BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1005

[Docket No. CFPB–2012–0050]

RIN 3170–AA33

Electronic Fund Transfers (Regulation E); Correction

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation; correction.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is making a clarificatory amendment and technical correction to a final rule and official interpretation (the 2013 Final Rule) that appeared in the **Federal Register** on Wednesday, May 22, 2013. 78 FR 30662. The 2013 Final Rule modifies the final rules issued by the Bureau in February, July, and August 2012 (collectively the 2012 Final Rule) that implement section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) regarding remittance transfers. This rule makes a clarificatory amendment and a technical correction to the 2013 Final Rule, which amends Regulation E.

DATES: The clarificatory amendment and technical correction to the 2013 Final Rule are effective on October 28, 2013.

FOR FURTHER INFORMATION CONTACT: Eric Goldberg, Ebunoluwa Taiwo, or Lauren Weldon, Counsels; Division of Research, Markets & Regulations, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552, at (202) 435–7700 or *CFPB_RemittanceRule@consumerfinance.gov.* Please also visit the following Web site for additional information: *http://www.consumerfinance.gov/regulations/final-remittance-rule-amendment-regulation-e/.*

SUPPLEMENTARY INFORMATION:

I. Overview

On May 22, 2013, the Bureau published the 2013 Final Rule, which along with three other final rules [1] implements the Electronic Fund Transfer Act's provisions regarding remittance transfers and the official interpretations to the regulation, which interpret the requirements of Regulation E.

The 2013 Final Rule addresses, among other things, three specific issues. First, the 2013 Final Rule modifies the 2012 Final Rule to make optional, in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution. Second and relatedly, the 2013 Final Rule also makes optional the requirement to disclose taxes collected by a person other than the remittance transfer provider. In place of these two former requirements, the 2013 Final Rule requires, where applicable, disclaimers to be added to the rule's disclosures indicating that the recipient may receive less than the disclosed total due to the fees and taxes for which disclosure is now optional. Finally, the 2013 Final Rule revises the error resolution provisions that apply when a remittance transfer is not delivered to a designated recipient because the sender provided incorrect or insufficient information, and, in particular, when a sender provides an incorrect account number or recipient institution identifier that results in the transferred funds being deposited into the wrong account.

This rule makes a clarificatory amendment and technical correction to the 2013 Final Rule. First, this rule makes a clarificatory amendment to § 1005.33(c)(2)(iii). That section sets forth the remedies for errors that occur because a sender provided incorrect or insufficient information to the remittance transfer provider. Specifically, the provision requires providers to refund or, at the consumer's request, reapply to a new transfer ''the amount of funds provided by the sender in connection with the remittance transfer that was not properly transmitted.'' This provision also permits providers to ''deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt.''

The Bureau believes that properly understood this provision requires a provider to refund or, at the consumer's request, reapply to a new transfer, the total amount that the sender paid to the provider but to permit the provider to deduct from this amount fees actually imposed and, where not otherwise prohibited by law, taxes actually collected as part of the first unsuccessful remittance transfer attempt. The Bureau further explained this provision in comment 33(c)–12, which sets forth several examples regarding how to apply § 1005.33(c)(2)(iii) in situations where an error occurred because the sender provided incorrect or insufficient information. The Bureau is concerned, however, that the rule might be misinterpreted as authorizing providers to deduct such fees and taxes from just the principal amount provided by the sender to the provider.

To clarify the meaning of this provision, this rule revises the first sentence of § 1005.33(c)(2)(iii) so that it now states: ''In the case of an error under paragraph (a)(1)(iv) of this section that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall *provide the remedies required by paragraphs (c)(2)(ii)(A)(1) and (B)* within three business days of providing the report required by paragraph (c)(1) or (d)(1) of this section except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund.'' (Emphasis added.)

Second, the 2013 Final Rule incorrectly numbered comment 33(c)–6, *Form of refund,* in the 2013 Final Rule as comment 33(c)–5. As a result, the Bureau inadvertently deleted from the 2013 Final Rule what was, in the 2012 Final Rule, comment 33(c)–5, *Amount appropriate to resolve the error.* In this rule, the Bureau is correcting this numbering error and, as a result, restoring in the rule what was previously comment 33(c)–5.

II. Basis for the Clarificatory Amendment and Technical Correction

The Bureau is publishing the clarificatory amendment and technical correction as a final rule. The clarificatory amendment and technical correction to the 2013 Final Rule will be effective on October 28, 2013, which is the same effective date as the 2013 Final Rule. Notice and comment are not necessary for the clarificatory amendment to § 1005.33(c)(2)(iii), which merely makes explicit in the regulation the Bureau's continuing interpretation that in the event of an error under § 1005.33(a)(1)(iv) that occurred because the sender provided incorrect or insufficient information, the provider may deduct from the total amount that the sender paid to the provider the fees actually imposed and taxes actually collected as part of the first unsuccessful remittance transfer attempt. *See, e.g.,* comment 33(c)–12.

Moreover, the Bureau finds that there is good cause to publish this final rule without notice and comment. *See* 5 U.S.C. 553(b)(B). Notice and comment are unnecessary because the rule makes a merely technical change to clarify that

[1] 77 FR 6194 (February 7, 2012), 77 FR 40459 (July 10, 2012), and 77 FR 50244 (August 20, 2012).

the 2013 Final Rule operates in a way that should already have been apparent to many market participants and because the rule corrects an inadvertent, technical error. The Bureau believes that there is minimal, if any, basis for substantive disagreement with the clarificatory amendment or the technical correction.

III. Corrections to FR Doc. 2013–10604

In FR Doc. 2013–10604 appearing on page 30661 in the **Federal Register** on Wednesday May 22, 2013, the following corrections are made:

§ 1005.33 [Corrected]

■ 1. On page 30705, in the first column, § 1005.33 is corrected by revising paragraph (c)(2)(iii) to read as follows:

(iii) In the case of an error under paragraph (a)(1)(iv) of this section that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall provide the remedies required by paragraphs (c)(2)(ii)(A)(*1*) and (B) within three business days of providing the report required by paragraph (c)(1) or (d)(1) of this section except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund. The provider may deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt.

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Supplement I to Part 1005 [Corrected]

■ 2. On page 30715, in the first column, amendatory instruction 7.D.ii. is corrected to read ''Under comment 33(c), paragraphs 2, 3, 4, 5 and 6 are revised, and paragraphs 11 and 12 are added.''

■ 3. On page 30719, in the second column, comment 33(c)–5 is redesignated as comment 33(c)–6 and republished, and comment 33(c)–(5) is added. These corrections read as follows:

5. *Amount appropriate to resolve the error.* For purposes of the remedies set forth in § 1005.33(c)(2)(i)(A), (c)(2)(i)(B), (c)(2)(ii)(A)(*1*), and (c)(2)(i)(A)(*2*) the amount appropriate to resolve the error is the specific amount of transferred funds that should have been received if the remittance transfer had been effected without error. The amount appropriate to resolve the error does not include consequential damages.

6. *Form of refund.* For a refund provided under § 1005.33(c)(2)(i)(A), (c)(2)(ii)(A)(*1*), (c)(2)(ii)(B), or (c)(2)(iii), a remittance transfer provider may generally, at its discretion, issue a refund either in cash or in the same form of payment that was initially provided by the sender for the remittance transfer. For example, if the sender originally provided a credit card as payment for the transfer, the remittance transfer provider may issue a credit to the sender's credit card account in the appropriate amount. However, if a sender initially provided cash for the remittance transfer, a provider may issue a refund by check. For example, if the sender originally provided cash as payment for the transfer, the provider may mail a check to the sender in the amount of the payment.

Dated: August 7, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9623]

RIN 1545–BI99

Application of Section 108(i) to Partnerships and S Corporations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations and removal of temporary regulations (TD 9623) that were published in the **Federal Register** on Wednesday, July 3, 2013 (78 FR 39973). The final regulations are relating to the application of section 108(i) of the Internal Revenue Code to partnerships and S corporations and provides rules regarding the deferral of discharge of indebtedness income and original issue discount deductions by a partnership or an S corporation with respect to reacquisitions of applicable debt instruments after December 31, 2008, and before January 1, 2011.

DATES: This correction is effective on August 14, 2013 and applicable on or after July 2, 2013.

FOR FURTHER INFORMATION CONTACT: Joseph R. Worst, at (202) 622–3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations and removal of temporary regulations (TD 9623) that are the subject of this correction are under section 108(i) of the Internal Revenue Code.

Need for Correction

As published, the final regulations and removal of temporary regulations (TD 9623) contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.108(i)–2 is amended by revising paragraphs (b)(6)(i)(A)(*4*), (c)(3)(i)(A)(*5*), and (d)(2)(iii) *Example 2.* (ii) to read as follows:

§ 1.108(i)–2 Application of section 108(i) to partnerships and S Corporations.

* * * * *

(b) * * *

(6) * * *

(i) * * *

(A) * * *

(*4*) In the taxable year that includes the day before the day on which the electing partnership files a petition in a title 11 or similar case.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(A) * * *

(*5*) In the taxable year that includes the day before the day on which the electing S corporation files a petition in a title 11 or similar case.

* * * * *

(d) * * *

(2) * * *

(iii) * * *

Example 2. * * *

(ii) Under paragraph (d)(2) of this section, ABC partnership's deferred OID deduction