



# Transnational Crime Brief

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## Risks of money laundering and the financing of terrorism arising from alternative remittance systems

The events of 11 September 2001 have heightened interest in ensuring that all sectors of the financial system are not misused either by criminal or terrorist groups. In addition to conventional banks, money and value can be transferred by alternative remittance providers who have, until recently, not been closely regulated. Regulators are concerned that the informal nature of these businesses may lead to their use by terrorist groups and other criminals. This brief considers the characteristics of alternative remittance businesses, the risks they pose and some of the current responses to these risks. The Australian Institute of Criminology (AIC) has published more detailed work in this area through its *Research and public policy series* and its *Trends & issues series*.

### Definition

'Alternative remittance' is only one of a number of terms used to describe the practice of transferring value, including money, from one country to another. It is generally used where value is sent through 'informal' channels, as distinct from conventional banks. Terms used in other jurisdictions include *hundi*, *hawala*, *poe kuan*, *informal funds transfer*, *underground banking*, *parallel banking*, *informal funds transfer* and *money/value transfer*.

None of these terms are precise because these practices often intersect with the formal banking structure. Further, they are often not an alternative service because in some countries, such as Somalia and Afghanistan, the remittance system has been the only financial system available for long periods of time. In many countries, including Australia, alternative remittance services (ARS) are legal and widely advertised. In jurisdictions such as India, they are illegal for a number of reasons, including the prevention of currency speculation, the prevention of capital flight and their role in domestic terrorism.

The remittance system pre-dates modern banking and arose in various locations including China, southeast Asia and the Middle East where there was a need to move value without taking the risk of physically moving money itself. At its most basic, a remittance service involves a sender, a beneficiary and two intermediaries. The sender wishes to send a remittance to the beneficiary, often in the country of origin where the sender previously resided. This transaction would be organised by the first intermediary, an ARS provider, who would generally charge a commission for this service.

An instruction to transfer money/value would be sent to another ARS provider who would then provide cash or other value to the beneficiary. No money would actually move in the course of the transaction; the second ARS provider would pay the beneficiary out of his or her own available funds and so the first ARS provider would owe the second provider a debt. Instructions would be conveyed through a written message (sometimes called a *chit*) or nowadays via telephone, fax or email. However, the reality is far more complicated as there are often multiple transactions and intermediaries, requiring various accounts to be balanced.

### Types of remittance providers

Remittance providers differ enormously in their characteristics. There are a number of large companies that provide money transfer services to anywhere in the world. These organisations are part of the conventional financial system insofar as they obey the laws of all the countries they operate in.

However, many ARS providers send remittances to only one country (and often only to one ethnic community). There are concerns that some of these ARS providers do not always abide by the laws of the countries in which they operate.

Communities use ARS for a number of reasons. First, the services offered by such providers are often cheaper, quicker and more reliable than services provided by conventional banks and corporate remitters. ARS providers are also capable of delivering remittances to remote rural areas. ARS providers may also have family connections (or at least long standing social and cultural links) to many of the people for whom they provide a remittance service and are trusted members of the community. By way of contrast, many people from ethnic communities may not trust formal banking institutions due to previous unpleasant experiences in their country of origin (Zagaris 2007).

### Alternative remittance and criminal/terrorist activity

There are cases of ARS providers being actively involved in criminal or terrorist-based activity but it is difficult to estimate how common such activity is. Aspects of alternative remittance businesses have lent themselves to use by criminal or terrorist elements in a variety of ways (AUSTRAC 2009a; Passas 2008). First, due to the number of transactions and intermediaries and

the fact that alternative remittance businesses are illegal in some countries, each transaction does not always have a single coherent set of documentation which identifies the receiver of the remittance. Second, alternative remittance businesses have not always been obliged to identify their customers and may receive instructions over the phone, so they may not always know for whom they are acting. Third, the use of intermediaries and the possible consolidation of remittances into one sum means that money is coming in from many sources and no one person or organisation may have responsibility for knowing the identity of all these sources. Finally, there is the possibility that some providers could be a front for criminal organisations, or that both providers and users may unwittingly be involved in illegality.

### **Case 1: Liaquat Ali, Akhtar Hussain and Mohsan Khan Shahid Bhatti v R [2005] EWCA Crim 87**

In 2008, 11 people were sentenced to terms of imprisonment after being convicted of money laundering involving the use of three travel firms based in Bradford, United Kingdom. An investigation conducted by Her Majesty's Revenue and Customs found that these firms had used alternative remittance mechanisms to illegally launder millions of pounds, much of which had been derived from drug trafficking. The investigation relied on evidence from a range of sources, including reports from financial institutions reporting large transactions by the three businesses, and surveillance showing large sums of cash being dropped off at the firm's branches in Yorkshire. Estimates of the amount of money involved ranged up to £500m.

### **Case 2: A Ansari v R, H Ansari v R [2007] NSWCCA 204**

In this case, the Ansari brothers ran a Sydney-based remittance business called Exchange Point. Exchange Point received cash deposits from Australian customers which they placed in a cash pool. The Ansaris would then instruct associates to make equivalent sums available to these Australians when they travelled overseas.

The Ansaris simultaneously received instructions from overseas regarding the payments of funds into Australian accounts. They used the cash pool to make these payments, which were often made in sufficiently small amounts to avoid Australian reporting requirements. The negotiations regarding these transactions were conducted over mobile phones and no records were kept.

The Ansari brothers were convicted of offences under the *Criminal Code 1995* (Cth) relating to money laundering.

## **The regulation of alternative remittance service providers**

As a result of 11 September 2001 terrorist attacks, countries have made greater effort to increase the security of the financial system. As a response to these events, the Financial Action Task Force (FATF), which was originally set up in 1989 by the G-7 Summit to combat money laundering, turned its attention to the prevention of financing of terrorism.

In 2003, one of the main recommendations made by FATF was that jurisdictions should institute a licensing or registration

system for any organisation or person providing a money service business, including remittance services. The key difference between licensing and registration is that licensing implies that the regulatory body has inspected and sanctioned the particular operator, whereas registration means that the operator has simply been placed on the regulator's list of operators.

Countries currently regulate ARS providers in a variety of ways. The regimes employed range from outright prohibition of the practice, through to variations in licensing regimes (which can include a 'fit and proper' test to determine whether someone is suitable to own or manage an ARS business), to various forms of registration. Debate continues as to what is the most appropriate regulatory method.

Australia has enacted the *Anti Money Laundering and Counter Terrorism Financing Act 2006* (Cth) which requires the registration of those providing such services.

On 4 November 2009, AUSTRAC issued its first remedial direction to an ARS provider. This arose because of non-compliance with AML/CTF legislation by failing to have an effective AML/CTF program in place. Under the terms of the remedial direction, the non-compliant provider is now required to submit to AUSTRAC an AML/CTF program that assesses its exposure to AML/CTF risks and in doing so, takes account of issues such as the types of customers dealt with, the services offered, its methods of delivering these services and the foreign jurisdictions it deals with in the course of its business. The remedial direction stipulated that the provider is to perform background checks on staff and train staff regarding relevant AML/CTF risks and identification and verification requirements (AUSTRAC 2009b).

FATF also recommended that ARS providers should abide by the same laws as conventional banks. FATF has stated that regulation should not be excessively legalistic or heavy handed and that it should avoid the risk of driving the industry 'underground' (FATF-GAFI 2003).

## **Conclusion**

ARS is vital to many individuals and of considerable importance to the economies of a number of countries. Since 11 September 2001, they have become subject to far greater regulation than previously experienced. Further research on the links between ARS and serious crime is warranted to ensure that the regulatory responses are proportionate and effective.

## **References**

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