

June 28, 2013

FedGlobal[®] ACH Payments: Dodd-Frank 1073 Update

On May 22, 2013, the Consumer Financial Protection Bureau published the most recent amendment to the final rule implementing Section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The rule, which amends Regulation E, focuses primarily on disclosure, error resolution, and cancellation requirements for remittance transfer providers facilitating outbound cross-border consumer initiated electronic transfers of funds. The most recent amendments contained several important changes for financial institutions wishing to facilitate such remittances, including:

- Making disclosure of fees imposed by a recipient's institution optional, in certain circumstances;
- Making disclosure of taxes collected by a person other than the remittance transfer provider optional;
- Excluding a sender's mistake as to account number or recipient institution identifier from "Error," provided certain other requirements are satisfied;
- Creating a lesser remedy for senders providing incorrect or insufficient information; and
- Postponing the implementation date of the final rule to Oct. 28, 2013.

These changes should make compliance with the final rule easier and reduce potential liability for originating financial institutions.

The rule continues to require exact disclosures in most cases. However, estimated disclosures are allowed under certain circumstances. Under the temporary exception for financial institutions, set to expire on July 21, 2015, estimates can be provided for FX, covered third party fees, and other related disclosures, if specific criteria are satisfied. Please consult with your legal/compliance department to determine whether your institution is allowed to use estimates and how the information provided by the FedGlobal service can help satisfy your institution's disclosure obligations.

In light of the revised requirements, the Federal Reserve Banks have reevaluated how the FedGlobal[®] ACH Payments service offerings can assist customers in complying with the rule's requirements. Below is a table outlining some of the key requirements of the rule and the services the FedGlobal service provides to assist its customers in complying with the requirements. All attempts are made to ensure that the information provided by the FedGlobal service related to the payments process is accurate; however, due to differences in foreign payment system rules and practices, this information is provided on a best efforts basis and is not guaranteed.

FedGlobal customers also have access to the FedGlobal Formatting Aid, a complimentary, white-label tool designed to facilitate relevant disclosures about international transfers. FedGlobal customers can supplement this tool with relevant information gathered from their own account holders and back room processes to create a comprehensive remittance solution.

Additional information about FedGlobal ACH Payments is available on our website. Please continue to check frbservices.org, and our FedFocusSM and FedFlash[®] publications, for additional information from the Federal Reserve Banks on industry developments.

| Component | Reg. E Requirement | FedGlobal Facilitation |
|-------------------------|--|--|
| Foreign Exchange | FX disclosure REQUIRED | Estimated FX rate provided. After settling with the sending bank, the FedGlobal service facilitates FX conversion through its relationship with foreign counterparties. Settlement occurs on a date after the payment is initiated, which is why only an estimated foreign exchange rate may be provided. |
| Foreign Fees | "Covered third party fees" disclosure REQUIRED | Estimated covered third party fees provided. The FedGlobal service seeks to minimize the assessment of covered third party fees (i.e., lifting fees or fees for remittances not received in an account), which are expected to be at nor near zero dollars. |
| | "Non-covered third party fees" disclosure NOT REQUIRED | Estimated non-covered third party fees provided, if available. The FedGlobal service may, in certain instances, be able to provide estimates for non-covered third party fees (i.e., beneficiary institution fees) to allow remittance transfer providers to disclose such fees, if they wish. |
| Foreign Taxes | Foreign taxes disclosure NOT REQUIRED | Estimated foreign taxes provided, if available. The FedGlobal service may, in certain instances, be able to provide estimates for foreign taxes to allow remittance transfer providers to disclose such taxes, if they wish. |
| Availability | Date of availability to the beneficiary disclosure REQUIRED | Date of availability provided. The FedGlobal service provides the anticipated date of availability to the beneficiary based on counterparty agreements, foreign payment system rules, and best practices. |
| Error Resolution | Investigations REQUIRED to be facilitated for up to 180 days following the disclosed date of availability | Trace requests facilitated. The FedGlobal service facilitates trace requests to all payment destinations, with certain limitations due to foreign payment system rules. |
| | Where an "Error" is found, restitution up to the principal plus all fees and taxes REQUIRED in certain scenarios, but restitution amount reduced if sender provides incorrect or insufficient information | Error resolution facilitated. The FedGlobal service makes prompt and diligent efforts to resolve sending institution claims relating to payment fraud, error or delay and passes back any funds recovered, less costs for administering the claim. |

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