Dodd-Frank Alert for Ukrainian Banks

Gene M. Burd

As of October 28, 2013 some Ukrainian banks may wake up finding that their American counterparts stopped making certain wire transfers to abroad. Under new regulations taking effect on that date, U.S. banks will be precluded from making consumer wire transfers unless foreign banks provide them with detailed disclosure of numerous items and implement a procedure for correcting errors in the remittance process.

Introduction

The regulations were adopted pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") which was enacted in response to the financial crisis that began in 2007. The agency which adopted and is responsible for the enforcement of regulations is a newly created Consumer Financial Protection Bureau (CFPB) which received the consumer protection powers of the federal banking agencies.

The new regulation, a remittance transfer rule (amendment to Regulation E) is aimed at protecting consumers who send money electronically to foreign countries. A "remittance transfer" is an electronic transfer of money from a consumer in the United States to a person in a foreign country. It can include transfers from retail "money transmitters" as well as banks and credit unions that transfer funds through wire transfers.

Consumers in the United States send billions of dollars in remittance transfers each year. Prior to the passage of the Dodd-Frank Act, remittance transfers generally fell outside existing federal consumer protection regulations. The Dodd-Frank Act expanded the regulatory scope to include protections for consumers sending remittance transfers. The Dodd-Frank Act also mandated the CFPB to issue rules to carry out the new remittance transfer consumer protections. The CFPB has issued a final rule that will go into effect on October 28, 2013.

Disclosures

The rules generally require companies to give disclosures to consumers before they pay for the remittance transfers. The disclosures must contain:

- The exchange rate
- Any applicable fees and taxes, including third-party fees abroad
- The amount of money expected to be received by the recipient abroad

Companies must also provide a receipt that repeats the information in the first disclosure or a proof of payment. The receipt must also tell a consumer when the money will arrive and how the consumer can report a problem with a transfer.

Other Protection

The rules also require that:

- Companies must establish procedures to resolve errors, including investigating and correcting any errors
- Consumers get 30 minutes (and sometimes more) to cancel the transfer and for company to refund consumers cancelled transfers within 3 days of request
- Companies are strictly liable for violations committed by agents acting on their behalf

Coverage

The rules apply to most remittance transfers if they are:

- More than $15
- Made by consumers in the United States
- Sent to a person or a company in a foreign country

This includes many types of transfers including wires.

The rules apply to many companies that offer remittance transfers, including:

- Banks
- Thrifts
- Credit unions
- Money transmitters
- Broker-dealers

However, the rules do not apply to companies that consistently provide for 100 or fewer wires each year.

Implications for Ukrainian Banks

U.S. companies provide wire transfer services will (and some already did) require their Ukrainian counterparts to disclose and update their fee and exchange rates. Ukrainian counterparts will be also required to enter into arrangements that allow cancellation of wire transfers at the request of the customer. These requirements are mandatory and U.S. companies will not be able to make consumer wire transfers if the Ukrainian banks do not comply. AGG can help Ukrainian banks to assess disclosure requirements and structure their relationship with American counterparts.

Authors and Contributors

Gene M. Burd
Partner, DC Office
202.677.4048
gene.burd@agg.com

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Atlanta Office
171 17th Street NW
Suite 2100
Atlanta, GA 30363

Washington, DC Office
1775 Pennsylvania Ave., NW,
Suite 1000
Washington, DC 20006

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