



## Suggestions Regarding Disclosure of Beneficiary Account Fees

December 13, 2012

In a November 27, 2012 bulletin (the Bulletin), the Consumer Financial Protection Bureau (CFPB) announced its intent to issue a notice of proposed rulemaking (NPR) that will address three, critical issues with the remittance transfer rule: (i) provider liability for a sender's incorrect account number instruction; (ii) disclosure of foreign taxes; and (iii) disclosure of beneficiary account fees. The Bulletin also indicated that the NPR would propose an extension of the effective date of the remittance transfer rule to allow providers 90 days after publication of the final rule to adjust their systems and services to the final rule requirements.

TCH is grateful that the CFPB is responding to these issues and very much appreciates the efforts the CFPB is undertaking by issuing the NPR to improve the rule. We are hopeful that the NPR and final rule will take a pragmatic and practical approach to resolving the issues so that consumers will have the benefit of both useful information about their transfers as well as continued access to a competitive international transfer market. Accordingly, we look forward to providing comments to the NPR to assist the CFPB in its rulemaking.

Prior to publication of the NPR and in the spirit of sharing the collective international payments expertise of our member banks, TCH respectfully offers the following additional information and suggestions regarding fees beneficiary banks charge their customers for receipt of electronic transfers.

### **Additional Information about Published Schedules**

The Bulletin states that the NPR will propose "flexibility" for the disclosure of beneficiary account fees, including by permitting providers to base such disclosures on "published bank fee schedules." While we recognize that this change represents a material accommodation in the CFPB's initial approach to the disclosure of beneficiary account fees, we are concerned that this new approach may result in increased customer confusion and dissatisfaction while further complicating, rather than alleviating, a provider's disclosure obligations. We have these concerns for the reasons listed below.

- Limited availability. Not all banks publish their fee schedule and, in fact, in some countries there may be no published schedules.
- Highest prices. If fees are published, they typically represent the highest fees that a bank may charge and, therefore, are not necessarily indicative of the actual fees that will be charged for a particular service.

- Not uniform and subject to change. There is a wide variance in how the fees are described and what services may be included under similarly named fees. Hence, the applicable fees are not easily identifiable or comparable among institutions. The fee schedules are also subject to change.
- Even published fees may be variable. There may be different published fee schedules for different types of bank customers (commercial, retail, or asset management) or the schedules may lay out different pricing depending upon the number of transfers received during a billing cycle. In these instances, providers will not be able to determine which published fee to disclose to the sender.

We also note that banks have taken different approaches in their information gathering in preparation for compliance with the rule. While some banks have already researched published fees, others researched different information sources. For this second category of banks, reliably searching and gathering information from published fee schedules in the anticipated 90 day period following publication of the final rule would be exceedingly difficult given the thousands of potential beneficiary banks and the non-uniform nature of published fees.

## TCH Suggestions for the Proposed Rule

As stated in the October 17 joint trade letter to Director Cordray, we do not think beneficiary account fees are required to be disclosed under Section 1073. In contrast to the fees charged by a provider or intermediary institutions in connection with the service of sending an international transfer, beneficiary account fees are a contractual arrangement between the recipient and the recipient's bank for account services. Hence, we believe the fees are outside the scope of Section 1073. Further, we are convinced that disclosure of the fees does not enable comparison shopping since the sender's choice of provider has no impact on the amount a beneficiary's bank may charge the beneficiary. For these reasons, we think the best approach regarding beneficiary account fees is to require no disclosure at all.

However, we are aware of the CFPB's view that Section 1073 requires the disclosure of all costs that may be charged to a sender or recipient as part of a remittance transfer transaction. Hence, if the CFPB determines that the disclosure of beneficiary account fees must be provided for in the rule, we believe the most helpful disclosure would be a simple statement that the receiving institution may charge additional fees for receipt of an international payment under its account agreement with the recipient.

- Similar to ATM fee notices, this approach ensures that the most pertinent information, namely, that there may be an additional cost to the recipient, is communicated without the burden of trying to estimate an unknowable amount. TCH does not think that an attempt to quantify the amount of the fee will yield useful information for the sender since estimates are likely to vary significantly from actual fees. In fact, estimates will likely create confusion or dissatisfaction for the sender.

Alternatively, if the CFPB determines that beneficiary account fees need to be disclosed as a quantified amount, TCH makes the following recommendations.

- Providers should not be required to disclose fees that are specific to a particular beneficiary financial institution, even if based on published schedules. Only a country level, estimated average of beneficiary account fees should have to be disclosed. Such estimates could be accompanied with a statement that the estimates are an average for the country and that the actual fees, which are contracted between the recipient and the recipient's bank, may vary. This approach would provide consumers with a reasonable baseline that would be more consistent across providers while reducing the cost to providers of researching, monitoring, and interpreting highly variable fee structures for thousands of foreign financial institutions.
- Providers should be permitted to determine their own method for calculating a country level average so long as the method is consistent and reasonable. Providers are in the best position to determine the most practical means of estimating the fees given their information sources and business model. Overly prescriptive methodologies are problematic as they are unlikely to align with the many permutations of international payments.
- Beneficiary account fees should not be included in the "other fees" amount, which is deducted from the transfer amount. Rather, the fees should be disclosed as a separate category after the "total to recipient" amount.
  - In many instances the fees are not taken from principal but charged separately and applied against the balance in the recipient's account or offset against an earnings credit rate in the case of commercial accounts. Therefore, to deduct them from the transfer amount may result in disclosure of "total to recipient" that is confusing to the sender and may result in unnecessary error notices.
  - The fees do not vary based on who the provider is and should not be included in the portion of the disclosure that the sender may use to comparison shop among providers.
  - The fees are not related to or based upon the initial sending or intermediary transfer of the funds.
- Because beneficiary account fees are typically charged in local currency, the rule will need to explain how the fees would be disclosed for transfers for which no FX rate is disclosed. (For example, when a transfer is being sent and received in US \$ and the beneficiary bank charges the beneficiary an incoming wire fee in Euros.)
- For the reasons described herein as well as the October 17 joint trade letter, quantifying these fees is highly problematic even for those beneficiary institutions that are a provider's correspondent. Thus, the ability to estimate beneficiary account fees should be permanent, available to all providers, and applicable whether or not the beneficiary institution is a provider's correspondent.