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2 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

3 In the Matter of the Money Transmitter )  
License of: ) No. 09F-BD026-BNK  
4 )  
5 **WESTERN UNION FINANCIAL ) **CONSENT ORDER****  
**SERVICES, INC.** )  
6 12500 East Belford Avenue )  
Englewood, CO 80112 )  
7 )  
Petitioner. )

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9 On September 11, 2008, the Arizona Department of Financial Institutions  
10 (“Department”) issued a Notice of Hearing, alleging that Petitioner Western Union  
11 Financial Services, Inc. (“Western Union” or “Petitioner”) had violated Arizona law.  
12 Wishing to resolve this matter in lieu of an administrative hearing, and without  
13 admitting liability, Petitioner consents to the entry of the following Order.

14 FINDINGS OF FACT

15 1. Western Union is a Colorado corporation authorized to transact business  
16 in Arizona as a money transmitter, license number MT0010709, within the meaning of  
17 A.R.S. §§ 6-1201, *et. seq.* The nature of Western Union’s business is that of a money  
18 transmitter within the meaning of A.R.S. § 6-1201(11).

19 2. A December 3 through December 6, 2007 examination of Western Union,  
20 and authorized delegate visits on November 27, 2007 through June 19, 2008, conducted  
21 by the Department, revealed that Western Union:

22 a. Failed to prominently display the authorized delegate notice, as  
23 prescribed by the Superintendent, at all authorized delegate  
24 locations; specifically:

25 i. The authorized delegates who failed to prominently display  
26 the required authorized delegate notices were: Broadway  
27 Liquor, 405 E. Broadway, Mesa, Arizona; and Basha’s #85,  
28 1920 W. Chandler, Chandler, Arizona; and

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- ii. Failed to correct this violation from a prior examination;
- b. Failed to keep adequate records of customers' identities for each transaction involving the transmission of money in an amount of one thousand dollars (\$1,000.00) or more; specifically:
  - i. Failed to record the customers' occupation, current residential address or social security number for most transactions;
  - ii. Numerous transfers totaling \$78,522.62, listed in Attachment A to the Report of Examination, were sent by the same person from the same location on the same day at approximately the same time, and were received by the same person at the same location on the same day, at the same payment location, often within minutes of each other, and by the same cashier;
  - iii. The information required by A.R.S. § 6-1241(E) should have been collected;
  - iv. Petitioner is not only required to comply with the requirements of A.R.S. § 6-1241(E), it must have an effective AML program to prevent, not just report, structuring activity; and
  - v. Failed to correct this violation from a prior examination;
- c. Failed to comply with the Arizona Attorney General's Geographical Targeting Order ("GTO") No. 2006-02; specifically:
  - i. Between July 31, 2006 and June 23, 2007, Petitioner and its authorized delegates failed to collect the additional customer identification data required by the GTO for payout transactions of five hundred dollars (\$500.00) or more;

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- ii. Numerous transfers totaling \$303,530.94, listed in Attachment B to the Report of Examination (“Attachment B”), were sent by the same person from the same location on the same day at approximately the same time, and were received by the same person at the same location, on the same day at the same payout locations, often within minutes of each other, and by the same cashier;
  - iii. The information required by the current GTO should have been collected and recorded for each receiver; and
  - iv. The activity listed in Attachment B continued throughout the time period of July 31, 2006 through June 23, 2007. Not only is Petitioner required to comply with all GTOs, it must have an effective AML program to prevent, not just report, structuring activity; and
- d. Failed to comply with all requirements of the Consent Order, In the Matter of the Money Transmitter License of Western Union Financial Services, Inc., No. 07F-BD020-SBD (the “Consent Order”), entered on August 17, 2006; specifically:
- i. Failed to keep and preserve records that enable the Superintendent to determine compliance with applicable laws by failing to record the required customer identification information relating to transactions of \$1,000.00 or more; and
  - ii. Failed to comply with all Arizona Attorney General’s Geographical Targeting Orders for all transactions in the amount of \$500 or more.

1 CONCLUSIONS OF LAW

2 1. Pursuant to A.R.S. §§ 6-1201, *et. seq.*, the Superintendent has the  
3 authority and the duty to regulate all persons engaged in the money transmitter business  
4 and with the enforcement of statutes, rules, and regulations relating to money  
5 transmitters.

6 2. By the conduct set forth above in the Findings of Fact, Western Union  
7 violated the following:

8 a. A.R.S. § 6-1207(C) by failing to prominently display the  
9 authorized delegate notice, as prescribed by the Superintendent, at  
10 all authorized delegate locations;

11 b. A.R.S. § 6-1241(E) by failing to keep adequate records of  
12 customers' identities for each transaction involving the  
13 transmission money in an amount of one thousand dollars  
14 (\$1,000.00) or more;

15 c. A.R.S. § 6-1241(J) by failing to comply with the Arizona Attorney  
16 General's Geographical Targeting Order No. 2006-02; and

17 d. A.R.S. § 6-1210(4) by failing to comply with the Consent Order  
18 entered on August 17, 2006.

19 3. The violations, set forth above, constitute grounds for: (1) the issuance of  
20 an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the  
21 violative conduct and to take the appropriate affirmative actions, within a reasonable  
22 period of time prescribed by the Superintendent, to correct the conditions resulting from  
23 the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary  
24 penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Petitioner's  
25 license pursuant to A.R.S. § 6-1210; and (4) an order or any other remedy necessary or  
26 proper for the enforcement of statutes and rules regulating money transmitters pursuant  
27 to A.R.S. §§ 6-123 and 6-131.

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ORDER

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1. Western Union:

- a. shall prominently display authorized delegate notices as prescribed by the Superintendent;
- b. shall keep adequate records of customers' identities for each transaction involving the transmission money in an amount of one thousand dollars (\$1,000.00) or more; and
- c. shall comply with the Department's regulatory alert issued on September 17, 2008 (attached hereto as Exhibit A).

2. Western Union shall immediately pay to the Department a civil money penalty in the amount of **two million dollars (\$2,000,000.00)**.

3. The provisions of the Order shall be binding upon Western Union, its employees, agents, and other persons participating in the conduct of the affairs of Western Union.

4. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that it shall be stayed, modified, terminated, or set aside.

SO ORDERED this 17th day of October, 2008.

  
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Felecia A. Rotellini  
Superintendent of Financial Institutions

CONSENT TO ENTRY OF ORDER

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2           1.     Petitioner acknowledges that it has been served with a copy of the  
3 foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced  
4 matter, has read the same, is aware of its right to an administrative hearing in this  
5 matter, and has waived the same.

6           2.     Petitioner admits the jurisdiction of the Superintendent and consents to the  
7 entry of the Order.

8           3.     Petitioner states that no promise of any kind or nature has been made to  
9 induce it to consent to the entry of this Order, and that it has done so voluntarily.

10          4.     Petitioner acknowledges that the acceptance of this Agreement by the  
11 Superintendent is solely to settle this matter and does not preclude this Department, any  
12 other agency or officer of this state or subdivision thereof from instituting other  
13 proceedings as may be appropriate now or in the future.

14          5.     This Order is in complete settlement of all regulatory liability of Western  
15 Union and its officers, directors, employees, or their successors or assigns, based upon  
16 any violations of laws and regulations related to the December 3, 2007 through  
17 December 6, 2007 examination, and the November 27, 2007 through June 19, 2008  
18 delegate visits.

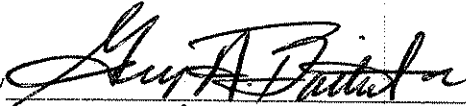
19          6.     Petitioner waives all rights to seek judicial review or otherwise to  
20 challenge or contest the validity of this Order.

21          7.     Nothing in this Order, nor any act of Western Union (including, but not  
22 limited to, the execution of this Order) shall be treated, construed, or deemed as an  
23 admission by Western Union of the validity of the findings of fact or conclusions of law  
24 contained in this Order, or of any liability, fault, responsibility, or guilt of any kind in  
25 this or any other matter, all such findings, conclusions, liability, fault, responsibility, and  
26 guilt of any kind being expressly denied.

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2 DATED this 10<sup>th</sup> day of October, 2008.

3 Western Union Financial Services, Inc.

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5 By   
6 Its president

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8 Original of the foregoing filed this 17<sup>th</sup>  
9 day of October, 2008, in the office of:

9 Felecia A. Rotellini  
10 Superintendent of Financial Institutions  
11 Arizona Department of Financial Institutions  
12 ATTN: Susan L. Longo  
13 2910 N. 44<sup>th</sup> Street, Suite 310  
14 Phoenix, AZ 85018

15 COPY mailed/delivered same date to:

16 Craig A. Raby, Assistant Attorney General  
17 Office of the Attorney General  
18 1275 West Washington  
19 Phoenix, AZ 85007

20 Robert D. Charlton, Assistant Superintendent  
21 Stephen Rosenthal, Senior Examiner  
22 Arizona Department of Financial Institutions  
23 2910 N. 44<sup>th</sup> Street, Suite 310  
24 Phoenix, AZ 85018

25 AND COPY MAILED SAME DATE by  
26 Certified Mail, Return Receipt Requested to:

27 Western Union Financial Services, In.  
28 12500 East Belford Avenue  
Englewood, CO 80112  
Petitioners

Karl M. Tilleman, Esq.  
STEPTOE & JOHNSON, LLP  
Collier Center  
201 E. Washington Street, Suite 1600  
Phoenix, AZ 85004-2382  
Attorneys for Petitioner

  
311390; PHX-AGN-2008-0418



## ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Felecia A. Rotellini  
Superintendent of Financial Institutions

Janet Napolitano  
Governor

# REGULATORY ALERT

MT-08-01

DATE: September 17, 2008

TO: Department of Financial Institutions' ("DFI") Money Transmitter Licensees

FROM: Felecia Rotellini, Superintendent

RE: Customer Identification Requirements of A.R.S. § 6-1241(E) and A.R.S. § 6-1241(J)

### Purpose

To remind money transmitter licensees of the requirement to record customer identification records in connection with each transaction that involves transmitting money in an amount of one thousand dollars or more whether sending or receiving, or when required by Geographical Targeting Order.

### Policy

Send or receive transmissions to or from the same sender and receiver combination conducted within the same business day shall be considered a single transaction for the purposes of A.R.S. § 6-1241(E) and A.R.S. § 6-1241(J).

### General Requirements

#### A.R.S. § 6-1241(E)

"In addition to the requirements under subsection D of this section and in connection with each transaction that involves transmitting money in an amount of one thousand dollars or more, whether sending or receiving, a licensee or, for transactions conducted through an authorized delegate, an authorized delegate shall retain a record of each of the following:

1. The name and social security or taxpayer identification number, if any, of the individual presenting the transaction and the person and the entity on whose behalf the transaction is to be effected.
2. The type and number of the customer's verified photographic identification, as described in 31 Code of Federal Regulations section 103.28.
3. The customer's current occupation.
4. The customer's current residential address.
5. The customer's signature."



**A.R.S. § 6-1241(J)(1)(A)**

“If the superintendent or the attorney general finds that reasonable grounds exist for requiring additional record keeping and reporting in order to carry out the purposes of this chapter and to prevent the evasion of this chapter, the superintendent or the attorney general may:

1. Issue an order requiring any group of licensees, authorized delegates or money transmitters in a geographic area to do any of the following:
  - (a) Obtain information regarding transactions that involve total dollar amounts or denominations of five hundred dollars or more, including the names of any persons participating in those transactions and any persons or entities on whose behalf they are to be effected.”

**A.R.S. § 6-1241(P)**

“The requirements of this section shall be construed to be consistent with the requirements of the currency and foreign transactions reporting act (31 United States Code sections 5311 through 5326 and federal regulations prescribed under those sections) unless the context otherwise requires.”

**31 USC § 5324 (B)**

**“Domestic Coin and Currency Transactions Involving Nonfinancial Trades or Businesses.—**  
No person shall, for the purpose of evading the report requirements of section 5331 or any regulation prescribed under such section—

- (1) cause or attempt to cause a nonfinancial trade or business to fail to file a report required under section 5331 or any regulation prescribed under such section;
- (2) cause or attempt to cause a nonfinancial trade or business to file a report required under section 5331 or any regulation prescribed under such section that contains a material omission or misstatement of fact; or
- (3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with 1 or more nonfinancial trades or businesses.”

**31 USC § 5325 (A)**

**“Identification required to purchase certain monetary instruments**

(a) IN GENERAL.--No financial institution may issue or sell a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of \$3,000 or more unless--

- (1) the individual has a transaction account with such financial institution and the financial institution--
  - (A) verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual; and
  - (B) records the method of verification in accordance with regulations which the Secretary of the Treasury shall prescribe; or
- (2) the individual furnishes the financial institution with such forms of identification as the Secretary of the Treasury may require in regulations which the Secretary shall prescribe and the financial institution verifies and records such information in accordance with regulations which such Secretary shall prescribe.”

**31 CFR § 103.29 (B)**

Contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more shall be treated as one purchase.

Multiple purchases during one business day totaling \$3,000 or more shall be treated as one purchase if an individual employee, director, officer, or partner of the financial institution has knowledge that these purchases have occurred.

**For questions regarding this Regulatory Alert please contact Robert D. Charlton, Assistant Superintendent at (602) 255-4421.**