REG E REVISED - PART I OF II

by Steve Brown

On the last Friday before Christmas, the Consumer Financial Protection Bureau (CFPB) issued a request for public comment on Regulation E (international consumer payments). Although the document is 104 pages long, our team analyzed and summarized the key points here so you can keep abreast of things. The overall aim of the proposal is to fill in gaps with market practice, as well as clarify areas of vagueness that could hinder implementation. The main topics subject to feedback are the disclosure of the beneficiary's institution fees and of foreign taxes, as well as the liability of handling a mis-deposit, due to an incorrect account number provided by the sender. A delay in the implementation date (originally scheduled for Feb 7) is also contemplated. For fees charged by the beneficiary's bank, the proposal acknowledges that, in open networks, a single provider is unable to control the entire remittance. Because of this, closed networks like money transmitters, would be placed at a competitive advantage (because they would know the fees charged by the beneficiary's institution). The proposal suggests disclosing only those fees in connection with the particular international remittance transfer. It moves to disregard other amounts (i.e. general account or customer profile). As an example, a per remittance fee would be shown in the disclosures, whereas a discount for being a VIP customer would not. To label this disclosure appropriately, the bank would input the word "Estimated" into the field. This alternative appears more feasible than the older proposal, but it too seems to need fine tuning. For example, many institutions abroad bundle their fees or charge commissions later in the month. In that case, foreseeing the charge for a U.S. bank could be virtually impossible. To address this, the proposal allows the use of a fee schedule from a competitor institution or similar market surveys (from other banks or the country's central bank), as long as the upper bound in the estimated range is selected. This means that banks would have to survey all the banks they may be doing business with across the world. This is difficult to do and the lack of fee data could drive some institutions to discontinue international business with certain countries to avoid the risk associated with the liability arising from potential errors. By applying an upper bound, the proposal assumes a given consumer, who is also an economic agent making decisions, would prefer to send more money than less. However, this may not be the case and in some transactions a higher amount would be a detriment to the consumer. For example, consider an individual buying product from a business located abroad who sends money to pay the bill. Or a parent that wishes to pay for their child's education directly to a school in another country. In such instances, rational choice theory shows it is highly unlikely that a customer would choose to pay more for the same product. Here, the options sought by the proposal could propel a marginal utility to the consumer in need of measurement (appears to be null when considered a priori). As we work through the proposed alternatives and after the number of revisions to the original rule, it seems essential to return to the original intention of Reg E. That is - to "improve the predictability of remittance transfers and provide consumers with better information for comparison shopping." Recalling the study cited in the proposal, most participants in the screening, focus groups and surveys said they would like transactions to be simpler when they were asked how providers could better supply information to them. Whether the changes sought in the proposal deliver this remains an open question. Because this subject is so important to community banks that serve consumers and small business customers doing business overseas, we plan to go even deeper on this issue tomorrow.

BANK NEWS

Less Leverage

The ABA reports that as of 3Q, bank card delinquencies fell to an 18Y low of 2.75%, as consumers continued to pay down debt.

Upside Down

FHLMC reports the average yield on a 15Y mortgage loan has fallen to 2.69% as of Nov. That is rough when you consider the average bank needs a 3.00% spread between funding costs and asset yields to make money.

Deposit Competition

Banks should know money market funds hold $2.5T and are paying a 0.03% average yield now.

Deposit Opportunity

Bankrate indicates only 45% of Americans have at least 6 months of expenses saved in an emergency fund.

Shorter Shadow

The latest report by CoreLogic finds the shadow inventory of pending home supply fell 12.3% from the prior year (to 2.6mm units), a supply of roughly 7 months.

Health Care

Banks and other companies with more than 50 employees must figure out what they are going to do about employee health benefits, because major provisions of the federal overhaul law go into effect on Jan. 1, 2014.

Self Storage

The National Self Storage Association reports 50% of all self storage transactions are the result of relocations. Bankers that lend in this sector might find that interesting.

GDP

US GDP: The International Monetary Fund (IMF) expects the U.S. will grow 2.1% this year. Global GDP: In case you were wondering, the IMF reports countries with the highest GDP worldwide in order are the United States ($15.7T), China ($8.3T), Japan ($6.0), Germany ($3.0) and France ($2.6).