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**TESTIMONY OF EZRA C. LEVINE ON
BEHALF OF THE NON-BANK FUNDS TRANSMITTERS GROUP
BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS**

Mr. Chairman and members of the Committee, I am Ezra Levine, counsel to the Non-Bank Funds Transmitters Group ("Group") -- the organization of the national money transmitters -- Western Union Financial Services, Inc., MoneyGram International, Travelex Americas, American Express Travel Related Services, RIA Financial Services, and Comdata Network, Inc. Each company is licensed under state money transmission laws and each is registered as a Money Services Business ("MSB") with the Treasury Department. The Group is a participant in the Treasury's Bank Secrecy Act Advisory Group. On behalf of the Group, we appreciate the opportunity to appear before you today to discuss the role of money transmitters, including issuers of payment instruments such as money orders and travelers checks, in the fight against money laundering and terrorist financing.

As you are aware, even before the horrific events of 9/11, non-bank money transmitters as "financial institutions" under the Bank Secrecy Act ("BSA") were subject to essentially the same recordkeeping and reporting rules applicable to other financial institutions such as banks. Unlike banks, however, non-bank money transmitters do not accept deposits. Rather, the vast majority of

transactions are retail transactions at relatively small dollar amounts -- less than \$400. In fact, while it is imperative that United States financial institutions as a whole not be utilized as conduits for illicit sums, the non-bank money transmitter industry is a relatively small player in the overall volume of funds transfers conducted in the United States. Since 1994, Fedwire, used only by banks, has transferred on average more than \$800 billion per day while the daily dollar volume processed through CHIPS, the main U.S. wire transfer system for banks to process international wire transfers, was well over \$1 trillion. By contrast, it is estimated that in the aggregate, the non-bank funds transfer companies move significantly less than one percent of that amount yearly.

In short, the non-bank funds transfer industry caters to individual consumers, including recent immigrants who find that the safe, secure, services offered at reasonable prices at locations throughout the United States suit their needs. Many of these locations are in inner cities where there are no banks and funds can be transmitted to over 140 countries. The business provides a critical service for many who rely on these companies to provide basic financial services. The vast majority of funds transmitters are licensed for safety and soundness by the states, Puerto Rico and the District of Columbia.

Since 9/11, the funds transfer industry has responded to the new challenges created by the war on terrorism. Soon after these events, the industry volunteered to work with the FBI and other law enforcement agencies to provide case specific information and targeted transactional reviews as requested. In addition, the Group met with FBI headquarters representatives to intensify the dialogue on terrorist financing issues and provide information on industry procedures, systems and operations. Compliance staffing was increased and new programs were implemented to enhance compliance training and monitoring, consistent with the letter and spirit of the Patriot Act. For example, under section 352 of the Patriot

Act, the Treasury Department was directed to promulgate anti-money laundering compliance program requirements for all financial institutions including MSBs. Treasury did a good job. The compliance program regulations embody a risk-based approach which can be tailored by large and small businesses to suit the unique nature of those businesses. Group members enhanced existing compliance plans and disseminated revised model plans to their sales outlets. This is a major task which the industry agrees is necessary in these perilous times.

In addition, the Financial Crimes Enforcement Network ("FinCEN"), in a positive, proactive outreach development, has issued a variety of MSB guidance materials, written in "plain speak" and aimed at the 150,000 or more money services sales outlets. Group members use these materials to assist in educating sales outlets on their responsibilities under the law. The Group has urged FinCEN to increase MSB compliance outreach activities, perhaps with periodic regional MSB conferences since many MSBs are small businesses.

The MSB sales outlets, often "mom and pop" operations such as grocery stores, convenience stores, travel agencies, etc. which sell the wire transfer services, as well as money orders and travelers checks, as an ancillary part of their business are also subject to the recordkeeping and reporting rules of the BSA. Money transmitters, such as the Group members, provide to the sales outlet -- "agents," BSA compliance training materials and procedural guidelines to ensure, to the maximum extent practicable, that the sales outlets which have the face-to-face contact with consumers, are conversant with BSA recordkeeping and reporting requirements, including but not limited to the filing of Suspicious Activity Reports ("SAR"). Group members evaluate sales outlets based on a risk analysis approach. Also, Group members perform "back office" transaction analyses in an attempt to spot suspicious activity and to review sales outlet compliance/

With the increased focus on terrorist financing, the Suspicious Activity Report (“SAR”) has become, in the view of the Group, one of the most promising tools to identify matters of interest to law enforcement. The Group has actively supported and participated in efforts such as the California regional outreach programs of the IRS Criminal Investigation Division to emphasize to money transmitter outlets the importance of reporting suspicious activities with clear and accurate SARs. It should be noted that FinCEN, reacting to industry comments, has been working on a short form SAR which can be more easily utilized by retail businesses. The goal, of course, is to provide to the government timely and accurate information about suspicious activity. The industry is committed to assist in this critical effort. In turn, the government should continue to enhance its efforts to provide guidance to the industry on types, categories and examples of “suspicious activity.”

In sum, the Group believes that the Treasury Department got it right in November 2002 when it reported to Congress pursuant to section 359 of the Patriot Act that as to MSBs “it would be premature at this time to call for new legislation” in the fight against money laundering and terrorist financing. As Treasury emphasized, “based on what we know so far, we appear to have the legislative and regulatory tools we need. The primary problems are those of compliance, enforcement, education and cooperation.” These are the correct priorities. To achieve these priorities, the following measures would be of help:

1. If there is a failing in the system for MSBs, it is the lack of uniformity in national recordkeeping and reporting standards. For example, in the rush to jump on the anti-terrorism bandwagon, some state legislators and state regulatory agencies have enacted recordkeeping and reporting rules which are at odds with or different than those promulgated under the BSA -- including but not limited to differing reporting thresholds and duplicate filing of SARs. Such measures hinder

the efforts of regional and national money transmitters to achieve compliance by creating confusion and ambiguity. Multi-state MSB sales outlets such as convenience store chains and the like have an especially difficult time coping with the increasing patchwork quilt of divergent requirements. These state-specific efforts are counter productive and do not enhance the difficult task of maintaining constant vigilance. Therefore, the Group suggests that whatever the scope and character of anti-money laundering regulation under the BSA, inconsistent state mandates should be preempted.

2. On a related topic, a more robust federal compliance and enforcement program for money transmitters could be achieved by affording FinCEN the leadership role in this effort.

3. Finally, there is a need to emphasize to law enforcement the need to prosecute unlicensed money transmitters under both state law and the federal felony provision of 18 USC § 1960 which was recently strengthened in the Patriot Act. However, state enforcement officials have been reluctant, in many cases, to undertake prosecution of the unlicensed under state law provisions. The only remedy then is prosecution under 18 USC § 1960. As the congress pointed out in the Money Laundering Suppression Act, an entity which knowingly ignores licensing also is likely to be ignoring the BSA requirements and could be facilitating terrorist financing. There is no excuse for willfully ignoring the state licensing laws.

In closing, it is worth noting that notwithstanding unsubstantiated anecdotal tales, no credible evidence has been produced which demonstrates that non-bank money transmitters are disproportionately used, or susceptible to being used, as conduits for illicit sums. Dedicated compliance with the existing BSA requirements is the best way to ensure that MSBs remain a vital component in the U.S. financial system. On the other hand, promulgation of increasingly stringent

identification and other regulations will only drive transactions to the underground world of the unregulated -- further frustrating enforcement goals.

Mr. Chairman and members of the Committee, thank you again for this opportunity to comment on these issues of national important. I look forward to responding to any questions you may have.