

**TESTIMONY  
BY**

**JOSEPH CACHEY III  
VICE PRESIDENT – GLOBAL COMPLIANCE  
AND  
DEPUTY CHIEF COMPLIANCE OFFICER AND COUNSEL  
WESTERN UNION FINANCIAL SERVICES, INC.**

**BEFORE THE**

**SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF  
THE COMMITTEE ON FINANCIAL SERVICES**

**HEARING ON**

**“IMPROVING FINANCIAL OVERSIGHT: A PRIVATE SECTOR  
VIEW OF ANTI-MONEY LAUNDERING EFFORTS”**

**MAY 18, 2004**

**GOOD MORNING. I'D LIKE TO THANK YOU ON BEHALF OF WESTERN UNION FOR THE OPPORTUNITY TO ADDRESS THE COMMITTEE ON THE IMPORTANT TOPIC OF THE USA PATRIOT ACT AMENDMENTS TO THE BANK SECRECY ACT AND ITS EFFECT ON MONEY SERVICES BUSINESSES.**

**WESTERN UNION IS A LEADER IN WORLDWIDE MONEY TRANSFER DOING BUSINESS IN 195 COUNTRIES THROUGH OVER 185,000 AGENT LOCATIONS. OUTSIDE THE UNITED STATES, THE VAST MAJORITY OF OUR AGENTS ARE BANKS OR POSTAL SERVICE SYSTEMS. THESE ENTITIES ARE VERY FAMILIAR WITH DOING BUSINESS UNDER A REGULATORY FRAMEWORK. IN THE UNITED STATES, OUR SERVICES ARE OFFERED THROUGH RETAIL BUSINESSES LIKE GROCERY STORE CHAINS, LOCAL CONVENIENCE STORES AND CHECK CASHERS.**

**UNDER THE PATRIOT ACT AND THE IMPLEMENTING REGULATIONS, BOTH WESTERN UNION AND ITS DOMESTIC AGENTS REPRESENTING 45,000 INDEPENDENTLY OWNED LOCATIONS HAVE A SEPARATE AND INDEPENDENT OBLIGATION TO IMPLEMENT AND MAINTAIN AN ANTI-MONEY LAUNDERING COMPLIANCE PROGRAM. WESTERN UNION TAKES THIS RESPONSIBILITY SERIOUSLY, AS DO OUR AGENTS. OUR COMMITMENT TO ANTI-MONEY LAUNDERING COMPLIANCE IS**

**EVIDENCED BY BOTH OUR INTERNAL EFFORTS AND THE SUPPORT WE PROVIDE TO OUR AGENTS.**

**OUR INITIAL CHALLENGE WITH THE PATRIOT ACT WAS THAT THE REQUIREMENT OF HAVING A FORMAL COMPLIANCE PROGRAM WAS NEW FOR MANY OF OUR U.S. AGENTS. WE MET THIS CHALLENGE BY PROVIDING SIGNIFICANT SUPPORT TO OUR AGENTS TO ASSIST IN THEIR FULFILLMENT OF THE PATRIOT ACT REQUIREMENT OF HAVING AN ANTI-MONEY LAUNDERING COMPLIANCE PROGRAM. AS YOU KNOW, SUCH A PROGRAM MUST INCLUDE DESIGNATION OF A COMPLIANCE OFFICER, WRITTEN POLICIES AND PROCEDURES, MONITORING, EMPLOYEE TRAINING AND A PERIODIC INDEPENDENT REVIEW.**

**THIS WAS THE FIRST TIME SUCH A REQUIREMENT HAD BEEN PLACED ON OUR AGENTS AND, THEREFORE, WE FACED A STEEP EDUCATION CURVE. TO MEET THIS CHALLENGE, WESTERN UNION INITIALLY DISTRIBUTED A “TURN-KEY” COMPLIANCE GUIDE TO THE ENTIRE AGENT BASE. THIS GUIDE EXPLAINED WHAT A COMPLIANCE OFFICER DOES, AND PROVIDED SAMPLE POLICIES AND PROCEDURES, EMPLOYEE TRAINING MATERIALS AND AN INDEPENDENT REVIEW GUIDELINE. OUR GOAL WAS TWO-FOLD, FIRST, EDUCATE THE AGENT AND SECOND, MAKE COMPLIANCE AFFORDABLE. WE DID NOT WANT**

**EACH AGENT TO HAVE TO HIRE A LAWYER OR CONSULTANT TO UNDERSTAND THE LAW AND CREATE THEIR PROGRAM.**

**WE CONTINUE TO ENHANCE THESE EFFORTS OVER TIME. WE HAVE OFFERED OUR AGENTS EXTENSIVE TRAINING OPPORTUNITIES AND WORKSHOPS TO ASSIST THEM IN UNDERSTANDING ANTI-MONEY LAUNDERING ISSUES AND HOW TO BUILD A BETTER COMPLIANCE PROGRAM. WE HAVE DEVELOPED ADDITIONAL MATERIALS, IN A VARIETY OF LANGUAGES, TO ASSIST IN THE DRAFTING OF MORE IN-DEPTH POLICIES AND PROCEDURES. WE ALSO OFFER SELECT AGENTS A TOOL THAT ALLOWS THEM TO MONITOR WEEKLY TRANSACTION ACTIVITY FOR SUSPICIOUS ACTIVITY AT THEIR LOCATION AND WE CONTINUE TO EXPAND THE COMPLIANCE TOOLS WE OFFER OUR AGENTS.**

**SINCE THE REGULATIONS IMPLEMENTING THE PATRIOT ACT TOOK EFFECT IN JULY, 2002, WESTERN UNION HAS SIGNIFICANTLY ENHANCED ITS OWN TRANSACTION MONITORING CAPABILITIES TO BETTER DETECT AND REPORT SUSPICIOUS ACTIVITY AND LARGE CURRENCY TRANSACTIONS TO THE FINANCIAL CRIMES ENFORCEMENT NETWORK (FINCEN). WE HAVE ALSO INCREASED OUR FRONT-END PROCESSES TO PERFORM MORE ROBUST DUE DILIGENCE**

**ON THOSE PERSONS WHO WANT TO BECOME A WESTERN UNION AGENT OR HAVE ACCESS TO OUR COMMERCIAL SERVICES.**

**AS YOU CAN SEE, WESTERN UNION IS TOTALLY COMMITTED TO GETTING THIS RIGHT.**

**THE DEPARTMENT OF THE TREASURY AND FINCEN REALIZED EARLY ON THAT MONEY SERVICES BUSINESSES WERE NOT BANKS, WE DON'T HAVE AN ACCOUNT RELATIONSHIP WITH OUR CUSTOMERS, WE OFTEN PROVIDE SERVICES ON A ONE-TIME BASIS AND WE OFFER OUR SERVICES THROUGH INDEPENDENTLY OWNED OUTLETS, NOT THROUGH BRANCH OFFICES STAFFED BY OUR OWN EMPLOYEES. BY UNDERSTANDING THESE DIFFERENCES, THE REGULATIONS CALL FOR A RISKED-BASED PROGRAM MEANING THAT A ONE-SIZE-FITS-ALL APPROACH IS NEITHER REQUIRED NOR APPROPRIATE. THIS RISK-BASED APPROACH ALLOWS THE INDUSTRY TO ALLOCATE COMPLIANCE RESOURCES WHERE WE BELIEVE THE MONEY LAUNDERING RISK ACTUALLY IS GREATEST.**

**FOR EXAMPLE, WESTERN UNION USES A RISK-BASED APPROACH IN SUPPORTING ITS AGENTS. WE CATEGORIZE AGENTS AS NATIONAL ACCOUNTS, NETWORKS AND INDEPENDENTS. NATIONAL ACCOUNTS ARE TYPICALLY PUBLICLY TRADED ENTITIES WITH SUBSTANTIAL**

**INTERNAL LEGAL AND AUDIT DEPARTMENTS AND EFFECTIVE EMPLOYEE TRAINING PROGRAMS. WITH THESE ENTITIES, WE CAN TAKE A TOP-DOWN APPROACH BECAUSE TYPICALLY THE CORPORATE HEADQUARTERS CAN EFFECTIVELY DRIVE PROGRAMS THROUGH THE ORGANIZATION.**

**NETWORKS HAVE A REGIONAL PRESENCE, GENERALLY GOOD ORGANIZATIONAL CONTROLS BUT TYPICALLY NEED GREATER ASSISTANCE IN CREATING THEIR PROGRAM AND ROLLING IT OUT TO MULTIPLE LOCATIONS.**

**INDEPENDENTS ARE COMMONLY REFERRED TO AS “MOM AND POPS” AND NEED THE GREATEST AMOUNT OF ASSISTANCE BECAUSE THEY ARE SMALL BUSINESSES, WITH MINIMAL NEED FOR INFRASTRUCTURE AND TYPICALLY DO NOT HAVE READILY AVAILABLE LEGAL ASSISTANCE.**

**BY NOT TAKING A COOKIE-CUTTER APPROACH - ALLOWING THE MONEY SERVICES BUSINESS TO DETERMINE THE RISK AREAS AND APPLY RESOURCES APPROPRIATELY – EFFICIENCIES ARE CREATED AND IN THIS MANNER ACTUALLY MORE RISK CAN BE ADDRESSED, MORE EFFECTIVELY.**

**HOWEVER, RISK MAY SHIFT AS MORE INFORMATION CAN BE OBTAINED AND ANALYZED, AND SO MUST OUR FOCUS. FOR THIS APPROACH TO HAVE THE DESIRED EFFECT, THE REGULATOR, IN THIS CASE FINCEN, MUST PROVIDE ONGOING COMMUNICATION TO INDUSTRY ABOUT EMERGING RISKS AND MONEY LAUNDERING PATTERNS SO THAT THE INDUSTRY CAN DIRECT ITS COMPLIANCE EFFORTS TOWARDS THE MOST CRITICAL RISK AREAS. THIS TYPE OF ONGOING COMMUNICATION SHOULD NOT ONLY RESULT IN MORE MEANINGFUL REPORTING OF SUSPICIOUS ACTIVITY TO LAW ENFORCEMENT BUT ALLOW THE INDUSTRY TO REDUCE THE FILING OF NON-USEFUL REPORTS WHICH MAY CREATE “NOISE” AND UNDERMINE THE EFFORTS OF LAW ENFORCEMENT.**

**ONE PRIMARY EXAMPLE IS THE REPORTING OF SIMPLE STRUCTURING. CURRENTLY, THE SUSPICIOUS ACTIVITY REPORTING THRESHOLD IS AT \$2000 AND STRUCTURING MAY OCCUR JUST BELOW THE \$3000 RECORDKEEPING REQUIREMENT. WE NEED TO COLLECTIVELY QUESTION WHETHER FINANCIAL INSTITUTIONS REPORTING ACTIVITY AT THIS LEVEL IS HELPFUL TO LAW ENFORCEMENT. WE WOULD ENCOURAGE FINCEN TO ANALYSE ITS SAR DATA ACROSS THE FINANCIAL SERVICES COMMUNITY AND PROVIDE GUIDANCE ON WHAT TYPE AND LEVEL OF ACTIVITY PRESENTS THE BEST INTELLIGENCE TO LAW ENFORCEMENT. IT IS POSSIBLE THAT BY FOCUSING ON HIGHER**

**LEVELS OF ACTIVITY WE CAN REDUCE THE NUMBER OF NON-USEFUL REPORTS, ASSIST LAW ENFORCEMENT IN MORE RAPIDLY IDENTIFYING MONEY LAUNDERING SCHEMES AND DRIVE OUR COLLECTIVE RESOURCES TO WHERE THE RISK REALLY LIES.**

**I AM PLEASED TO NOTE THAT FINCEN DIRECTOR WILLIAM FOX HAS STATED THAT HE AGREES WITH A RISK-BASED APPROACH AND HAS COMMITTED TO FACILITATING BETTER COMMUNICATION EFFORTS WITH INDUSTRY INCLUDING ADDRESSING THE NEED FOR A SIMPLER SUSPICIOUS ACTIVITY REPORT (“SAR”) FORM FOR MSBs. IT IS OUR OPINION THAT FINCEN, AS THE POLICY MAKER FOR OUR INDUSTRY, IS IN THE BEST POSITION TO PROVIDE THE NECESSARY GUIDANCE ON THESE ISSUES AND WE ENCOURAGE YOU TO GIVE FINCEN THE RESOURCES NECESSARY TO ALLOW IT TO FULFILL THIS PART OF ITS MISSION. A SINGLE GUIDING VOICE IS BECOMING INCREASINGLY IMPORTANT IN LIGHT OF THE FACT THAT MONEY SERVICES BUSINESSES ARE LICENSED BY THE STATES. WESTERN UNION AND THE AGENT LOCATIONS WE SUPPORT REALLY HAVE 49 REGULATORS: 47 STATES, FINCEN AND THE INTERNAL REVENUE SERVICE (IRS). THIS FRAMEWORK CAN MAKE REGULATORY CONSISTENCY A CHALLENGE. CERTAINLY AN ISSUE THAT SHOULD BE LOOKED AT IS THE CURRENT BIFURCATION OF THE POLICYMAKING FUNCTION PLACED WITH**

**FINCEN AND THE TREASURY DEPARTMENT AND THE EXAMINATION FUNCTION LOCATED IN THE IRS. WE ENCOURAGE THE IRS TO ALSO TAKE A RISK-BASED APPROACH IN EXAMINING THE INDUSTRY. IT MAY BE TIME TO REVIEW HOW WELL THE BIFURCATED APPROACH OF THESE AGENCIES IS WORKING. CURRENTLY, BECAUSE THESE REGULATIONS ARE RELATIVELY NEW TO THE INDUSTRY, WE BELIEVE THE MOST WORTHWHILE EFFORTS ARE THOSE FOCUSED ON EDUCATING INDUSTRY PARTICIPANTS AND PREPARATION OF A RISK-BASED EXAM MODEL IMPLEMENTED BY WELL-TRAINED EXAMINERS WHO ARE KNOWLEDGEABLE ABOUT THE INDUSTRY'S RISK-BASED PRACTICES.**

**WHILE THE PATRIOT ACT HAS PLACED ADDITIONAL RESPONSIBILITIES ON MONEY SERVICES BUSINESSES, OFTEN THERE ARE CALLS FOR ADDITIONAL REGULATION, PARTICULARLY IN THE AREA OF CONSUMER IDENTIFICATION. IN ADDRESSING THESE ISSUES, PLEASE KEEP IN MIND THAT FORMAL, REGULATED MONEY SERVICES BUSINESSES SUCH AS WESTERN UNION, WHILE NOT MAINTAINING CUSTOMER ACCOUNTS, DO KEEP RECORDS OF TRANSACTIONS BOTH BY THE SENDING AND RECEIVING CONSUMER. WE ALSO REPORT ON ANY IDENTIFIED SUSPICIOUS ACTIVITY. THESE RECORDS ASSIST LAW ENFORCEMENT IN THEIR MONEY LAUNDERING INVESTIGATIONS. OVER-REGULATION MAY HAVE THE UNDESIRE EFFECT OF DRIVING**

**CONSUMERS TO MORE INFORMAL, UNREGULATED SERVICE PROVIDERS THEREBY POTENTIALLY CAUSING LAW ENFORCEMENT TO LOSE SIGHT OF SUSPICIOUS TRANSACTION ACTIVITY AND CLOUDING THE FINANCIAL TRAIL THEY SEEK TO FOLLOW.**

**FINALLY, A FEW WORDS ON COMBATING TERRORIST FINANCING. AS A GLOBAL COMPANY WE ARE FULLY COMMITTED TO THIS EFFORT. WE MUST RECOGNIZE THAT TODAY'S TERRORIST SEEKS TO WEAVE HIMSELF INTO THE FABRIC OF OUR SOCIETY THROUGH THE CAMOUFLAGE OF FINANCIAL LEGITIMACY. TERRORIST CELLS HAVE LEGITIMATE GOVERNMENT ISSUED IDENTIFICATION, THEY OPEN BANK ACCOUNTS AND HAVE DEBIT AND CREDIT CARDS. THEIR FINANCIAL NEEDS AND TRANSACTIONS MOREOVER MAY ALSO BE SURPRISINGLY SMALL AND CONSEQUENTLY NOT EASILY DETECTED OR PREVENTED. ALL THESE FACTORS MAKE IT NEARLY IMPOSSIBLE FOR A MONEY SERVICES BUSINESS TO FIND THAT NEEDLE IN THE HAYSTACK WITHOUT BETTER INFORMATION FROM THE GOVERNMENT. IF A NAME IS IDENTIFIED BY THE OFFICE OF FOREIGN ASSETS CONTROL AS A SPECIALLY DESIGNATED PERSON, WE WILL STOP THAT TRANSACTION. BUT, I ASK, HOW CAN WE WORK BETTER TOGETHER TO IDENTIFY AND REPORT ON TRANSACTIONS BEFORE THE NAME GETS ON A PUBLICLY AVAILABLE LIST?**

**IN CONCLUSION, THE USA PATRIOT ACT HAS STRENGTHENED OUR COUNTRY'S ANTI-MONEY LAUNDERING EFFORT SIGNIFICANTLY AND OUR INDUSTRY HAS BEEN THERE EVERY STEP OF THE WAY. BUT TO MOVE TO THE NEXT LEVEL, TO BECOME MORE SOPHISTICATED IN DETECTING AND REPORTING MEANINGFUL SUSPICIOUS ACTIVITY, GOVERNMENT MUST DO A BETTER JOB IN PROACTIVELY COMMUNICATING WITH US. THANK YOU. I WILL BE HAPPY TO ADDRESS ANY QUESTIONS YOU MAY HAVE.**