

Testimony of
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on behalf of The Money Services Round Table

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Financial Institutions and Consumer Credit

Hearing on the Regulation of Non-Bank Money Transmitter-- Money Services
Businesses

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Good morning, Chairwoman Capito, Ranking Member Maloney, and members of the Subcommittee. I am Ezra Levine, Senior Of Counsel with the law firm of Morrison and Foerster, and counsel to The Money Services Round Table (TMSRT). I am pleased to have the opportunity to testify today on behalf of TMSRT on the supervision of money transmitter-- Money Services Businesses (MSBs).

TMSRT was founded in 1988 as an information-sharing and advocacy group for the nation's leading non-bank money transmitters. Its members are Western Union, MoneyGram International, RIA, SIGUE, Integrated Payment Systems, and American Express. These companies provide electronic money transmission, payment instruments (e.g., money orders and travelers checks) and stored value card services. They are licensed in all states that have non-bank licensing laws — currently, 48 states plus the District of Columbia, Puerto Rico and the U.S. Virgin Islands — and are treated as financial institutions, money transmitters, within the category of MSB under the U.S. Bank Secrecy Act (BSA).

Since its founding, TMSRT has been active in the passage and implementation of more than 27 state licensing laws, and participates in the Treasury's Bank Secrecy Act Advisory Group. TMSRT comments on pertinent state and federal legislation and regulations involving safety and soundness and/or anti-money laundering/terrorist financing issues. TMSRT has for many years worked closely with the Money Transmitters Regulators Association (MTRA), the leading national organization of state non-bank money transmitter regulators, and the Conference of State Bank Supervisors (CSBS). TMSRT also participates at the Financial Action Task Force (FATF) on international anti-money laundering standards.

TMSRT's members operate in a complex regulatory environment. On the safety and soundness front, states, typically state banking departments, are the prudential regulator. Also,

non-bank transmitters, just like banks, are subject to the requirements of the BSA. Both the IRS and the states examine money transmitters for BSA compliance. For more than 20 years, TMSRT has been working toward a more coordinated, consistent regulatory structure for money transmitters, and we are pleased with the progress state regulators have begun to make under the leadership of the MTRA. We support continued efforts to streamline this process and improve the consistency of application and enforcement of laws governing money transmitters.

The Current Regulatory Environment

Money transmitters are licensed by the individual states in which they do business and these state regulators are responsible for their prudential supervision. To monitor and enforce compliance with license requirements, state banking departments conduct regular on-site examinations of money transmitter licensees to review financial condition and monitor financial reserves. These examinations are similar in scope and purpose to the examinations conducted at state-chartered banks. TMSRT's members, with sales outlet "agents" in all 50 states and several U.S. territories, are subject to examination by each state in which they are licensed, including examination for money laundering compliance, and this is the root of much redundancy.

State supervision of money transmitters took its first steps toward coordination and uniformity in the early 1990s with the development by the MTRA of its "model legislation outline," which served as the basis for new, more uniform and updated safety and soundness licensing laws in such states as Idaho, Tennessee, Maine, New Jersey, Minnesota, Hawaii, Wyoming, Kentucky, North and South Dakota, Indiana, and others. In 2000, the National Conference of Commissioners of Uniform State Laws (NCCUSL), building on what MTRA had

begun, promulgated its version of a model licensing law, which has been adopted in additional states such as Texas, Alaska, Vermont, and others.

Federal agencies, however, retain responsibility for enforcement and oversight of federal laws such as the BSA and the sanctions administered by the Treasury's Office of Foreign Assets Control.

In the 1990s, several states had begun to include BSA compliance as a component of the safety and soundness-focused onsite examinations, but the inclusion of a BSA component in the examinations became very common after September 11, 2001, and increasingly, TMSRT members were subject to multiple duplicative and uncoordinated onsite state examinations every month.

Approximately ten years ago, the IRS and FinCEN and the state banking departments entered into memoranda of understanding (MOUs) that allowed them to share information and responsibility necessary to conduct more effective BSA examinations. With these MOUs in place, state examiners can monitor and enforce compliance with the BSA, as an adjunct to examining for safety and soundness. FinCEN retains its authority over the interpretation of the BSA, which should help to ensure uniform application of the BSA. Moreover, in a very positive move in 2008, the IRS, FinCEN and state regulators, working together through the MTRA, adopted a comprehensive "Bank Secrecy Act/Anti Money Laundering Examination Manual for Money Services Businesses," which is currently being updated.

Separately, during the mid-2000s, a positive development occurred when the states, under the leadership of the MTRA, began to coordinate and streamline joint examinations of money transmitters and MTRA has been conducting examiner training schools to enhance examiner expertise. Under this approach, teams of examiners from several states participate in multi-state

examinations, with one state agency as lead. This initiative, to reduce the number of duplicate examinations, has as its goal a system in which a single lead state regulator performs only one routine examination for each licensee each year.

Money Transmitters and the Fight Against Money Laundering

The members of TMSRT have made it a priority to prevent, to the maximum extent practicable, their services from being used as conduits for illegal sums. Like banks, money transmitters may be targeted by money launderers who seek to exploit the world's financial system to facilitate criminal activities. To combat this threat, our members spend millions of dollars each year on risk-based anti-money laundering compliance programs, including educating independent sale outlet "agents" on their MSB responsibilities. In addition, TMSRT members forge strong relationships with law enforcement officials in the U.S. and throughout the world.

Further Improvements to Money Transmitters Regulation

Recent developments in money transmitter regulation have been positive for regulated entities, as examinations by multi-state regulator teams have blossomed. However, room for improvement remains.

It seems clear that state examinations will continue to be the most effective means of monitoring BSA compliance by money transmitters. However, without coordination, the number of regulatory exams creates the opportunity for inconsistency and duplication. To address these

issues, MTRA is hard at work promoting and fine-tuning the procedures for multi-state examinations of money transmitters. We strongly urge continued work toward uniform application of the BSA regulations and the continued coordination of state examinations and enforcement activities.

Beyond MTRA's efforts, we note that the Conference of State Bank Supervisors (CSBS) has launched a pilot program to adapt the National Mortgage Licensing System's (NMLS) computerized data system to allow for one step filing of state transmitter licenses and renewals. This program, if successful and if widely adopted, would allow money transmitter license applicants to submit data to a single point of contact, which would make the information available to participating states. States would still make their own decisions about whether to award a license, but this system would eliminate duplication of effort and opportunities for error.

The Money Services Round Table looks forward to continuing this discussion as we work together toward a more effective and efficient regulatory structure that protects our entire financial system. Thank you again for inviting us to testify today. I look forward to answering any questions you may have.