

# Settlement Agreement between the Central Bank and Western Union Payment Services Ireland Limited

## **Central Bank of Ireland imposes fine of €1,750,000 in respect of Anti Money Laundering and Countering the Financing of Terrorism failures by Western Union Payment Services Ireland Limited**

The Central Bank of Ireland (“the Central Bank”) fined Western Union Payment Services Ireland Limited (“WUPSIL” or “the Firm”) €1,750,000 and reprimanded it in relation to breaches of its obligations under Sections 54 and 55 of the Criminal Justice (Money Laundering & Terrorist Financing) Act 2010 (“the CJA 2010”).

The Central Bank found WUPSIL failed to demonstrate it had sufficiently robust policies and procedures for anti-money laundering and countering the financing of terrorism (“AML/CFT”) purposes. In particular, the Central Bank identified deficiencies in WUPSIL’s Irish procedures on:

1. AML/CFT outsourcing;
2. Customer Due Diligence (“CDD”) record retention;
3. induction and training of retail agents; and
4. systems for monitoring and identifying suspicious activity

These findings have been accepted by WUPSIL as part of the settlement agreement between the Central Bank and WUPSIL.

The Central Bank’s Director of Enforcement, Derville Rowland said:

*“The level of the €1,750,000 fine imposed reflects a significant increase to penalties imposed previously by the Central Bank for failures in respect of a firm’s anti-money laundering/countering the financing of terrorism procedures.*

*The Central Bank action must be viewed in light of the inherent risks in the sector in which this firm operates and by reference to the scale and geographic size of the firm’s business and its reliance on third party agents and outsourced service providers.*

*The Firm is a global market leader in the provision of payment services. I am therefore concerned that this firm failed to have in place sufficiently robust systems and procedures to train agents, to monitor and identify suspicious activity in respect of smaller transactions, and to maintain appropriate records.*

*Where firms choose to engage in outsourcing or place reliance on third party agents, it is our clear expectation and requirement that they put in place appropriate outsourcing controls. I would further remind firms that the obligations imposed on firms and management apply equally in situations where activity is outsourced on an intra-group basis as it does to situations where activity is outsourced externally.”*

### **Background:**

WUPSIL offers money remittance services (i.e money transfer services). WUPSIL is authorised by the Central Bank to provide its services in the European Economic Area as a payment institution. WUPSIL provides its services to consumers through a large network of agents. In simple terms, the agents accept money on behalf of WUPSIL which transfers it as requested for a fee.

The Central Bank conducted inspections in respect of its Irish business during which concerns regarding WUPSIL’s anti-money laundering processes arose. Following further inspections and investigation, a number of the failings were identified as contraventions (i.e. breaches) of the CJA 2010 that called for enforcement action as set out below.

### **Breaches of sections 54(1) and (2) of the CJA 2010**

In summary, Sections 54 (1) and (2) of the CJA 2010 require firms to adopt policies and procedures to prevent and detect the commission of money laundering and terrorist financing. The Central Bank found that the Firm failed to adopt sufficiently robust policies and procedures as outlined below:

### ***Outsourcing of Anti-Money Laundering/Countering the Financing of Terrorism Compliance Functions***

WUPSIL outsourced key AML/CFT compliance functions to another WUPSIL group entity located in Lithuania by way of a 'chain' outsourcing arrangement. Prior to 2012, the contractual arrangements with the Lithuanian entity did not include adequate performance standards or provide for adequate reporting to WUPSIL on performance. Nor did the arrangements require the entity to adhere to the Firm's policies and all legal obligations applicable to the Firm's remittance services (including the CJA).

Prior to 2013, WUPSIL did not have a policy for the management of key outsourced functions (an 'outsourcing policy'), including functions related to the prevention and detection of money laundering. An outsourcing policy sets out how the relationship with service providers should operate, including how the arrangement is set up and monitored, who is responsible for monitoring, and what happens in the case of an expected or unexpected termination of the services.

### ***CDD record retention***

As outlined above, WUPSIL provides its services to the public through a network of agents. WUPSIL relies on those agents to gather information and documents to assist it to fulfil its AML/CFT obligations to identify and verify its customers. It is therefore essential that WUPSIL has adequate procedures in place to ensure that it fully complies with the Firm's obligations under the CJA 2010 and that its agents comply with its internal AML/CFT policies and procedures.

The Central Bank found that WUPSIL did not have procedures to ensure that its agents took and retained copies of the identification documents used to verify customers' identities (as required by the CJA 2010).

The failure to take and retain copies of the identification documents could have impacted the quantity and/or quality of any suspicious transaction report about those customers and consequently the effectiveness of any subsequent investigation by the Garda Síochána and the Revenue Commissioners.

### ***IT Systems to monitor and identify suspicious activity***

WUPSIL had IT systems for monitoring and identifying potentially suspicious activity (the "IT Systems"). However, the IT Systems did not monitor completed transactions that were under USD 500 or the equivalent amount in euro. Instead a Western Union group function located in Denver was responsible for identifying complex and unusual transactions.

The splitting of payments into many separate smaller payments is a common method used to launder money. Similarly, terrorist financing is often carried out by small payment transfers. Consequently, the exclusion of smaller transactions from monitoring by the IT Systems was a deficiency in WUPSIL's AML/CFT procedures, notwithstanding the work in Denver.

### ***Training on AML/CFT***

WUPSIL's business model relies on a widespread network of agents through which it provides its services directly to the public. Persons that deal directly with customers are the first point of contact with potential money launderers and terrorist financiers. Consequently, it is important that they are made aware of their legal responsibilities and any internal processes for the reporting of suspicious activity.

The Central Bank identified that WUPSIL failed to implement adequate procedures and controls (checks) to ensure that all its Irish agents' employees received (i) initial AML/CFT training before providing the payment services on behalf of WUPSIL and (ii) refresher AML/CFT training on identifying suspicious activity.

In particular, WUPSIL's procedures required that only one person per agent location needed to complete WUPSIL's initial training before that agent location was approved for transacting (as opposed to all persons who might be transacting at that agent location).

Further, WUPSIL did not have adequate controls to ensure that initial and/or refresher training was provided to all its agents' employees.

### ***Breach of section 54(6) of the CJA 2010***

Inspections carried out by the Firm identified instances whereby initial and/or follow on training was not performed by agents. Failure to provide the necessary training is a breach of Section 54(6) of the CJA which requires that persons involved in the conduct of the designated person's business are "(a) instructed on the law relating to money laundering and terrorist financing, and (b) provided with ongoing training on identifying a transaction or other activity that may be related to money laundering or terrorist financing, and on how to proceed once such a transaction or activity is identified."

### **Breach of section 55(2) of the CJA 2010**

Section 55(2) of the CJA 2010 requires a designated person to take the original or a copy of documents used to verify a customer's identity. The CJA 2010 requires firms to identify and verify the identity of a customer before carrying out an 'occasional transaction' for the customer / a series of linked or apparently linked transactions for a customer where the total amount of money paid was greater than €15,000 (an 'occasional transaction').

The Central Bank identified instances where the Firm (acting through an agent) carried out an 'occasional transaction' but did not take originals or copies of CDD documents.

### **Penalty Decision factors**

This case and the sanctions imposed reflect the seriousness with which the Central Bank views breaches of the CJA 2010. The legislative provisions of the CJA 2010 are designed to prevent the use of the financial system for the purpose of money laundering and terrorist financing.

The Central Bank's investigation identified that the Firm failed to implement policies and procedures to comply with the legislative requirements imposed by the CJA 2010 in a number of important areas.

In deciding the appropriate penalty to impose, the Central Bank has taken the following into account:

1. The high-risk nature of the Firm's business and its global reach mean that, in the absence of robust AML/CFT policies and procedures, there is significant potential that the Firm's payment services could be used for money laundering and/or terrorist financing.
2. This case involves three cross sectoral enforcement priorities of the Central Bank, namely 1) Anti-Money Laundering/Countering the Financing of Terrorism compliance, 2) Outsourcing Arrangements, and 3) Systems and Control breaches. (As identified in the Central Bank's published enforcement priorities for 2015.)
3. The failure to comply with its record keeping obligations in respect of CDD had the potential to impact the quantity and quality of a suspicious transaction report and consequently the effectiveness of any subsequent investigation by the Garda Síochána and the Revenue Commissioners.
4. The need to have an appropriate deterrent impact.
5. The extensive and proactive remediation implemented by the Firm.
6. The cooperation of the Firm during the investigation and in settling at an early stage in the Central Bank's Administrative Sanctions Procedure.

The Central Bank confirms the matter is now closed.

### **Notes to Editors**

- Section 54(1) of the CJA 2010 requires designated persons to adopt policies and procedures in relation to the designated person's business to prevent and detect the commission of money laundering and terrorist financing. WUPSIL is a designated person as a result of the payment services it offers.
- Section 54(2) of the CJA 2010 requires designated persons to adopt policies and procedures to be followed by persons involved in the conduct of the designated person's business, that specify the designated person's obligations under Part 4 of the CJA 2010 including (a) the assessment and management of risks of money laundering or terrorist financing and (b) internal controls, including internal reporting procedures for the purposes of Chapter 4 of the CJA 2010. Chapter 4 includes obligations to apply customer due diligence and to provide training to persons involved in the conduct of the designated person's business.
- Section 54(6) of the CJA 2010 requires designated persons to ensure that persons involved in the conduct of the designated person's business are (a) instructed on the law relating to money laundering and terrorist financing and (b) provided with on-going training on identifying a transaction or other activity that may be related to money laundering or terrorist financing, and on how to proceed once such a transaction or activity is identified.
- This case falls within three key priority areas for the Central Bank's Enforcement Division and highlights the fact that we will take action where an authorised firm is: (1) insufficiently well controlled to guard against AML/CFT risk; (2) fails to implement systems and controls that are adequate to enable it to comply with its regulatory obligations; or (3) outsources

important regulated functions to a third party without putting in place adequate controls over those functions and/or the relationship with the third party.

- The fine imposed by the Central Bank was imposed under Section 33AQ of the Central Bank Act 1942, as it applied prior to 1 August 2013, i.e. when the maximum penalty that could be applied to a firm was €5,000,000 and also when the ability to impose a penalty by reference to turnover was not included.
- The fine reflects application of the maximum percentage settlement discount of 30%, as per the Early Discount Scheme set out in the Central Bank's "Outline of the Administrative Sanctions Procedure".
- The fine imposed reflects the seriousness to which the Central Bank views anti-money laundering and counter terrorist financing compliance.
- The Central Bank has a responsibility to reduce the circumstances in which it is possible for a regulated financial service provider to be used for financial crime. The CJA 2010 requires firms to take steps to reduce the risk that they may be used for financial crime.
- The Central Bank's enforcement priorities for 2015 are available on the Central Bank website (see [link](#)).