

**TESTIMONY
BY**

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MONEYGRAM INTERNATIONAL, INC.**

**BEFORE THE UNITED STATES SENATE COMMITTEE ON
BANKING, HOUSING AND URBAN AFFAIRS**

**HEARING ON
AN UPDATE ON MONEY SERVICES BUSINESSES
UNDER BANK SECRECY AND USA PATRIOT REGULATION**

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Good morning Mr. Chairman and members of the Committee, my name is Dan O'Malley, and I am Vice President of the Americas for MoneyGram International. MoneyGram is an international payment services company conducting business in more than 170 countries, through more than 79,000 locations. In the US, MoneyGram is licensed and regulated as a money transmitter by each state's banking department. In addition, MoneyGram fully complies with the anti-money laundering laws promulgated by the Bank Secrecy Act and the USA PATRIOT Act, and is registered with the Treasury Department as a Money Services Business. Today I am pleased to have the opportunity to provide background information on my company, discuss MoneyGram's anti-money laundering compliance program, and offer a few comments on the recent problems that members of the Money Services Business¹ industry are experiencing with maintaining and establishing bank accounts. I should also mention that I'm joined today by Tom Haider, MoneyGram's Chief Compliance Officer and Vice President of Government Affairs, who can also assist in answering any of your questions.

Company Background

MoneyGram was founded in 1940 under the name Travelers Express as a money order company in Minneapolis, MN. Over the years, the company has grown to be a leading international payment services company that remains headquartered in Minneapolis, but which now has major operations centers in Denver, CO, and Miami, FL, with international offices in London, Hong Kong, Dubai, Moscow, Frankfurt and Johannesburg. Just last summer, MoneyGram became a publicly traded company and is now listed on the NYSE. The company employs nearly 1,800 people worldwide, and offers its money transfer service through more than 79,000 locations in 170 countries, and its money orders at 60,000 locations throughout the US. With only 1,800 employees worldwide, and over 100,000 locations worldwide, it's easy to see that MoneyGram is a company that must rely on agents to sell its services. The agents who sell MoneyGram's services include banks, credit unions, supermarkets, convenience stores, and many other retail locations. MoneyGram's services are sold through such well-known businesses as

¹ Money Services Businesses "MSBs" are defined in 31CFR103.11uu, and include money transmitters, money order issuers and sellers, check cashers, travelers check issuers and sellers, and stored value providers.

Wal-Mart, Albertsons, CVS Pharmacy, US Bank, and many small, independently owned “mom and pop” convenience and corner grocery stores. These “mom and pop” locations, along with many check casher outlets, are the MoneyGram agents that are experiencing the majority of the banking relationship problems, which I’ll address in greater detail later in my testimony.

MoneyGram offers consumers three primary services. First is the MoneyGram money transfer service that provides consumers an affordable, reliable and convenient means to send money across the country or around the world in a matter of minutes. MoneyGram conducts its money transfer service through a network of “agents” which enable consumers to send money from one MoneyGram agent to another. The way it works is that a consumer walks into a MoneyGram location and tells the merchant how much money they wish to send, and where and to whom they want the money sent. After the sender pays for the transaction they are given a transaction # (similar to a PIN) that the sender then relays to their recipient, generally by way of a phone call. The recipient can then go to any MoneyGram location, and with proper identification and the transaction #, collect the money that was sent. This entire process can be completed in a matter of minutes. For example, if a sender was in a MoneyGram location in Chicago they could be on their cell phone with their recipient who was in a MoneyGram location in Paris. As soon as the sender receives the transaction # they could tell it to the recipient who could then go to the counter and pick up the funds in the local currency. It’s a fast, safe and reliable service that is used mainly by workers to send money home to their friends and family, and the average amount of a MoneyGram money transfer is less than \$300. In addition to its regular money transfer service, MoneyGram also offers an emergency bill payment service called Express Payment. This service is offered at all MoneyGram locations in the United States. Express Payment allows consumers to manage the payment of their bills by paying them on the exact due date. It also provides billers with the assurance of a guaranteed payment in those situations where a consumer may have become delinquent and is required to make an immediate payment in order to avoid a collection proceeding.

Our company started as Travelers Express, a money order issuer, and today it is the nation's largest issuer of money orders. While most consumers pay their bills with a check, there remain millions of consumers who pay their regular monthly bills with money orders, which are often less expensive and more convenient than a personal checking account. Travelers Express money orders are sold in many of the same locations that sell MoneyGram money transfers throughout the US, and the average face amount of a Travelers Express money order is approximately \$150. Finally, MoneyGram provides check-processing services for several thousand banks and credit unions in the US. This service processes "official checks" which consist of cashiers', tellers' and other bank checks that are most commonly associated with mortgage closings and other large transactions.

It is important to note that the services provided by MoneyGram are closely regulated, and that the company is licensed by state banking departments as a money transmitter and an issuer of money orders. The state banking departments impose many of the same requirements on Money Services Businesses that they impose on state chartered banks, such as audited financial statements, investment restrictions, surety bonds, and on-site safety and soundness exams. In a typical year, MoneyGram will submit more than 600 licensing reports to its various state regulators, and undergo about ten on-site exams that can last from a few days to several weeks. Thus, even though there is no federal regulator for Money Services Businesses, licensed companies like MoneyGram are well regulated by the states.

Anti-Money Laundering Compliance Program

Shifting gears slightly, I would now like to focus on anti-money laundering compliance. While I can't speak for the entire Money Services Business industry, I can address the issue as it relates to MoneyGram, and by analogy to other responsible Money Services Businesses. MoneyGram has a comprehensive anti-money laundering compliance program that has been in place for many years, even before such programs were mandated by the USA PATRIOT Act. Likewise, MoneyGram was voluntarily filing Suspicious Activity Reports with the IRS long before such reporting was mandated

for Money Service Businesses. At MoneyGram, we are very proud of our compliance efforts and I would like to note that in 1996 MoneyGram's subsidiary, Travelers Express, was given a \$100,000 reward by the IRS for its help in cracking a major money laundering ring. We have since continued to make significant investments in our compliance and anti-money laundering programs.

MoneyGram's anti-money laundering compliance program is built around three main components: training; monitoring; and reporting. From a training perspective, MoneyGram trains and tests all of its employees, from the CEO to the clerk in the mailroom, on key aspects of the anti-money laundering laws. The satisfactory completion of this training and testing is a condition of employment. In addition, MoneyGram takes steps to ensure all agents who sell its services are trained on anti-money laundering laws so that they understand their duties under the law. In order to facilitate the training process, MoneyGram employs bilingual staff to ensure accurate communication of the requirements, and to respond to any questions raised by the agents.

Before authorizing any agent to conduct transactions on its behalf, MoneyGram first conducts its own investigation of the entity to be certain that its owners and management are of a reputable character. This process, which MoneyGram calls its "Know Your Agent" program, involves credit checks, criminal background reviews, data mining and OFAC screening. MoneyGram will not conduct business with any individual or entity that fails to meet its background investigation standards. This means that MoneyGram walks away from potential business opportunities, but MoneyGram would rather forego some business than put its own reputation in jeopardy by affiliating itself with disreputable parties.

Once an agent is trained and begins to sell MoneyGram's services, the MoneyGram compliance team closely monitors the agents' activities and will terminate the relationship with any agent who fails to fully comply with their anti-money laundering obligations. The "monitoring" component of MoneyGram's anti-money laundering compliance program is built around sophisticated computer programs that

search for unusual patterns that may indicate structuring or other forms of suspicious activity. In addition to using computer programs, MoneyGram's compliance team physically reviews millions of transactions every year in an effort to detect possible money laundering or terrorist financing. The compliance team also reviews the names of every MoneyGram money transfer "sender" and "receiver" against the OFAC database to guard against doing business with sanctioned individuals. These monitoring efforts lead to the third component of MoneyGram's compliance program, which is "reporting."

MoneyGram files thousands of Suspicious Activity Reports, but they only represent a small fraction of the millions of transactions the company conducts. These reports range in size from transactions involving several hundred dollars to transactions involving tens of thousands of dollars. In most situations the suspicious activity involves structured transactions in which the money launderer moved from one agent to another conducting relatively small transactions at each agent so that no individual agent would notice anything suspicious. However, MoneyGram's systems are designed to detect such activity and it is then reported to the IRS. Over the years, MoneyGram has continued to invest heavily in its anti-money laundering compliance efforts through additional compliance staff located around the world; with enhanced computer systems to analyze transaction activity and to comply with OFAC; and, by enhancing training programs for its agents and employees. These efforts are expensive, and in many cases they go beyond what is required by law. Thus, there should be no doubt that MoneyGram takes its anti-money laundering obligations very seriously --- not just because it is the law, but also because MoneyGram values its reputation as a good corporate citizen.

MoneyGram is also well aware of the discussion that is currently taking place in legislative and regulatory circles regarding the filing of Suspicious Activity Reports, and agrees with many of the sentiments expressed by FinCEN and other organizations that the defensive filing of Suspicious Activity Reports poses a potential serious problem for the law enforcement community. That is one reason why MoneyGram was pleased to see the announcement from FinCEN on April 18, 2005, that it intends to streamline the SAR

form used by Money Services Businesses. MoneyGram welcomes the opportunity to provide FinCEN with comments on the proposed changes, and believes that a streamlined form will be a great benefit to MoneyGram and the thousands of agents who use the form.

Bank Account Concerns

Now I would like to address the problems that many Money Services Businesses and their agents are experiencing in opening and maintaining bank accounts. In the past year this has become a serious problem for many MoneyGram agents, as well as many other Money Services Businesses. In most instances for MoneyGram, it appears that the small “mom and pop” shops and check cashers are the ones who are being targeted for account closings. These businesses are often being told by banks with which they’ve had relationships for years that they now must choose to either close their account, or cease conducting any kind of Money Services Business. When they ask their bankers “why?” they are frequently told that the bank’s regulator has informed them that Money Services Businesses are high-risk entities and the bank is advised to avoid doing business with such entities.

At MoneyGram we have heard from dozens of agents in New York, Illinois, Virginia, Florida, California and other states that this situation is forcing them to consider no longer serving as an agent. In some cases, our agents have sought accounts at other banks only to be told the same story. These agents are frightened and unwilling to provoke their banks upon whom they depend for their financial needs. After all, for most of our agents the sale of money orders or money transfers is only a small portion of their business; it’s just another product they offer to their customers, like milk or bread.

In order to help our agents, MoneyGram has begun negotiating with banks around the country to offer special accounts. In some situations, we have negotiated a master MoneyGram account with sub-accounts for our agents. While this may sound like the ideal solution, it is not. It is far more costly for MoneyGram and it is far less convenient for our agents. In some cases, agents have refused this arrangement because they cannot

afford to be away from their store to travel to new banks across town when they were used to their old bank that might have been across the street. Thus, in order to retain some agents, MoneyGram is now paying for armored car service to collect the funds from these agents, which adds even more costs to conducting the business. These added costs present a difficult challenge to MoneyGram as we strive to maintain our value proposition to our customers in a rising cost environment. I fear too often that is the point that gets lost in all of the discussion regarding banking relationships and compliance requirements. We simply forget that all of these issues cost money and, in turn, lead to higher costs for consumers.

MoneyGram itself has not had banks threaten to close its accounts, but in the course of the past year, every major bank that MoneyGram does business with has requested in-person meetings with MoneyGram's compliance team to verify the quality of MoneyGram's anti-money laundering compliance program. While this is not a terrible hardship, it demonstrates the pressure that banks are under from their regulators. For instead of focusing their compliance resources on true risks, the banks are merely duplicating the efforts of the state banking departments and other regulators who are already reviewing MoneyGram's compliance program.

MoneyGram was very gratified that FinCEN took the lead in holding an informational meeting on this subject on March 8, 2005. This meeting was a critical first step in getting the problem out in the open, but the real challenge will be getting the regulatory examiners in the field to change their practice of recommending to banks that they stop conducting business with Money Services Businesses. Likewise, MoneyGram was also pleased with the Joint Statement on Providing Banking Services to Money Services Businesses that was issued on March 30, 2005, by the Federal Banking Agencies. That Statement correctly identified a major source of the problem to be the misperception regarding the compliance and regulatory requirements that apply to Money Services Businesses. That misperception is one of the driving factors that has caused banks to believe they must take on the duty of "regulating" Money Services Businesses,

and since most do not want such an additional duty, they find it far easier to simply terminate those accounts.

So what can be done about this problem? The March 30th Statement said that FinCEN and the Federal Banking Agencies would soon issue guidance for banks on their account relationships with Money Services Businesses, and that FinCEN would issue concurrent guidance for Money Service Businesses on their compliance obligations. MoneyGram is solidly behind the issuance of such guidance, with one minor caveat. That is that the guidance does not impose new compliance obligations on Money Services Businesses. As the March 30th Statement noted, Money Services Businesses are already subject to the Bank Secrecy Act and related anti-money laundering laws. It would be a great injustice to Money Services Businesses if the final outcome were to impose even more regulatory requirements on them, at the same time that many in government are calling for a reduction in the regulatory burdens imposed on banks. Instead, there needs to be a balancing of the requirements imposed on both banks and Money Services Businesses so that neither industry is handicapped or forced to spend even more resources on the spiraling costs associated with compliance.

We hope that the Guidance for banks and Money Services Businesses will focus on key elements of an effective compliance program, including:

- a. that the Money Services Business is licensed in all jurisdictions where it conducts business (some Internet and card based money transmitters claim the licensing laws do not apply to them, or they establish themselves in one of the few states that does not license money transmission);
- b. if the entity is an agent, that it only serve as an agent for licensed Money Services Businesses;
- c. that the entity have a written compliance program;
- d. that the entity train its employees on anti-money laundering compliance; and,
- e. that the entity have an effective OFAC screening program (once again, many Internet and card based money transmitters are not conducting OFAC screening on the recipients of funds, but only on US “senders”).

Recommendations

MoneyGram appreciates the opportunity to offer the Committee a few suggestions on how the bank account issue might be addressed, and how compliance with the USA PATRIOT Act might be improved. The two are somewhat tied together, since improving PATRIOT Act compliance will help banks and their regulators gain confidence in the Money Services Business industry. With regard to the bank account issue, MoneyGram believes part of the problem stems from the fact that banks and their regulators do not understand the existing state licensing regime that applies to Money Services Businesses. That is why MoneyGram recommends that the Committee consider legislation that would establish a dual chartering system for Money Services Businesses analogous to what banks and credit unions enjoy. Under such a system, a Money Services Business that only operates in one or a few states could opt to be state chartered, while others could choose a federal charter. The establishment of a primary federal regulator may significantly reduce the concerns and misperceptions about the oversight of the industry. Too often MoneyGram has heard from banks, lawmakers, and law enforcement officials, as well as in the press, that Money Services Businesses are largely unregulated. As we've already noted, that is not true, but it is a perception that simply won't go away. A primary federal regulator would instill greater confidence by banks, their regulators, and the public in Money Services Businesses.

A federal regulator could also help to close the loophole that some unscrupulous operators try to use to avoid any licensing requirements. Today, 35 states license money transmission. However, these tend to be the biggest states and the ones where most money transmission occurs, so responsible money transmitters are licensed and regulated. Nonetheless, some operators have been known to establish themselves in one of the states that does not require licensing, and then only conduct business in licensed states via the Internet or by phone in order to avoid a physical presence in those states. Similarly, some operators claim that since they only move their money through banks they do not have to be licensed. This is one of the more convoluted arguments since all money transmitters

must use banks in order to move money from one location to another; it is only couriers who actually transport currency.

Of course, any new federal regulator would need to be separate from the state regulators. MoneyGram would not support merely adding an additional regulator to the process if it meant that it was now subject to all of the state regulators and a new federal regulator. After all, one of the biggest challenges for MoneyGram and other nation-wide money transmitters is the lack of uniformity among the state licensing laws. The requirements imposed on MoneyGram and its agents in one state will often differ significantly from those imposed in a bordering state. These conflicting regulatory requirements impose a heavy burden for companies like MoneyGram that offer their services throughout the country, as opposed to small transmitters that may only operate in one or two states. Thus, the option of a dual chartering system for Money Services Businesses could prove to have a beneficial impact on the Money Services Industry's overall image, as well as easing the regulatory burdens for the members of the industry.

MoneyGram would also like to offer a recommendation that would add clarity to the USA PATRIOT Act requirements. One of those requirements is that Money Services Businesses (as well as all other entities subject to the Act) conduct a periodic review of their compliance program. For banks and licensed Money Services Businesses, such a requirement is appropriate, but for the thousands of "mom and pop" convenience stores that sell money orders or money transfers as an agent for a licensed Money Services Business, this requirement is nearly unintelligible. These businesses need greater direction from FinCEN as to what constitutes an adequate "review" and who can conduct the review. For example, a simple one page form could be developed that the owner of the business would be required to complete on an annual basis confirming the adoption of a compliance program, that the business trains employees, and that it has designated a responsible individual as its compliance officer. The form could also require verification that the business is aware of its duty to file Suspicious Activity Reports and Currency Transaction Reports. It could also pose several questions to confirm that the business fully understands the concepts of structuring and suspicious activity, and what to do when

such situations are encountered. This type of direction from FinCEN is badly needed by the Money Services Business industry and its agents. It will also help those businesses better demonstrate to their bankers that they are fully compliant with the Bank Secrecy Act and the USA PATRIOT Act. MoneyGram has the greatest respect for FinCEN, and has a long history of working in a positive relationship with that organization. Going forward, MoneyGram would welcome the opportunity to continue to work with FinCEN on any changes to the regulations implementing the USA PATRIOT Act, as well as the regulatory guidance for the Money Services Business industry.

Conclusion

In conclusion, I want to thank you, Mr. Chairman and members of the Committee, for the honor of having the opportunity to present testimony on behalf of MoneyGram International. We at MoneyGram are proud of our company's strong efforts at anti-money laundering and the prevention of terrorist financing, and we remain dedicated to working with regulators and law enforcement officials to defeat the attempts by criminals to use any of our services for illegal purposes. We think there are proactive measures that the banking regulators can take to resolve the problems that many Money Services Businesses are experiencing with establishing and maintaining bank accounts, and we believe Congress can also provide a solution with the establishment of a federal regulator for Money Services Businesses. Finally, we believe the majority of the USA PATRIOT Act as it applies to Money Services Businesses is workable, but some minor refinements of the requirements by FinCEN will greatly assist Money Services Businesses in complying with the periodic review requirement. Thank you again.