

109TH CONGRESS
1ST SESSION

S. 31

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 SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKAKA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER,, Ms. MIKULSKI, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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. TREATMENT OF REMITTANCE TRANSFERS.**

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

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

6 (2) by redesignating sections 918, 919, 920,
7 and 921 as sections 919, 920, 921, and 922, respec-
8 tively; and

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

10 **“SEC. 918. REMITTANCE TRANSFERS.**

11 “(a) DISCLOSURES REQUIRED FOR REMITTANCE
12 TRANSFERS.—

13 “(1) IN GENERAL.—Each remittance transfer
14 provider shall make disclosures to consumers, as
15 specified by this section and augmented by regula-
16 tion of the Board.

17 “(2) SPECIFIC DISCLOSURES.—In addition to
18 any other disclosures applicable under this title, a
19 remittance transfer provider shall clearly and con-
20 spicuously disclose, in writing and in a form that the
21 consumer may keep, to each consumer requesting a
22 remittance transfer—

23 “(A) at the time at which the consumer
24 makes the request, and prior to the consumer
25 making any payment in connection with the
26 transfer—

1 “(i) the total amount of currency that
2 will be required to be tendered by the con-
3 sumer in connection with the remittance
4 transfer;

5 “(ii) the amount of currency that will
6 be sent to the designated recipient of the
7 remittance transfer, using the values of the
8 currency into which the funds will be ex-
9 changed;

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

12 “(iv) an itemization of the charges in-
13 cluded in clause (iii), as determined nec-
14 essary by the Board; and

15 “(B) at the time at which the consumer
16 makes payment in connection with the remit-
17 tance transfer, if any—

18 “(i) a receipt showing—

19 “(I) the information described in
20 subparagraph (A);

21 “(II) the promised date of deliv-
22 ery;

23 “(III) the name and telephone
24 number or address of the designated
25 recipient; and

1 “(ii) a notice containing—

2 “(I) information about the rights
3 of the consumer under this section to
4 resolve errors; and

5 “(II) appropriate contact infor-
6 mation for the remittance transfer
7 provider and its State licensing au-
8 thority and Federal or State regu-
9 lator, as applicable.

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

13 “(A) to satisfy the requirements of para-
14 graph (2)(A) orally if the transaction is con-
15 ducted entirely by telephone;

16 “(B) to satisfy the requirements of para-
17 graph (2)(B) by mailing the documents re-
18 quired under such paragraph to the consumer
19 not later than 1 business day after the date on
20 which the transaction is conducted, if the trans-
21 action is conducted entirely by telephone; and

22 “(C) to satisfy the requirements of sub-
23 paragraphs (A) and (B) of paragraph (2) with
24 1 written disclosure, but only to the extent that
25 the information provided in accordance with

1 paragraph (2)(A) is accurate at the time at
2 which payment is made in connection with the
3 subject remittance transfer.

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

10 “(c) REMITTANCE TRANSFER ERRORS.—

11 “(1) ERROR RESOLUTION.—

12 “(A) IN GENERAL.—If a remittance trans-
13 fer provider receives oral or written notice from
14 the consumer within 365 days of the promised
15 date of delivery that an error occurred with re-
16 spect to a remittance transfer, including that
17 the full amount of the funds to be remitted was
18 not made available to the designated recipient
19 in the foreign country, the remittance transfer
20 provider shall resolve the error pursuant to this
21 subsection.

22 “(B) REMEDIES.—Not later than 90 days
23 after the date of receipt of a notice from the
24 consumer pursuant to subparagraph (A), the
25 remittance transfer provider shall, as applicable

1 to the error and as designated by the con-
 2 sumer—

3 “(i) refund to the consumer the total
 4 amount of funds tendered by the consumer
 5 in connection with the remittance transfer
 6 which was not properly transmitted;

7 “(ii) make available to the designated
 8 recipient, without additional cost to the
 9 designated recipient or to the consumer,
 10 the amount appropriate to resolve the
 11 error;

12 “(iii) provide such other remedy, as
 13 determined appropriate by rule of the
 14 Board for the protection of consumers; or

15 “(iv) demonstrate to the consumer
 16 that there was no error.

17 “(2) RULES.—The Board shall establish, by
 18 rule, clear and appropriate standards for remittance
 19 transfer providers with respect to error resolution
 20 relating to remittance transfers, to protect con-
 21 sumers from such errors.

22 “(d) APPLICABILITY OF OTHER PROVISIONS OF
 23 LAW.—

24 “(1) APPLICABILITY OF TITLE 18 AND TITLE 31
 25 PROVISIONS.—A remittance transfer provider may

1 only provide remittance transfers if such provider is
2 in compliance with the requirements of section 5330
3 of title 31, United States Code, and section 1960 of
4 title 18, United States Code, as applicable.

5 “(2) APPLICABILITY OF THIS TITLE.—A remit-
6 tance transfer that is not an electronic fund trans-
7 fer, as defined in section 903, shall not be subject
8 to any of sections 905 through 913. A remittance
9 transfer that is an electronic fund transfer, as de-
10 fined in section 903, shall be subject to all provisions
11 of this title that are otherwise applicable to elec-
12 tronic fund transfers under this title.

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

15 “(A) to affect the application to any trans-
16 action, to any remittance provider, or to any
17 other person of any of the provisions of sub-
18 chapter II of chapter 53 of title 31, United
19 States Code, section 21 of the Federal Deposit
20 Insurance Act (12 U.S.C. 1829b), or chapter 2
21 of title I of Public Law 91–508 (12 U.S.C.
22 1951–1959), or any regulations promulgated
23 thereunder; or

24 “(B) to cause any fund transfer that would
25 not otherwise be treated as such under para-

1 graph (2) to be treated as an electronic fund
2 transfer, or as otherwise subject to this title, for
3 the purposes of any of the provisions referred to
4 in subparagraph (A) or any regulations promul-
5 gated thereunder.

6 “(e) PUBLICATION OF EXCHANGE RATES.—The Sec-
7 retary of the Treasury shall make available to the public
8 in electronic form, not later than noon on each business
9 day, the dollar exchange rate for all foreign currencies,
10 using any methodology that the Secretary determines ap-
11 propriate, which may include the methodology used pursu-
12 ant to section 613(b) of the Foreign Assistance Act of
13 1961 (22 U.S.C. 2363(b)).

14 “(f) AGENTS AND SUBSIDIARIES.—A remittance
15 transfer provider shall be liable for any violation of this
16 section by any agent or subsidiary of that remittance
17 transfer provider.

18 “(g) DEFINITIONS.—As used in this section—

19 “(1) the term ‘exchange rate fee’ means the dif-
20 ference between the total dollar amount transferred,
21 valued at the exchange rate offered by the remit-
22 tance transfer provider, and the total dollar amount
23 transferred, valued at the exchange rate posted by
24 the Secretary of the Treasury in accordance with

1 subsection (e) on the business day prior to the initi-
2 ation of the subject remittance transfer;

3 “(2) the term ‘remittance transfer’ means the
4 electronic (as defined in section 106(2) of the Elec-
5 tronic Signatures in Global and National Commerce
6 Act (15 U.S.C. 7006(2))) transfer of funds at the
7 request of a consumer located in any State to a per-
8 son in another country that is initiated by a remit-
9 tance transfer provider, whether or not the consumer
10 is an account holder of the remittance transfer pro-
11 vider or whether or not the remittance transfer is
12 also an electronic fund transfer, as defined in section
13 903;

14 “(3) the term ‘remittance transfer provider’
15 means any person or financial institution that pro-
16 vides remittance transfers on behalf of consumers in
17 the normal course of its business, whether or not the
18 consumer is an account holder of that person or fi-
19 nancial institution;

20 “(4) the term ‘State’ means any of the several
21 States, the Commonwealth of Puerto Rico, the Dis-
22 trict of Columbia, and any territory or possession of
23 the United States; and

24 “(5) the term ‘total remittance transfer cost’
25 means the total cost of a remittance transfer ex-

1 pressed in dollars, including all fees charged by the
2 remittance transfer provider, including the exchange
3 rate fee.”.

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

7 (1) in the first sentence, by inserting “or remit-
8 tance transfers (as defined in section 918)” after
9 “transfers”; and

10 (2) in the fourth sentence, by inserting “, or re-
11 mittance transfer providers (as defined in section
12 918), in the case of remittance transfers,” after “fi-
13 nancial institutions”.

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

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

18 “(12) in accordance with regulations prescribed
19 by the Board—

20 “(A) to provide remittance transfers, as
21 defined in section 918(h) of the Electronic
22 Fund Transfer Act, to persons in the field of
23 membership; and

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

1 **SEC. 4. AUTOMATED CLEARINGHOUSE SYSTEM.**

2 (a) EXPANSION OF SYSTEM.—The Board of Gov-
3 ernors of the Federal Reserve System shall work with the
4 Federal reserve banks to expand the use of the automated
5 clearinghouse system for remittance transfers to foreign
6 countries, with a focus on countries that receive significant
7 remittance transfers from the United States, based on—

8 (1) the number, volume, and sizes of such
9 transfers;

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

13 (3) the feasibility of such an expansion.

14 (b) REPORT TO CONGRESS.—Not later than 180 days
15 after the date of enactment of this Act, and on April 30
16 biannually thereafter, the Board of Governors of the Fed-
17 eral Reserve System shall submit a report to the Com-
18 mittee on Banking, Housing, and Urban Affairs of the
19 Senate and the Committee on Financial Services of the
20 House of Representatives on the status of the automated
21 clearinghouse system and its progress in complying with
22 the requirements of this section.

23 **SEC. 5. EXPANSION OF FINANCIAL INSTITUTION PROVI-**
24 **SION OF REMITTANCE TRANSFERS.**

25 (a) PROVISION OF GUIDELINES TO INSTITUTIONS.—
26 Each of the Federal banking agencies (as defined in sec-

1 tion 3 of the Federal Deposit Insurance Act) and the Na-
 2 tional Credit Union Administration shall provide guide-
 3 lines to financial institutions under the jurisdiction of the
 4 agency regarding the offering of low-cost remittance trans-
 5 fers and no-cost or low-cost basic consumer accounts, as
 6 well as agency services to remittance transfer providers.

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

9 (1) information as to the methods of providing
 10 remittance transfer services;

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

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

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

22 **SEC. 6. STUDY AND REPORT ON REMITTANCES.**

23 (a) STUDY.—The Comptroller General of the United
 24 States shall conduct a study and analysis of the remit-

1 tance transfer system, including an analysis of its impact
2 on consumers.

3 (b) AREAS OF CONSIDERATION.—The study con-
4 ducted under this section shall include, to the extent that
5 information is available—

6 (1) an estimate of the total amount, in dollars,
7 transmitted from individuals in the United States to
8 other countries, including per country data, histor-
9 ical data, and any available projections concerning
10 future remittance levels;

11 (2) a comparison of the amount of remittance
12 funds, in total and per country, to the amount of
13 foreign trade, bilateral assistance, and multi-devel-
14 opment bank programs involving each of the subject
15 countries;

16 (3) an analysis of the methods used to remit
17 the funds, with estimates of the amounts remitted
18 through each method and descriptive statistics for
19 each method, such as market share, median trans-
20 action size, and cost per transaction, including
21 through—

22 (A) depository institutions;

23 (B) postal money orders and other money
24 orders;

25 (C) automatic teller machines;

1 (D) wire transfer services; and

2 (E) personal delivery services;

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

6 (5) an analysis of the types and specificity of
7 disclosures made by various types of remittance
8 transaction providers to consumers who send remit-
9 tances; and

10 (6) if reliable data are unavailable, rec-
11 ommendations concerning options for Congress to
12 consider to improve the state of information on re-
13 mittances from the United States.

14 (c) REPORT TO CONGRESS.—Not later than 1 year
15 after the date of enactment of this Act, the Comptroller
16 General shall submit a report to the Committee on Bank-
17 ing, Housing, and Urban Affairs of the Senate and the
18 Committee on Financial Services of the House of Rep-
19 resentatives on the results of the study conducted under
20 this section.

○