

*The Western Union Company's View and Specific Proposals Regarding the FATF's Draft Guidance for Private Sector Information Sharing.*

## Overview: The Western Union Company

The Western Union Company (“Western Union” or “Company”) is headquartered in Englewood, Colorado and has more than 500,000 agent locations in over 200 countries and territories. Western Union has three business segments: Consumer-to-Consumer, Consumer-to-Business, and Business Solutions. The Consumer-to-Consumer segment facilitates money transfers between consumers through a network of mainly third-party Agents. This segment offers international cross-border transfers and domestic transfers, as well as money transfer transactions through websites and mobile devices.

The Consumer-to-Business segment facilitates bill payments from consumers to businesses and other organizations. The Business Solutions segment provides payment and foreign exchange solutions, primarily cross-border and cross-currency transactions for small and medium size enterprises, other organizations, and individuals.

## Obstacles to Information Sharing within the Private Sector

Western Union’s goal is to provide the best information to law enforcement units around the world as quickly as possible. But the information sharing rules can make it difficult to do this. Western Union has insight to domestic and cross-border transactions occurring across the globe, which can be very powerful in terms of understanding patterns of cross-border activity, including suspicious activity. Because Western Union processes its transactions through centralized information technology systems largely based in a single jurisdiction (the USA), the Company likely faces fewer obstacles to cross border information sharing than many banks operating under comparatively more restrictive information sharing rules. Nevertheless, Western Union faces some restrictions on sharing of STR information across its various licenses, as well as with its Agents, many of which are licensed financial institutions themselves. If and as transactions fall into a prototypical pattern for money laundering, fraud, or terrorist financing, Western Union and/or its agents may have insight to the movement of funds across several countries involving multiple individuals.

## Comment: Information Sharing Between Agents and Network Providers

In addition to the challenges identified by the FATF regarding sharing suspicious transaction reports within a Financial Group, Western Union faces a challenge that is not specifically addressed in the Draft Guidance. The additional challenge is due to Western Union’s relationship, as a network provider, with its agents. Western Union agents are often separate legal entities and not subsidiaries or affiliates of Western Union and it is unclear as to whether agent relationships would be covered under even a very broad definition of Financial Group. This means that under confidentiality carve-outs for Financial Groups, the

sharing of Suspicious Transaction Reports (“STR”)<sup>1</sup> (or information that would lead to the disclosure of the existence of an STR) by Western Union agents with Western Union may be a prohibited disclosure.

The Draft Guidance should address information sharing on suspicious transactions by agents with network providers in light of the following considerations:

1. Jurisdictions have varying expectations regarding the level of AML/CFT oversight that network providers have over agents. In jurisdictions where there is a regulatory expectation of increased oversight accountability, information sharing of suspicious transactions may be particularly important for the network provider to fulfil its oversight responsibilities.
2. Information regarding suspicious transactions or STRs filed by agents may be used by network providers to enhance the network provider’s compliance with risk management and reporting obligations.

It is not clear whether the FATF is intending to address the relationship between agents and network providers in the section of the Draft Guidance titled “Information-Sharing Between Financial Institutions that are not Part of the Same Group.” Western Union, however, respectfully requests that the Draft Guidance include direction regarding the sharing of information by agents with network providers, specifically that jurisdictions consider issuing guidance or creating carve-outs to STR confidentiality requirements that address this specific type of relationship.

#### Comment: Safe Harbor for Information Sharing

The draft guidance should request that jurisdictions implement a U.S. 314(a) and 314(b)-like information sharing regime, to include safe harbor for voluntary information sharing among financial institutions, across borders and between and among Money Service Business (“MSBs”) and the banks that hold their accounts, as well as among MSBs and their agents (especially those which are themselves licensed financial institutions). This type of regime, with safe harbor, would encourage all financial institutions to perform broader investigations of cross-border activity, creating better-quality reports for law enforcement. Such a safe harbor might also provide banks with better insight into their MSB customers, which could enhance their risk controls and may even limit de-risking of MSB accounts.

Even an expansion of voluntary information sharing safe harbor provisions to address information sharing by agents with network providers may be insufficient to fully achieve the desired outcome. Because voluntary information sharing provisions are only available in some jurisdictions and may only apply to financial institutions,<sup>2</sup> there would continue to be a significant number of agents that would be unable to share information under currently available safe harbor provisions.

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<sup>1</sup> Or relevant local equivalent.

<sup>2</sup> Depending on the type of products or services offered by a Western Union agent, the agent may or may not fall under the definition of a financial institution.

## Public Sector Obstacles to Information Sharing

Western Union has developed law enforcement and FIU relationships around the world. The goal of the investigative and STR filing process at the Company is to provide actionable data to law enforcement so they can respond to threats as quickly as possible. As noted above, Western Union often encounters suspicious activity schemes that touch upon multiple countries, and believes that officials from each country that an illicit scheme touches should want to understand the totality of the transaction activity to respond appropriately to the risk. The Company has found, however, that public sector information sharing and STR filing restrictions have limited its ability to successfully achieve this objective.

Western Union works actively with law enforcement and responds to referrals very quickly. The Company depends on these law enforcement units to disseminate referrals to the appropriate authorities in all countries where the investigated activity or people are connected. If and as law enforcement does not share the information to their colleagues in other countries, however (which happens even in high profile cases involving national security issues), Western Union becomes a “middle man” for the FIUs through the SAR/STR (“STR”) filing process. This is an inefficient and ineffective process that can inhibit effective and efficient information flow. As a private company subject to varying information sharing standards across jurisdictions, Western Union cannot solve this issue using internal processes. Change must occur in the public sector. Western Union respectfully suggests the following enhancements to information sharing processes and protections.

### Comment: Voluntary STR Filing

Western Union respectfully requests that the Draft Guidance be amended to include guidance to jurisdictions regarding the voluntary filing of STRs, specifically that jurisdictions that have not already granted safe harbor for voluntary STR filing be encouraged to do so. In certain circumstances, and in certain jurisdictions, where STR filing is not mandatory, voluntary filing may be considered a prohibited disclosure (e.g., reporting a transaction that is below a statutorily prescribed threshold). The availability of safe harbor for voluntary STR filing may encourage financial institutions to disclose information that is valuable to law enforcement without being at risk of violating confidentiality or privacy requirements.

### Comment: Clear Rules for Where Investigations may be Performed

Jurisdictions should have clear laws that investigations either may or may not be conducted outside of the country where the activity occurs. Filing financial institutions should be given clear guidance on any restrictions on where suspicious activity investigations may be performed. It would be optimal if the Company could determine for itself where the investigation units are located to enhance efficiencies within the Company. But due to information sharing restrictions in some countries, regulations can be interpreted to require only in-country investigations.

Comment: Encourage Complete Suspicious Transaction Reports

Encourage FIUs to accept STRs that describe transactions that occur both within and outside of the country. Today many FIUs only want to see STRs with transactions that physically occur in their jurisdiction. This limitation leads to suboptimal results. First, law enforcement will not be able to see the full scope of an illicit transaction scheme, and may miss the seriousness of an issue. For example, transactors with passports from Country A may be engaging in suspicious activity in Country B, but because the transactions do not physically occur in Country A, Western Union may not file an STR in Country A.

Western Union appreciates the opportunity to provide these comments and suggestions.

Regards,

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On behalf of the Western Union Company

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