



The CFPB Needs to Be More Aggressive on
Meeting Its Disclosure Priorities*

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One of the most troublesome aspects of our current consumer protection framework is the use of overly detailed and confusing disclosure documents. It is not unusual for a financial transaction to be accompanied by pages of disclosure documents that are hard for even financial service professionals to comprehend. I don't know of any colleague or friend that has read all the disclosures that are given when a mortgage loan is taken out, a car is purchased or a credit card relationship is established. As long as the APR and the principal amount are correct, even a very sophisticated consumer will initial off on page after page of disclosure documents and leave the lender's office as soon as possible. That is why I was very pleased when Elizabeth Warren stated that one of the CFPB's primary missions is to make prices and risks clear and eliminate the fine print and complicated disclosure requirements. More recently Director Richard Cordray affirmed that a primary goal of the Bureau is to simplify disclosures. He noted that "more disclosures don't always make things better. As it accumulates, there can be so much dense fine print that it can actually make things much worse — consumers find it hard to penetrate and they often will not read it."

The CFPB was off to a good start on this problem through two initiatives that were announced last year. First, the Bureau is actively working on a simple mortgage disclosure requirement that would satisfy both RESPA and TILA. Second, the Bureau announced that it would work to simplify required credit card disclosures. Both of these reforms could be of tremendous benefit to consumers and to financial service providers if they achieve the goal of simplified and streamlined disclosure documents.

However, the Bureau could have done a better job in simplifying disclosures in its latest regulatory release on remittance service providers. A

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remittance service provider is a bank or other company that arranges for the transfer of money from a U.S. consumer to an overseas consumer or business. Typically these transactions are initiated by a consumer to send funds back home to family or businesses located in the consumer's home country. The amounts involved are often relatively small, in the order of \$200 to \$300.

The typical user of a remittance service provider really needs the answer to two essential questions: (i) How much do I have to pay? and (ii) How much will be received by the recipient in local currency? Any other information is extraneous, and could actually confuse the consumer. For example, disclosing the currency exchange rate could encourage the consumer to use the remittance company that has the best rates, even if that company has a higher service charge that more than offsets the benefits of the lower rate. The basic information of how much do I pay and how much does the recipient receive eliminates the possibility of confusing consumers by providing too much information.

The regulation issued by the CFPB makes a valiant effort to provide standardized information that can be used to compare service providers, but it fails to streamline sufficiently the disclosures in a way that would be of maximum value to consumers. The regulation is in fact quite complex. Before accepting the consumer's funds, the remittance service provider must disclose, in writing, the following:

- the amount to be paid to the remittance company
- the amount of any fees;
- the amount of any taxes;
- the total amount that will be given to the provider;
- the exchange rate to be used to the nearest one-hundredth of a percent;
- the amount of any fees charged by a third-party;
- the amount of any taxes that will be assessed by a third-party; and
- the amount to be received by the recipient in his or her currency.

After the funds are received, the remittance company must provide a receipt that contains:

- all of the above disclosures;
- the date in which the funds will be available in the foreign country;
- the name and address of the recipient;
- a statement that the consumer may complain or raise questions to state or federal authorities;
- the name and address of the state licensing agency;
- the name and toll free number and web address of the CFPB; and
- the name and web address of the remittance service provider.

Disclosures must be made both in English and in all of the foreign languages principally used to advertise or solicit business at the office of the remittance company which receives the funds to be transferred.

It is true that many of these disclosures are required by the Dodd-Frank Act, however, some were added by the CFPB as part of the rulemaking process. Further, the CFPB has the discretion to use its rulemaking authority to make adjustments and exceptions to the DFA disclosures as necessary or proper to effectuate. Certainly the Bureau could determine that the purpose of providing clear and meaningful disclosure to the customers of remittance service providers is a legitimate basis for cutting out some of the disclosure clutter.

The CFPB has recognized that complex disclosures are harmful to consumers and has made it a top priority of the agency to remedy this problem. The agency is to be congratulated for starting two initiatives to reduce disclosure complexity in the mortgage and credit card area. However, the CFPB should consider other areas, including remittance transfers, in which it can eliminate unnecessary disclosure requirements, and it should aggressively use its power to streamline disclosures for all financial products and services.

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