined
6 in section 3 of the Federal Deposit Insurance Act)
7 recently agreed to notify financial institutions that
8 the remittances services they offer to consumers can
9 receive consideration in any evaluation under the
10 Community Reinvestment Act of 1977 as both a re-
11 tail service, and as a community development service
12 if remittances serve to increase access to financial
13 services by low- and moderate-income individuals.

14 (15) The Federal banking agencies also agreed
15 that current regulations under the Community Rein-
16 vestment Act of 1977 provide for a distinction be-
17 tween the mere provision of remittances services by
18 a financial institution and the “responsiveness” of
19 such services to the financial services needs of low-
20 and moderate-income individuals—thereby allowing
21 for the consideration of lower cost remittances serv-
22 ices in an evaluation under such Act.

23 (16) The increased participation of regulated fi-
24 nancial institutions, such as banks, savings associa-
25 tions, and credit unions, holds the potential for re-

1 ducing the costs of remittances while at the same
2 time offering the opportunity to “bank the
3 unbanked” in Latin American immigrant commu-
4 nities in the United States.

5 **SEC. 3. TREATMENT OF REMITTANCE TRANSFERS.**

6 (a) IN GENERAL.—The Electronic Fund Transfer
7 Act (15 U.S.C. 1693 et seq.) is amended—

8 (1) in section 902(b), by inserting “and remit-
9 tance” after “electronic fund”;

10 (2) by redesignating sections 918, 919, 920,
11 and 921 as sections 919, 920, 921, and 922, respec-
12 tively; and

13 (3) by inserting after section 917 the following:

14 **“SEC. 918. REMITTANCE TRANSFERS.**

15 “(a) DISCLOSURES REQUIRED FOR REMITTANCE
16 TRANSFERS.—

17 “(1) IN GENERAL.—Each remittance transfer
18 provider shall make disclosures to consumers, as
19 specified by this section and augmented by regula-
20 tion of the Board.

21 “(2) SPECIFIC DISCLOSURES.—In addition to
22 any other disclosures applicable under this title, a
23 remittance transfer provider shall clearly and con-
24 spicuously disclose, in writing and in a form that the

1 consumer may keep, to each consumer requesting a
2 remittance transfer—

3 “(A) at the time at which the consumer
4 makes the request, and prior to the consumer
5 making any payment in connection with the
6 transfer—

7 “(i) the total amount of currency that
8 will be required to be tendered by the con-
9 sumer in connection with the remittance
10 transfer;

11 “(ii) the amount of currency that will
12 be sent to the designated recipient of the
13 remittance transfer, using the values of the
14 currency into which the funds will be ex-
15 changed;

16 “(iii) the total remittance transfer
17 cost, identified as the ‘Total Cost’; and

18 “(iv) an itemization of the charges in-
19 cluded in clause (iii), as determined nec-
20 essary by the Board; and

21 “(B) at the time at which the consumer
22 makes payment in connection with the remit-
23 tance transfer, if any—

24 “(i) a receipt showing—

1 “(I) the information described in
2 subparagraph (A);

3 “(II) the promised date of deliv-
4 ery;

5 “(III) the name and telephone
6 number or address of the designated
7 recipient; and

8 “(ii) a notice containing—

9 “(I) information about the rights
10 of the consumer under this section to
11 resolve errors; and

12 “(II) appropriate contact infor-
13 mation for the remittance transfer
14 provider and its State licensing au-
15 thority and Federal or State regu-
16 lator, as applicable.

17 “(3) EXEMPTION AUTHORITY.—The Board
18 may, by rule, and subject to subsection (d)(3), per-
19 mit a remittance transfer provider—

20 “(A) to satisfy the requirements of para-
21 graph (2)(A) orally if the transaction is con-
22 ducted entirely by telephone;

23 “(B) to satisfy the requirements of para-
24 graph (2)(B) by mailing the documents re-
25 quired under such paragraph to the consumer

1 not later than 1 business day after the date on
2 which the transaction is conducted, if the trans-
3 action is conducted entirely by telephone; and

4 “(C) to satisfy the requirements of sub-
5 paragraphs (A) and (B) of paragraph (2) with
6 1 written disclosure, but only to the extent that
7 the information provided in accordance with
8 paragraph (2)(A) is accurate at the time at
9 which payment is made in connection with the
10 subject remittance transfer.

11 “(b) FOREIGN LANGUAGE DISCLOSURES.—The dis-
12 closures required under this section shall be made in
13 English and in the same languages principally used by the
14 remittance transfer provider, or any of its agents, to ad-
15 vertise, solicit, or market, either orally or in writing, at
16 that office, if other than English.

17 “(c) REMITTANCE TRANSFER ERRORS.—

18 “(1) ERROR RESOLUTION.—

19 “(A) IN GENERAL.—If a remittance trans-
20 fer provider receives oral or written notice from
21 the consumer within 365 days of the promised
22 date of delivery that an error occurred with re-
23 spect to a remittance transfer, including that
24 the full amount of the funds to be remitted was
25 not made available to the designated recipient

1 in the foreign country, the remittance transfer
2 provider shall resolve the error pursuant to this
3 subsection.

4 “(B) REMEDIES.—Not later than 90 days
5 after the date of receipt of a notice from the
6 consumer pursuant to subparagraph (A), the
7 remittance transfer provider shall, as applicable
8 to the error and as designated by the con-
9 sumer—

10 “(i) refund to the consumer the total
11 amount of funds tendered by the consumer
12 in connection with the remittance transfer
13 which was not properly transmitted;

14 “(ii) make available to the designated
15 recipient, without additional cost to the
16 designated recipient or to the consumer,
17 the amount appropriate to resolve the
18 error;

19 “(iii) provide such other remedy, as
20 determined appropriate by rule of the
21 Board for the protection of consumers; or

22 “(iv) demonstrate to the consumer
23 that there was no error.

24 “(2) REGULATIONS.—The Board shall estab-
25 lish, by regulation, clear and appropriate standards

1 for remittance transfer providers with respect to
2 error resolution relating to remittance transfers, to
3 protect consumers from such errors.

4 “(d) APPLICABILITY OF OTHER PROVISIONS OF
5 LAW.—

6 “(1) APPLICABILITY OF TITLE 18 AND TITLE 31
7 PROVISIONS.—A remittance transfer provider may
8 only provide remittance transfers if such provider is
9 in compliance with the requirements of section 5330
10 of title 31, United States Code, and section 1960 of
11 title 18, United States Code, as applicable.

12 “(2) APPLICABILITY OF THIS TITLE.—

13 “(A) EXCLUSIONS FOR CERTAIN REMIT-
14 TANCES.—A remittance transfer that is not an
15 electronic fund transfer, as defined in section
16 903, shall not be subject to any of sections 905
17 through 913.

18 “(B) FULL APPLICABILITY FOR CERTAIN
19 REMITTANCES.—A remittance transfer that is
20 an electronic fund transfer, as defined in sec-
21 tion 903, shall be subject to all provisions of
22 this title that are otherwise applicable to elec-
23 tronic fund transfers under this title.

24 “(3) RULE OF CONSTRUCTION.—Nothing in
25 this section shall be construed—

1 “(A) to affect the application to any trans-
2 action, to any remittance provider, or to any
3 other person of any of the provisions of sub-
4 chapter II of chapter 53 of title 31, United
5 States Code, section 21 of the Federal Deposit
6 Insurance Act, or chapter 2 of title I of Public
7 Law 91–508, or any regulations promulgated
8 thereunder; or

9 “(B) to cause any fund transfer that would
10 not otherwise be treated as such under para-
11 graph (2) to be treated as an electronic fund
12 transfer, or as otherwise subject to this title, for
13 the purposes of any of the provisions referred to
14 in subparagraph (A) or any regulation pre-
15 scribed under such subparagraph.

16 “(e) PUBLICATION OF EXCHANGE RATES.—The Sec-
17 retary of the Treasury shall make available to the public
18 in electronic form, not later than noon on each business
19 day, the dollar exchange rate for all foreign currencies,
20 using any methodology that the Secretary determines ap-
21 propriate, which may include the methodology used pursu-
22 ant to section 613(b) of the Foreign Assistance Act of
23 1961.

24 “(f) AGENTS AND SUBSIDIARIES.—A remittance
25 transfer provider shall be liable for any violation of this

1 section by any agent or subsidiary of that remittance
2 transfer provider.

3 “(g) DEFINITIONS.—For purposes of this section, the
4 following definitions shall apply:

5 “(1) EXCHANGE RATE FEE.—The term ‘ex-
6 change rate fee’ means the difference between the
7 total dollar amount transferred, valued at the ex-
8 change rate offered by the remittance transfer pro-
9 vider, and the total dollar amount transferred, val-
10 ued at the exchange rate posted by the Secretary of
11 the Treasury in accordance with subsection (e) on
12 the business day prior to the initiation of the subject
13 remittance transfer.

14 “(2) REMITTANCE TRANSFER.—The term ‘re-
15 mittance transfer’ means the electronic (as defined
16 in section 106(2) of the Electronic Signatures in
17 Global and National Commerce Act) transfer of
18 funds at the request of a consumer located in any
19 State to a person in another country that is initiated
20 by a remittance transfer provider, whether or not
21 the consumer is an account holder of the remittance
22 transfer provider or whether or not the remittance
23 transfer is also an electronic fund transfer, as de-
24 fined in section 903.

1 “(3) REMITTANCE TRANSFER PROVIDER.—The
2 term ‘remittance transfer provider’ means any per-
3 son or financial institution that provides remittance
4 transfers on behalf of consumers in the normal
5 course of its business, whether or not the consumer
6 is an account holder of that person or financial insti-
7 tution.

8 “(4) STATE.—Notwithstanding the definition
9 contained in section 903, the term ‘State’ means any
10 of the several States, the Commonwealth of Puerto
11 Rico, the District of Columbia, and any territory or
12 possession of the United States.

13 “(5) TOTAL REMITTANCE TRANSFER COST.—
14 The term ‘total remittance transfer cost’ means the
15 total cost of a remittance transfer expressed in dol-
16 lars, including all fees charged by the remittance
17 transfer provider, including the exchange rate fee.”.

18 (b) EFFECT ON STATE LAWS.—Section 919 of the
19 Electronic Fund Transfer Act (12 U.S.C. 1693q) is
20 amended—

21 (1) in the 1st sentence, by inserting “or remit-
22 tance transfers (as defined in section 918)” after
23 “transfers”; and

24 (2) in the 2nd sentence, by inserting “, or re-
25 mittance transfer providers (as defined in section

1 918), in the case of remittance transfers,” after “fi-
2 nancial institutions”.

3 **SEC. 4. FEDERAL CREDIT UNION ACT AMENDMENT.**

4 Paragraph (12) of section 107 of the Federal Credit
5 Union Act (12 U.S.C. 1757(12)) is amended to read as
6 follows:

7 “(12) in accordance with regulations prescribed
8 by the Board—

9 “(A) to provide remittance transfers, as
10 defined in section 918(h) of the Electronic
11 Fund Transfer Act, to persons in the field of
12 membership; and

13 “(B) to cash checks and money orders for
14 persons in the field of membership for a fee;”.

15 **SEC. 5. AUTOMATED CLEARINGHOUSE SYSTEM.**

16 (a) EXPANSION OF SYSTEM.—The Board of Gov-
17 ernors of the Federal Reserve System shall work with the
18 Federal reserve banks to expand the use of the automated
19 clearinghouse system for remittance transfers to foreign
20 countries, with a focus on countries that receive significant
21 remittance transfers from the United States, based on—

22 (1) the number, volume, and sizes of such
23 transfers;

1 (2) the significance of the volume of such trans-
2 fers, relative to the external financial flows of the re-
3 ceiving country; and

4 (3) the feasibility of such an expansion.

5 (b) REPORT TO CONGRESS.—Before the end of the
6 180-day period beginning on the date of the enactment
7 of this Act, and on April 30 biannually thereafter, the
8 Board of Governors of the Federal Reserve System shall
9 submit a report to the Committee on Banking, Housing,
10 and Urban Affairs of the Senate and the Committee on
11 Financial Services of the House of Representatives on the
12 status of the automated clearinghouse system and its
13 progress in complying with the requirements of this sec-
14 tion.

15 **SEC. 6. EXPANSION OF FINANCIAL INSTITUTION PROVI-**
16 **SION OF REMITTANCE TRANSFERS.**

17 (a) PROVISION OF GUIDELINES TO INSTITUTIONS.—
18 Each of the Federal banking agencies (as defined in sec-
19 tion 3 of the Federal Deposit Insurance Act) and the Na-
20 tional Credit Union Administration shall provide guide-
21 lines to financial institutions under the jurisdiction of the
22 agency regarding—

23 (1) the offering of low-cost remittance transfers
24 and no-cost or low-cost basic consumer accounts;

1 (2) the availability of agency services to remit-
2 tance transfer providers; and

3 (3) specific options for financial institutions to
4 use to take advantage of automated clearing sys-
5 tems, including the FedACH International Services
6 offered by the Board of Governors of the Federal
7 Reserve System and the Federal reserve banks, to
8 transmit remittances at low cost.

9 (b) CONTENT OF GUIDELINES.—Guidelines provided
10 to financial institutions under this section shall include—

11 (1) information as to the methods of providing
12 remittance transfer services;

13 (2) the potential economic opportunities in pro-
14 viding low-cost remittance transfers; and

15 (3) the potential value to financial institutions
16 of broadening their financial bases to include per-
17 sons that use remittance transfers.

18 (c) ASSISTANCE TO FINANCIAL LITERACY COMMIS-
19 SION.—The Secretary of the Treasury and each agency
20 referred to in subsection (a) shall, as part of their duties
21 as members of the Financial Literacy and Education Com-
22 mission, assist that Commission in improving the financial
23 literacy and education of consumers who send remittances.

24 (d) MULTIMEDIA CAMPAIGN.—The Secretary of the
25 Treasury shall, as part of the national public service multi-

1 media campaign established under section 518(a) of the
2 Fair and Accurate Credit Transactions Act of 2003, un-
3 dertake a multilingual multimedia campaign to inform
4 populations that are remittance users of the low-cost op-
5 tions for remittance transfers available to them, such as
6 services provided by depository institutions and credit
7 unions.

8 **SEC. 7. AID ASSISTANCE TO INCREASE CAPITAL AND**
9 **LOWER REMITTANCE TRANSFER COSTS.**

10 (a) IN GENERAL.—Part I of the Foreign Assistance
11 Act of 1961 (22 U.S.C. 2151 et seq.) is amended by add-
12 ing at the end the following:

13 **“CHAPTER 13—SOCIAL INVESTMENT AND**
14 **ECONOMIC DEVELOPMENT FOR THE**
15 **AMERICAS**

16 **“SEC. 499H. FACILITATING FLOWS OF PERSONAL REMIT-**
17 **TANCES.**

18 “(a) IN GENERAL.—The President, acting through
19 the Administrator of the United States Agency for Inter-
20 national Development, shall provide assistance to leverage
21 personal remittances and reduce the cost of remittances
22 sent to Latin America and the Caribbean by—

23 “(1) increasing access to financial institutions
24 for the poor and working with local financial institu-

1 tions to reduce fees and other costs associated with
2 sending or receiving remittances;

3 “(2) working with local financial institutions to
4 develop programs whereby personal remittances
5 could be used as the basis of credit for mortgages
6 and loans for small business, microenterprises, hous-
7 ing, and other enterprises; and

8 “(3) providing matching funds for United
9 States’ private entities that send remittances for de-
10 velopment projects in Latin America and the Carib-
11 bean.

12 “(b) IMPLEMENTATION.—The United States Agency
13 for International Development shall follow the best prac-
14 tices of the Inter-American Development Bank and other
15 appropriate organizations when designing and imple-
16 menting programs that leverage personal remittances and
17 reduce the cost of remittances sent to Latin America and
18 the Caribbean.”.

19 (b) GAO STUDY REGARDING THE EFFECTIVENESS
20 AND SUCCESS OF PILOT PROJECTS IMPLEMENTED BY
21 THE UNITED STATES AGENCY FOR INTERNATIONAL DE-
22 VELOPMENT.—

23 (1) STUDY.—The Comptroller General of the
24 United States shall conduct a study on the effective-
25 ness and success of the pilot projects that have been

1 implemented by the United States Agency for Inter-
2 national Development’s missions in Mexico, El Sal-
3 vador, and Jamaica, and through the United States
4 Agency for International Development’s Global De-
5 velopment Alliance.

6 (2) REPORT.—Before the end of the 1-year pe-
7 riod beginning on the date of the enactment of this
8 Act, the Comptroller General shall submit a report
9 to the Congress on the findings and conclusions re-
10 sulting from the study conducted under paragraph
11 (1), together with such recommendations for legisla-
12 tive or administrative action as the Comptroller Gen-
13 eral may determine to be appropriate.

14 **SEC. 8. INTER-AMERICAN DEVELOPMENT BANK ASSIST-**
15 **ANCE TO FACILITATE FLOWS OF PERSONAL**
16 **REMITTANCES.**

17 The Inter-American Development Bank Act (22
18 U.S.C. 283—283z–10) is amended by adding at the end
19 the following new section:

20 **“SEC. 39. FACILITATING FLOWS OF PERSONAL REMIT-**
21 **TANCES.**

22 “The Secretary of the Treasury shall instruct the
23 United States Executive Director at the Bank to use the
24 voice, vote, and influence of the United States to urge the
25 Bank to provide assistance to—

1 “(1) increasing access to financial institutions
2 for the poor and working with local financial institu-
3 tions to reduce fees and other costs associated with
4 sending or receiving remittances;

5 “(2) working with local financial institutions to
6 develop programs whereby personal remittances
7 could be used as the basis of credit for mortgages
8 and loans for small business, microenterprises, hous-
9 ing, and other enterprises; and

10 “(3) providing matching funds for United
11 States’ private entities that send remittances for de-
12 velopment projects in Latin America and the Carib-
13 bean.”.

14 **SEC. 9. STUDY AND REPORT ON REMITTANCES.**

15 (a) **STUDY.**—The Comptroller General of the United
16 States shall conduct a study and analysis of the remit-
17 tance transfer system, including an analysis of its impact
18 on consumers.

19 (b) **AREAS OF CONSIDERATION.**—The study con-
20 ducted under this section shall include, to the extent that
21 information is available—

22 (1) an estimate of the total amount, in dollars,
23 transmitted from individuals in the United States to
24 other countries, including per country data, histor-

1 ical data, and any available projections concerning
2 future remittance levels;

3 (2) a comparison of the amount of remittance
4 funds, in total and per country, to the amount of
5 foreign trade, bilateral assistance, and multi-develop-
6 ment bank programs involving each of the subject
7 countries;

8 (3) an analysis of the methods used to remit
9 the funds, with estimates of the amounts remitted
10 through each method and descriptive statistics for
11 each method, such as market share, median trans-
12 action size, and cost per transaction, including
13 through—

14 (A) depository institutions;

15 (B) postal money orders and other money
16 orders;

17 (C) automatic teller machines;

18 (D) wire transfer services; and

19 (E) personal delivery services;

20 (4) an analysis of advantages and disadvan-
21 tages of each remitting method listed in subpara-
22 graphs (A) through (E) of paragraph (3);

23 (5) an analysis of the types and specificity of
24 disclosures made by various types of remittance

1 transaction providers to consumers who send remit-
2 tances; and

3 (6) if reliable data are unavailable, rec-
4 ommendations concerning options for the Congress
5 to consider to improve the state of information on
6 remittances from the United States.

7 (c) REPORT TO CONGRESS.—Before the end of the
8 1-year period beginning on the date of the enactment of
9 this Act, the Comptroller General shall submit a report
10 to the Committee on Banking, Housing, and Urban Af-
11 fairs of the Senate and the Committee on Financial Serv-
12 ices of the House of Representatives on the results of the
13 study conducted under this section.

○