

October 24, 1997

**STATEMENT OF EZRA C. LEVINE
ON BEHALF OF THE NON-BANK FUNDS TRANSMITTERS GROUP**

**I. The Non-Bank Funds Transmitters Group Represents the National
Check Sellers and Money Transmitters**

The Non-Bank Funds Transmitters Group has been in existence for over ten years and is composed of the leading non-bank funds transmitters in the United States including: Western Union Financial Services, Inc., MoneyGram Payment Systems, Inc., Travelers Express Company, Inc., Comdata Network, Inc., Thomas Cook, Inc., Citicorp Services, Inc., and American Express Travel Related Services Company, Inc. These companies provide funds transmissions, sales of travelers checks, money orders and foreign denominated drafts, etc. As more Americans become “unbanked,” these services become increasingly important to a growing segment of the population.

The Group and its members have participated actively over the years in state efforts to enact effective safety and soundness legislation, including the Money Transmitter Regulators Association’s program to develop a model legislation outline, as well as state and federal efforts to combat money laundering. On behalf of the Group, we look forward to working with the Drafting Committee and providing the benefit of our experiences as the principal regulated entities. What follows are comments responsive to the Committee's initial concerns.

II. Any Legislative Proposal Focused on Money Transmitters and Check Sellers Will Affect Group Members

Group members provide non-bank services throughout the United States and are licensed under all of the more than 40 state laws which regulate check sellers and money transmitters. As indicated in a recent government-sponsored study, these companies provide the overwhelming majority of check selling and money transmission services in this country and, therefore, would be those most affected by any proposed legislation, whether aimed at safety and soundness or money laundering. Obviously, these companies carefully evaluate regulatory and legislative proposals to determine their impact on operations and costs.

On the Federal level, the Group has actively participated in the efforts of the Financial Crimes Enforcement Network, through the Bank Secrecy Act Advisory Group, to fine-tune Bank Secrecy Act regulations for application to check sellers and money transmitters. In short, the Group believes that consumer confidence, which is essential to the continued growth of the non-bank money transmission industry, will be enhanced through effective enforcement of safety and soundness and anti-money laundering laws and regulations.

III. General Anti-Money Laundering Legislation Is Not Necessary – Better Enforcement of Existing Law Is Necessary

If the question is posed as to whether new legislation will deter money laundering, the answer is an unqualified no. It is axiomatic that so long as demand for illicit drugs exists, and banks of certain foreign countries accept cash with no questions asked, money laundering will exist and nothing will stop it. However, if the question is whether additional legislation is needed to insure that financial institutions are not utilized as conduits for money laundering, the answer is a limited “maybe.” In fact, the current regulatory regime under the Bank Secrecy Act works to achieve this end.

Contrary to popular misconception, the Bank Secrecy Act and the regulations promulgated thereunder apply with equal vigor to both banks and non-banks, with the imposition of significant recordkeeping and reporting requirements relating to such matters as cash transactions, wire transfers, etc. These regulations have worked well, as demonstrated by the fact that the vast majority of illicit sums, according to the seminal 1994 Government Accounting Office study, are now simply smuggled out of the country, rather than being funneled through financial institutions of any sort. Moreover, of the relatively small amount of money which is laundered through financial institutions, there is no credible data, notwithstanding colorful anecdotal stories, that a disproportionate amount of illegitimate sums are laundered through check sellers and money transmitters.

Moreover, the Bank Secrecy Act regulations are not only comprehensive, but impose a uniform recordkeeping and reporting system throughout the United States. Thus, when a company has operations in many different states, it can institute nationwide compliance and training programs. Thus, it would be counterproductive to the money laundering program to propose state legislation which would impose recordkeeping, reporting or other requirements different than those mandated by Federal law. The Group has opposed efforts on the state level to impose conflicting anti-money laundering requirements. In short, rather than unnecessary new law, effective enforcement of the existing regulatory framework would provide a level playing field.

- **A Clearinghouse For Data On Sales Outlets Is Needed**

There are some limited areas, however, where legislation could be helpful to deter money laundering through non-banks. Typically, such non-bank services as money order and travelers checks sales and wire transmission services are provided to the public through independent sales outlets. These sales outlets are usually

convenience stores, supermarkets, travel agents, gas stations, pharmacies, etc., as well as banks and credit unions. Prior to contracting with such independent retail outlets, check sellers and money transmitters perform due diligence to the extent possible, regarding the background of the proposed sales outlet. This due diligence effort is essential if for no other reason than to insure that funds will be forthcoming from the retail vendor when checks are sold or transmissions are consummated.

However, under current law, money transmitters and check sellers cannot exchange information concerning sales outlets or obtain information from state and local law enforcement agencies concerning these outlets. Information exchanged between competitors may constitute a group boycott or otherwise contravene antitrust laws, while information from law enforcement is generally unavailable. In short, legislation creating a clearinghouse for information regarding sales outlets on the state or federal level would be exceedingly helpful, as would antitrust and other civil immunity which would allow check sellers and money transmitters to exchange data concerning sales outlets.

- **State Law Should Criminalize Violators of the Bank Secrecy Act**

Another fruitful area for model anti-money laundering legislation on the state level would be legislation making it a state crime for banks and non-banks to intentionally violate the Bank Secrecy Act recordkeeping and reporting requirements. Some states have enacted such laws and the Group supports the enactment of such laws.

IV. Group Members Have Anti-Money Laundering Programs

Group members have comprehensive anti-money laundering compliance programs. These include proactive efforts to assist law enforcement to insure, to

the maximum extent practicable, that their systems are not used as conduits for illegal sums. For example, years before the proposal to impose mandatory suspicious activity reporting, Group members voluntarily developed their own such programs.

As part of this effort, these companies have developed systems for detecting suspicious transactions. Each system is unique, and as FinCEN has recognized, “it is impossible to specify the particular method for reporting that will comprehend all situations.” Generally, however, Group members, employing various techniques based on their experience with their products and services, select certain patterns or series of transactions which warrant review. Some companies, for example, review money orders that are sold in a series above a particular face value and that meet a reasonable threshold in the aggregate. Other companies have internal procedures designed to review transactions above an established minimum amount. Some have programs that analyze daily instrument sales, or paid and processed items, to identify patterns which could, for example, reveal potential unusual activity. In short, suspicious activities, discovered through these methods and others, are routinely reported to law enforcement.

The Group members also have issued BSA compliance and training guides to employees and to independent sales outlets and provide cooperation with law enforcement on investigations. The Group prepared, in conjunction with FinCEN, a plain language guidance manual on the new wire transfer rules. Overall, Group members’ efforts have been praised by government officials, and they have received awards and accolades from enforcement agencies in recognition of their efforts. These companies have professional compliance staffs and are constantly testing new procedures, software programs and other techniques to ensure effective BSA compliance. Finally, Group members are examined annually on-site, not only by many state banking departments, but by Internal Revenue Service BSA

compliance examiners. In short, Group members believe that they are in the forefront of the BSA compliance effort.

V. The Group Will Provide Constructive Assistance to the Committee

The Group has a significant depth of expertise with safety and soundness and money laundering regulation which we will be pleased to share with the Committee. The Group believes, however, that prior to suggesting new “uniform” legislation to the states, the Committee build on the practical experiences of the Group which has a unique expertise on the scope and operations of the industry.