An Introduction to Understanding the “Gray Market Real Exchange” (GMRE) System in Brazil

Hugo Cuevas-Mohr
IMTC – Mohr World Consulting
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(English version)

Hugo Cuevas-Mohr
IMTC – Mohr Word Consulting

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IMTC – Mohr World Consulting, LLC
16135 SW 109 Street
Miami, Florida, USA
www.mohrworld.info

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INTRODUCTION

This document is intended to explain the use by Gray Market Operators (GMOs) of money transfers2 from unsuspecting Brazilians in the US, Europe and other places, to fuel a system in which “reais”3, normally in cash and the product of illegal activities in Brazil, are deposited in the accounts of the beneficiaries of the money transfer while the dollars or euros given by the senders abroad is used to disburse and move money as part of this “swap” of funds.

The reason that I use the term “Gray Market Real Exchange” (GMRE) System is to deliberately draw attention to its similarities to the Black Market Peso Exchange (BMPE)4, a term coined in the 90’s to explain how Colombian drug cartels launder the proceeds of United States and European narcotics sales. The purpose of the system was to facilitate “swaps” of dollars owned by the cartels in the United States for pesos already in Colombia, by selling the dollars to Colombian businessmen seeking to buy and pay for US (and later on Chinese) goods for import. The system explained how the dollars were placed into the world financial system by brokers, and thus laundered without attracting attention. The connection between the BMPE system and drug cartels drew so much awareness that it attracted a global response, vigilance, regulations, investigations, prosecutions, etc. The “Gray Market Real Exchange” (GMRE) System is similar to the BMPE Colombian system, but the connection between the Brazilian system and illegal activities is not as evident and clear cut as it was in the Colombian case.

The Brazilian system seems more connected to trade-based money laundering, tax evasion and corruption than to other illegal activities5. The “Dollar Black Market” in Brazil has evolved and the term “doleiros” or “black market operators” was commonly used in Brazil until recently.

The expression “dollar black market” has almost vanished from the Brazilian newspapers. On one hand, the expression became politically incorrect by associating the black color with an illicit practice; on the other hand, the so-called free or parallel exchange rate became a legal or almost legal activity6.

Brazilian authorities have done extensive work – work done by both regulators and law enforcement – to combat doleiros and the black market, to open the market to more institutions, increasing competition and capillarity as well as making it easier for more institutions to provide financial and exchange services. It is true that the “informal market” has moved from the streets to office buildings, from black to gray – a very dark shade of gray – and the term in use today is the “parallel market” or the “B-Market”7. However, the nature of the crimes and the illegality of the operations have not changed much. The operations might have become more sophisticated but the system has existed for decades8 for the same reasons: to move large sums of money, undetected, unreported and outside government supervision and control.

So, we have settled on calling it, with a bit of cynicism, the “Gray Market Real Exchange” (GMRE).

There are black market dollars in Brazil, yes. The thing is, they are completely irrelevant to tourists. You won’t come across people on the street offering you to exchange dollars. The black market dollar is used by rich Brazilians (mainly) wanting to send dollars abroad escaping all the Central Bank controls - they use “doleiros” (black market operators) for this purpose. The importance of that black market used to be so huge that its exchange rate (known as the “dólar paralelo”) still appears every day on the press along the rate for the “dólar comercial” and the “dólar turismo”9.

ESTIMATING THE SIZE OF THE “GRAY MARKET REAL EXCHANGE” (GMRE) SYSTEM

I don’t think there is anyone in Brazil or elsewhere that can decisively estimate the size of the GMRE and it is not the purpose of this document. But I do think, however, that the work done by ETCO10, the Brazilian Institute for Ethics in Competition, an NGO, and the Getulio Vargas Foundation11, a much respected
Brazilian educational center, can give us some initial perspective.

“The cost of goods and services produced last year by Brazil's underground economy amounted to the equivalent of 27.1 percent of the nation’s gross domestic product, according to a study released by the private Getulio Vargas Foundation. Latin American Herald Tribune.

The study cited here is part of ETCO's ongoing work in estimating and drawing the country’s attention on the informality, illegality and tax evasion issues that obstruct the growth of the Brazilian economy. Though there are various methods used by ETCO to estimate the underground economy, they each demonstrate that the size is currently close to 18% of GDP (2003 it was 20.7%, in 2006 it was 19.6% and 17.2% in 2010). It is important to note, however, that the percentage has been shrinking due to the growth of the formal economy and not precisely the decrease of the underground economy. André Franco Montoro Filho, Executive President of ETCO compared the size of the underground economy in Brazil to Argentina's GDP.

The underground economy of Brazil hides a whole Argentina. According to the study “Estimating the Size the Underground Economy in Brazil” produced by the Brazilian Institute of Economics (Ibre) of the Getulio Vargas Foundation for ETCO, estimated that 578.4 billion reals circulated illegally last year, equivalent to the GDP of the neighboring country Argentina. Revista ETCO, Setembro 2010 Nº 16 - ANO 7.

As ETCO describes it, the underground economy consists of fraud (tax evasion), corruption, the sale of stolen goods, smuggling and to a lesser extent, prostitution, gambling, drug sales, etc. It also includes the informal sectors, domestic work, street vendors, informal construction and other activities. There are many reports on Brazil’s large informal economy. Brazil was placed 105 out of 151 countries on a World Bank document in 2007 according to the size of its “Shadow Economy”.

Most of the activities of the underground economy that require the movement of funds internationally use the Gray Market Real Exchange (GMRE) System. The percentage of this massive underground economy that needs the movement of funds beyond Brazil’s borders is a challenge to estimate, one that ETCO and other Brazilian economists should try to evaluate.

MONEY TRANSFERS AND THE GMRE

Experts agree that Brazil is soon to become one of the largest money transfer markets in the world: inbound, outbound and domestic. Currently, if money transfers arriving in Brazil were duly accounted for, Brazil would be among the 15 largest money remittance markets in the world, along with Egypt, Indonesia and Vietnam, which each receive more than 7 billion dollars a year. Today the value of incoming money transfers reported by the Central Bank of Brazil is around 4.5 billion US Dollars per year, half of that from "worker remittances" per se.

Remittances to Brazil come mainly from North America, Europe and Asia. Half of the remittances come from the US where more than 1.4 million Brazilians live, concentrated in Massachusetts (355,000), New York (300,000), Florida (300,000) and California (100,000). The US Census Bureau reports that 340,000 Brazilians in the US were foreign born. About 20% of the remittances come from Japan where an estimated 230,000 Brazilians live. The rest comes from Portugal, Spain, UK and other European countries, where an estimated 900,000 Brazilian live.

Manuel Orozco from the Interamerican Dialogue, a leading remittance expert, published a study in 2008 entitled “Brazilians in the United States: A Look at Migrants and Transnationalism” in conjunction with Alvaro Lima and Eugenia Garcia-Zanello. In this study they estimated money transfers from the U.S. to Brazil to be about $3.5 billion in 2007.

Our data on Brazilians in the U.S. shows that about 65% of them send remittances, and that they send an average of $700 each time, amounting to about $8,400 a year. Using our estimate that there were about 600,000 Brazilians in the U.S. in 2007 and 65% of them sent remittances
of about $700 each month; we calculate the total dollar amount of remittances for 2007\textsuperscript{19}.

Using these numbers from 2007, we can roughly estimate that 50% of the total remittances to Brazil come from the US, while the other 50% come from Europe and Japan. According to published data from the Interamerican Development Bank (IADB), remittances to Brazil were 7,200 million US per year for 2008\textsuperscript{20}. But if you research IDB’s current data for Brazil you will find that the total volume of remittances to Brazil is listed as 4,746 million for the year 2009\textsuperscript{21}.

In IADB’s website\textsuperscript{22} one can find the following statement (March 4, 2010):

The biggest decline took place in Brazil, a 34 percent drop, extending a trend that had started well before the global crisis. Brazilian migrants have tended to return home, encouraged by their country’s improving economic performance and their dwindling prospects in host countries such as Japan.

It is true that remittances to Brazil have decreased as the economy improves and the economy of the host countries has slowed down. However, few people in the Money Transfer industry believe that the volume to Brazil has decreased in this proportion. Most international money transfer companies and financial institutions operating through registered and licensed channels in Brazil are certain that more than half of the volume of money transfers to Brazil is in the hands of “Third Party Payment Providers” (TPPPs) in Europe\textsuperscript{23} and Gray Market Operators (GMOs) in Brazil.

From the major global money transfer companies such as Western Union, MoneyGram, RIA Envia, to US companies such as Pontual Money Transfer, BB Money\textsuperscript{24}, Viamericas, the feeling is the same: money transfer companies working with GMOs are handling a larger portion of the market.

In places like Boston and its surrounding areas where Brazilians are located, in New Jersey on the other side of the Hudson facing New York, and in Orlando, Florida, the percentage of money transfers sent with GMOs is even higher.

Agents of Money Transfer Companies are sending transfers to other countries through one Money Transfer Company and their Brazilian transfers are sent through another MTO working with a GMO. According to one research firm in Brazil between 45% and 62% of the money transfers in the corridor US-Brazil are processed by money service business using irregular channels in Brazil. In the Brazil Transfers case in 2013 approximately 55% of the remittances were sent by a GMOs (see Appendix III).

Rodney Alves\textsuperscript{25}, a US-Brazilian lawyer that has been an advisor to Money Transfer Companies in the US stated in IMTC MIAMI 2011\textsuperscript{26} conference in Miami, on a presentation entitled “Moving the Brazilian Remittance Market from Informal to Formal Channels”:

I believe, by the volume of operations that some Money Transfer Operators in the US and most money transfer companies in Europe, that the parallel market is probably handling 60% to 80% of the total world volume of remittances to Brazil. The remittances done through the parallel market in Brazil is the “elephant in the room”. The parallel market is so complex that even if everybody knows it is there, very few people really understand how it operates and even fewer are eager to do what it takes to eradicate it once and for all\textsuperscript{27}.

### WHY SOME MONEY TRANSFER COMPANIES USE TPPPS TO SEND THEIR CLIENT’S REMITTANCES?

It is important to explain first the importance of TPPPs to the industry and to make sure it is clear that most all TPPPs are legitimate companies providing invaluable services to the Money Transfer Ecosystem. TPPs (also called aggregators) provide a very important role in the Remittance Industry since they are able to offer a number of services to MTOs. These services can be:

- **Technology:** TPPPs offer software (now mostly cloud-based) with APIs\textsuperscript{28} that make easy for one firm to use another’s
firm payment system and its distribution network.

- **Compliance:** TPPPs can have in their systems software tools to analyze money transfer data, cross-referencing client information and generating warnings and red flags and checking international or local lists for SDNs.  

- **Distribution Networks:** TPPPs develop sophisticated remittance distribution networks by linking vast payment networks and offering them to companies that would cost them millions of dollars to develop such networks. There are TPPPs that have linked Mobile Money Operators (MMOs) in Africa and Asia, others have linked vast ATM networks, retail chains and even local ACH networks to provide bank deposits at very reduced costs.

- **Movement of Funds:** TPPPs can provide essential transaction services such as merchant accounts for the process of debit & credit cards and with the difficulty for so many MTOs around the world to get bank accounts to deposit cash, transfer funds domestically and internationally, TPPPs are providing these fundamental services.

- **Competitiveness:** All of the services above plus the option to provide money transfer services at lower prices to their customers, makes smaller companies competitive enabling them to survive in a market where large multinational corporations can work without TPPPs.

Some regulatory agencies, especially in the US, have been very critical of the role TPPPs play in the Financial Services Industry. The TPPPA, Third Party Payment Processors Association, has complained that US Federal Agencies have gone as far as discouraging banks from doing business with TPPPs. In an October 2012 advisory, FinCEN states: “Law enforcement has reported to FinCEN that recent increases in certain criminal activity have demonstrated that Payment Processors present a risk to the payment system by making it vulnerable to money laundering, identity theft, fraud schemes, and illicit transactions.”

We are going to abstain in this document of using the term TPPPs for the entities in Europe and other countries that are providing payments in Brazil through GMOs. In fact, we will use the term Intermediary GMOs or IGMOs for short for these rogue payment processors that are hurting the image of TPPPs around the world.

**WHY SOME MONEY TRANSFER COMPANIES USE GMOS TO SEND THEIR CLIENT’S REMITTANCES?**

The answer is fairly simple: the Exchange Rate that the Money Transfer Company can offer its clients. The IGMOs and the GMOs in Brazil are able to offer Money Transfer Companies more Reais for every dollar or euro sent.

Let’s review a simple example on one day in 2011. From Banco do Brasil Exchange Data:

**Market Average for the day:**

**Bid:** 1.6979 Reais per Dollar  
**Offer:** 1.6986 Reais per Dollar

That day, a Money Transfer Company (MTC) was offering the public 1.6816 Reais per Dollar. A Money Transfer Company next door working with a IGMO was offering 1.7300 Reais per Dollar. In an average transaction of US 500 dollars, a money transfer sender could get 24 Reais more - approximately $14 USD – to the beneficiary if he or she chooses the MTO-IGMO.

If we do the math to better understand the operation we will come to the conclusion that the GMO paying the funds in Brazil is losing, in this transaction alone, more than US $20 dollars. But the US Dollars and Euros, already in a Financial Institution outside Brazil are worth top dollar, and the IGMO/GMO ends up making up that “loss” in the exchange rate offered to the MTC by selling the “clean” funds for an exchange rate that will give the IGMO/GMO a hefty return.

Most MTOs that work with IGMOs don’t work exclusively with them; they also work through formal Remittance Service Providers in Brazil to avoid detection (see Appendix III).
In September 2008, in the 18th annual MTRA, Robert Venchiarutti from the California Department of Financial Institutions moderated a panel where Paul Dwyer, the CEO of Viamericas and Fabio Fernandez, CEO of Pronto Money Transfer gave a detailed explanation on the operations of this parallel market entitled “Brazilian Laws and Regulations and Related Compliance Implications in Operations of TMA”.

If you are a regulator in the US or in Europe is important that you see the detailed explanation on how to determine if a company is using legal channels in Brazil to make payments, even if the company provides bank receipts that the remittance was indeed deposited in a bank account.

There is one slide of this presentation that I want to highlight:

Are Consumers Benefited?

- They may get a higher exchange rate, but
  - This is simply a distribution of the gains from illegal money laundering
  - They may have SIGNIFICANT tax bills in the future in Brazil (no paper trail begs the question: source of funds? unreported income? SUA?)
  - They can prove no legitimate source of funds, unlike the case with remittances through licensed payers
  - GOB (Government of Brazil) is being deprived of IOF taxes (0.38%) on registered FOREX contracts (in itself a SUA)
  - Society is harmed by any process that supplies funds to organized crime anywhere.

Although this extensive report was presented in 2008 in the US and published, and was the basis of the State of California’s extensive action to control the market in its jurisdiction, it took several years for regulators in other states to gather the information and prosecute other MTOs working with GMOs and close their operations, as it was done in April 2013 (see Appendix III).
EXPLAINING THE USE OF INBOUND REMITTANCES BY GRAY MARKET OPERATORS

There are many ways remittances are used by the IMGO/GMO cartels. Below is just one is schematic representation. As you will see, remittance funds are a great vehicle to launder the proceeds of illegal activities in Brazil.

The information route:

A. A remittance is sent by unsuspecting senders in the US, Europe, Australia, etc. through a licensed entity (MTO), to its family in Brazil

B. The remittance instructions (which include a beneficiaries’ account, amount to deposit and identification information) is sent by the licensed entity to an intermediary GMO (IGMO)

C. The IGMO sends this information to one or several Grey Market Operators (GMOs) in Brazil

D. Reais originated from illicit activities (or just funds that need to be hidden or dispersed in Brazil for a number of reasons) are ready to be used to make the payments in Brazil

E. With these funds the GMO makes the remittance deposit to the beneficiaries’ bank account.

F. The beneficiary sees the sent amount in his/her bank statement, usually next day, and confirms that the sender’s funds are in his/her bank account.

The money route:

G. The license entity deposits those funds in its bank account and sends a wire transfer to the IGMO. There have been cases when the funds don’t go directly to the IGMO but to another entity that the IGMO instructs the license entity where to wire to.

H. The IGMO, with information received from the GMO in Brazil places the Dollars/ Euros? Pounds, etc into accounts held by the owners or recipients of the laundered funds (closing the swap of funds).

With this system, cash for illegal activities in Brazil, either produced by deals inside the country or by activities conducted in the borders with Uruguay or Paraguay, is deposited in thousands of bank accounts of remittance beneficiaries while the sender’s funds are used to complete the international operation of the “owners” of the cash.

Let’s explore examples of the “swap” that takes place on the Brazil end. A wealthy businessman wants to avoid taxes in Brazil. To do that, he makes sure part of his deals are made with cash in order to avoid these funds to go through the Brazilian financial system.

With this cash in hand, he looks for a GMO in Brazil and delivers his cash. The GMO instruct the IGMO in Europe on where the funds “outside of Brazil” need to be placed, closing the “swap” circle.

A corrupt politician is ready to receive a bribe. He knows that is much safer to receive the
money in another country. The business man “buying” the politician’s help gives cash to the GMO who instructs the IGMO where he needs the funds to be placed, closing another “swap” circle.

Not all cases involve cash deposited in the beneficiary’s account. In some test money transfers that have been done through this system the deposit of the money transfer was done directly by a company (not a licensed money transfer institution)32. Into the beneficiary’s bank account. In some instances we have seen these deposits being made by factoring companies33.

This is why these money transfers are never reported to the *Banco Central do Brasil*; these money transfers are never officially accounted for, since the funds are not channeled through licensed Remittance Service Providers directly to the beneficiary. In countries where the outflow of remittances needs to be reported by licensed entities it wouldn’t be that difficult to compare the outflow with the reported inflow into Brazil.

An interesting example was given to me from a IGMO that decided to stop his parallel market practices since he was feeling that operations were becoming too risky for him and his colleagues. Reais used by Brazilians to buy products in the bordering countries, are then sold to GMOs that smuggle the cash back in Brazil and make cash deposits to remittance beneficiaries’ bank accounts. It has even been shown that entities in Paraguay act as IGMOs and directly smuggle Reais in cash into Brazil and deposit the funds into beneficiary’s bank accounts.

It is important to note that the IGMO makes sure that no senders/beneficiaries are unsatisfied with the service, drawing no complaints from the license entity or its customers. Senders are usually happy since this system gets them a better exchange rate, more Reais for their dollars or euros. In the Braz Transfers, Inc. case in April 2013, explained in Appendix III, the Massachusetts Division of Banking was able to show how this company used its “legal correspondence agreements” side by side with a parallel system through a IGMO.

**WHAT NEEDS TO BE DONE TO STOP THE USE OF REMITTANCES BY THE GMRE SYSTEM?**

First of all it is important to note that there have been efforts to stop the use of money transfers by GMOs. Not only has the Brazilian Government made a number of important decisions to modernize its money transfer regulations but also the Brazilian financial and foreign exchange service industries have also been creating more awareness around money laundering controls and financial crimes prevention. ABM Transf ([www.abmtransf.com.br](http://www.abmtransf.com.br)), the Associação Brasileira das Empresas Prestadoras de Serviços de Micro-Transferência de Dinheiro works tirelessly creating awareness in the public and private sectors. However, as increased awareness is drawn to these activities and controls have been set in place, the Gray Market Operators have also become increasingly sophisticated.

In the United States the NMTA – the National Money Transmitters Association ([www.nmta.us](http://www.nmta.us)) has also worked in creating awareness within the Money Transfer Industry by explaining the GMRE System to Compliance Officers of Money Transfer Companies so they are better prepared to make sure they demand information of the nature and legality of the final payer of the money transfer to Brazil sent by their institution. Many Money Transmitter Companies have cut all their ties with money transfer brokers or aggregators when they are not able or they are unwilling to provide the complete information of the end payer. They done so, even at the cost of losing money transfer agents that have switched to companies still using GMOs (agents use those companies “*in order not to lose clients seeking better exchange rates*”).

Some Banking Departments, like California, have instructed its auditors to look closely at the Brazilian money transfers of the licensed companies working in the state34 to make sure the funds are being directed to Remittance Service Providers in Brazil. But the efforts don’t stop there. Law enforcement agencies in the US, with information provided by Banks on suspicious activities of MTOs, have been able to freeze bank accounts of licensed money
transmitters working with IGMOs and GMOs. In recent cases, funds have been seized and licenses have been revoked. In a recently published report, FINCEN disclosed that Brazil is number five, with 5%, of the total SARs - Suspicious Activity Reports - sent by the institutions required by law to file such reports. Before Brazil, in order from top to bottom, we can find Venezuela (with 39%), Argentina, Uruguay and United Arab Emirates. This proves that the US banking system and MSBs are getting more suspicious with Brazilian related transactions.

But it is not enough. Each step of the way, the IGMOs AND GMOs become more sophisticated and have been able to avoid prosecution. These brokers have moved to other places, like Europe, where they are confident that they might avoid detection.

An issue that has stirred controversy and time and time again came up in industry meetings is the statements found in the excellent website “Remittance Prices Worldwide” by World Bank’s Payment Systems Development Group. This one for the corridor US to Brazil was found in November 2011 but not anymore:

Note: In Brazil multiple exchange rates USD / BRL exist: ‘commercial’, ‘parallel’ and ‘tourism’. In order to more accurately reflect the real cost borne by the sender, the parallel exchange rate has been used as a reference to calculate the exchange rate margins in this corridor, instead of the interbank exchange rate used for other corridors.

In May 2015 the website only listed about a dozen companies and two Companies, Transfast and Globo Travel ‘n’ Tours had an exclamation mark in front of them and a footnote: Non-Transparent Record.

From the UK to Brazil corridor, the statement was somewhat different:

In this corridor the exchange rate used as a reference to calculate the exchange rate margins has been adjusted in order to more accurately reflect the real cost borne by the sender. In Brazil multiple exchange rates for USD exist: commercial, parallel and tourism. The exchange rate used as a reference is equal the interbank exchange rate GBP / USD multiplied by the parallel exchange rate USD / BRL.

This statement was similar to the one from the Italy-Brazil Corridor in November 2011. In May 2015 the Italy-Brazil listed 3 banks with the exclamation mark in front of them and the Non-Transparent Record footnote. The Japan-Brazil Corridor didn’t have any statement of this kind in 2011 but four institutions with the exclamation mark in and footnote: SBI Remit, GoRemit, Japan Post Bank and Suruga Bank.

A detailed analysis of the companies offering the parallel market rates found in the World Bank site can also be a sign for regulatory agencies, law enforcement, compliance auditors and financial institutions, of the risks these companies are taking by dealing with IGMOs.

In 2011 we concluded that statements like these were a clear sign that the GMRE System is large and successful, since its rates are in a sense “accepted” and definitely influence remittance market prices, which is what the World Bank’s site is showing. The Money Transfer Industry felt that these statements implicitly legitimized the parallel market and asked the World Bank and Brazilian Regulators to discuss the issue and modify the statement or take out the parallel market rate information. The statements were removed and the prices have gained uniformity; the MTOs using GMOs have become less open about their rates which in a way it shows that the MTOs in their great majority understand the risks they are taking by offering better exchange rates to gain more customers.

Let’s go back to the question: what needs to be done to stop the use of money transfers by the GMRE System?

1. The first thing for everyone involved in money transfers - the industry, the regulators and law enforcement agencies in Brazil, the United States and Europe as well as the multilateral organizations such as the IDB, CEMLA, the World Bank – is to accept the fact that the system exists, that money transfers to Brazil are being utilized as an easy method to use the sender’s funds as part of the GMRE System. We
all need to accept this fact even if we don’t agree as to the size of the volume of money transfers that are not dully accounted for and avoiding detection. Awareness and cooperation is the first step.

2. The Banco Central do Brasil has to make an effort to better explain and inform authorities in the US and Europe, what institutions are legally authorized to make money transfer payments in Brazil and make its website and documents more straightforward and easier to understand.

3. It is not usual that the Money Transfer Industry asks regulators to increase the reporting or the regulatory burden that they face. But trade groups in both sides of the equation are demanding the need to force the Money Transfer Companies in the US and Europe to disclose, report and be required to know the final payer of the money transfer sent to Brazil. A bank deposit slip is clearly not a sign of a remittance processed by an authorized institution in Brazil. Without forcing the MTCs with rulings and clear procedures we think that it will be impossible for the formal Brazilian Remittance Service Providers to receive and pay all the money transfers that Brazilian migrants send back home.

There are many cases of countries needing international cooperation to control fraud, tax evasion, corruption and other illegal activities.

We all agree that we need complete data that can be measured and trusted, to know the amount of money transfers received by the Brazil. Without complete data the country will not be able to institute policies that will allow remittances to be used for development of credit, development of programs for the unbanked, financial education, etc.

CONCLUSION

Brazil is the only country on the America’s that still faces a huge challenge in order to stir the flow of money transfers from the informal channels to the formal channels. Colombia, has faced this challenge and has succeeded. The challenges and the successes of the Money Transfer Industry in this continent have been examples that many other countries in Africa, the Middle East and Asia have followed in order to formalize their remittance flows. Several countries have also faced huge challenges in order to prevent remittances from being used by illegal operators to launder their criminal proceeds. International law enforcement agencies will surely prefer a large scale operation with seizure of funds and IGMOs facing time in jail; a world-scale operation that seeds a loud message that will scare the rest of the IGMOs into terminating their illegal activities or switching to other methods.

Several Brazilians in the industry believe that there are people in government that don’t want the GMRE System exposed because it is a major source of the movement of funds from corruption related activities. Although government corruption in Brazil is a major issue, new efforts by President Dilma’s anti-corruption drive are a sign that the country is up to the challenge. At the same time the Federal Revenue of Brazil (Receita Federal - RFB), the Federal Police and the Federal Public Prosecution Service in Brazil have been engaged in an all-out war on tax evasion and money laundering and this became clear with the news of the Alchemy Operation in August 2011, that resulted in more than 68 people indicted in 12 states, seizure of large number of assets and an estimated USD $600 million in uncollected tax revenue. The Operation Pomar in June 2011 unveiled the use of paper companies to commit fraud, smuggle goods and launder the proceeds of criminal activities. Jose Casado, a journalist
at O Globo, published an article at the end of 2011 where he gives his view on the evolution of money laundering in Brazil, calling the country a “paradise for money laundering”\textsuperscript{48}. The spring 2015 corruption scandals in Brazil\textsuperscript{49} that has engulfed Brazil’s state-run oil giant Petroleo Brasileiro SA (Petrobras) has spread to the health ministry and the state-owned bank Caixa Econômica Federal. Kickbacks from inflated government contracts end up in politician’s bank accounts, sometime domestic accounts, but also in international bank accounts.

From records of deposits of inbound Money transfers in the bank accounts of remittance beneficiaries it has been proven that factoring companies are being used by GMOs to make payments in Brazil as part of the GMRE\textsuperscript{50}.

When I listen to discouraged Money Transfer Company Executives in the US and Europe that don’t even want to offer remittance services to Brazil because they think that competing against the parallel market is an impossible task, I look at the road that has been traveled by the industry and I think that sooner or later, working together with regulators and law enforcement at both sides of the equation, we will be able to separate remittances from the GMRE system. That’s not hard to foresee if there is a collective effort to succeed.

I think that sooner of later, working together with regulators and law enforcement at both side of the equation, we will be able to separate remittances from the GMRE system.
APPENDIX I

FACTORING AND THE GMRE IN BRAZIL

What is Factoring?
Factoring is one form of short-term commercial finance whereby liabilities against goods and services that are not yet overdue are purchased. The Factor maintains the sales ledger and performs other administrative tasks relating to accounts receivables functions, collects the accounts receivables and provides protection against debtor’s insolvency.

The Convention on International Factoring (Ottawa 1988) defined a factoring agreement as a contract between two parties: the Client (Supplier) and the Factor. Pursuant to the Convention the factoring company is to perform at least two of the following functions:

A. Finance for the supplier, including loans and advance payments;
B. Maintenance of sales ledger;
C. Collection of receivables;
D. Protection against default in payment by debtors.

Factoring is also the provision of marketing and credit advice, risk and credit management, monitoring of accounts receivables and other services. Brazil was one of the 53 signatory nations of the Ottawa convention.

The activity in Brazil was first introduced in a legal ruling in January 20th, 1995 (Lei nº 8.981 art. 28, § 1º, c-4 – followed by art. 58 da Lei nº 9.430/96). Factoring was born in Brazil with the creation of ANFAC (National Association of Factoring). Rogério Alessandre de Oliveira Castro in his book about the importance of Factoring describes how Factoring was criticized and opposed by the financial institutions and even Banco Central do Brasil (BACEN) tried to make it an illegal practice (Circular n° 703, June 16, 1982). It was not until 1988 that BACEN accepted the practice (Circular 1.359, October 3rd, 1988).

Both factoring associations, ANFAC and FEBRAFAC (Brazilian Federation of Factoring) provide its members legal and operational assistance, training, accounting and tax related services as well as anti-money laundering courses.

Factoring in Brazil has developed due to its own characteristics based on the country’s economic and social reality, which is very different from the rest of the world. Probably the number of factoring companies in the world is less than half the number of factoring companies in Brazil, which according to research done by Toth Management, a company which I participated until recently, the number of active factoring establishments is around 5,000.

Ernani Desbesel

Is there a link between Money Laundering and Factoring in Brazil?
There have been a number of articles and discussions in Brazil in the last decade about the way to control money laundering (trade-based) by factoring companies in Brazil. Both Trade Associations continuously develop anti-money laundering courses aimed at raising the awareness between its members.

Several well-known experts have published books on the subject, like Dr. Marco Antonio de Barros ('Lavagem de Dinheiro e o Factoring’) and Dr. Arnaldo Rizzardo (“Desvios na Utilização do Factoring”).

The Brazilian government has been debating for almost 3 years the issue of regulating factoring companies.

Due to the unquestionable concerns in the public and private sectors with the use of factoring for money laundering purposes, in 2005, the COAF (Council for the Control of Money Laundering) issued a ruling (Resolução 13) requiring all factoring companies to report directly to COAF. COAF reported 5.685 registered factoring companies in 2010 and 29 of them have been fined since 2006 with charges related to money laundering. The number of reports received by COAF from factoring companies...
was 12,628 in 2010. Suspicious Transaction Reports (STRs) were 5,212 in 2009. GAFI’s 2010 report summarizes the requirements of factoring companies vis a vis COAF.

The Factoring Review (Revista do Factoring), a well-known periodical for the factoring sector, published a special volume in 2005 concentrating on the issue of Factoring and Money Laundering. A special interview by the president of COAF, Dr. Antonio Gustavo Rodrigues, was the highlight of the publication as well as articles by Dr. Marco Antonio de Barros, Dr. Arnaldo Rizzardo and others.

**Factoring, Money Laundering and GAFI**

Brazil is a member of the Financial Action Task Force against Money Laundering and Terrorist Financing (FATF) and the South American Financial Action Task Force (GAFISUD). A joint assessment by the FATF-GAFISUD took place in October and November, 2009 and was published in June 2010.

The report of the assessment describes and analyzes the AML measures the country has taken and makes recommendations on how certain aspects of the system can be improved. It also addresses the compliance levels of the country, based on the recommendations of the Financial Action Task Force (FATF).

A number of the recommendations for control, change of reporting requirements, needs of regulations, are directed specifically at factoring companies:

- Identification requirements of owners and directors
- Attention to unusual patterns, transactions, customer due diligence requirements
- Internal Controls
- Licensing requirements
- Lack of manpower of CAOF to control factoring companies

The Brazilian government has reacted quickly to the GAFI recommendations and César Almeida, Supervision Coordinator for COAF commented on a recent article that in 2012 new measures will be put in place, which will also encompass factoring companies.

**Factoring and the GRME:**

From records of deposits of inbound Money transfers in the bank accounts of remittance beneficiaries it is unquestionable that factoring companies in Brazil are used by GMOs to make payments in Brazil as part of the GMRE. The extent of the use of factoring companies to make these payments will be a task for COAF and the Factoring Associations to analyze. The analysis of the legal ramifications and money laundering violations of the factoring companies that are making those payments, and the international entities using them to channel those payments, falls outside of the scope of this appendix.
APPENDIX II
THE MASSACHUSETTS DIVISION OF BANKS JULY 10, 2012 INDUSTRY GUIDANCE

THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF BANKS
1000 Washington Street, 10th Floor, Boston, Massachusetts 02118

DEVAL L. PATRICK
GOVERNOR
TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

GREGORY BIALECKI
SECRETARY OF HOUSING AND ECONOMIC DEVELOPMENT
BARBARA ANTHONY
UNDERSECRETARY, OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION
DAVID J. COTNEY
COMMISSIONER OF BANKS

July 10, 2012

Re: Industry Guidance Relative to Money Transmission to Foreign Countries by Foreign Transmittal Agencies

To All Interested Parties:

The purpose of this industry letter is to clarify the due diligence and record keeping requirements relative to money remittances to foreign countries by foreign transmittal agencies.

The Division of Banks (Division) licenses and supervises foreign transmittal agencies (Licensee or Licensees) operating in the Commonwealth under the authority of M.G. L. c. 169 and 209 CMR 44.00 et seq. A significant component of a Licensee’s internal control practices is to ensure an adequate level of oversight of third party providers and to exercise an appropriate level of due diligence in the selection of these providers.

The Division has become aware that some Licensees utilize the services of third-party entities to facilitate the remittance to a beneficiary, rather than engage in direct transmittals, or remit funds through financial institutions in foreign countries. This has been seen typically in cases of money transmittals to Central and South America. Such third-party entities are often located in areas geographically distant from the recipients, often in Europe, and act as intermediaries for the Licensees. Frequently these third-party entities contract with other associated parties or correspondents to complete the remittances. Many of these associated parties have no direct contact or correspondence with the original Licensees. As such, the Licensees are often unable to produce sufficient documentary evidence to show that the transmittal was properly remitted to the recipient in the foreign country within seven days, as required by M.G.L., c. 169, s. 8.

As a regulatory consumer protection agency, the Division remains particularly concerned with the ability of Licensees to ensure that transmittal transactions are completed in a timely fashion and have the proper documentation. In each transaction, the licensee should ensure that there is documentation evidencing that a transfer has been made to the person designated as the recipient corresponding with the original transmission amount.

A lack of adequate record keeping of all transaction documentation would also place the Licensee at risk of non-compliance with the record retention requirements set forth in 31 CFR 1010.430, which requires money services businesses to retain records for a period up to five years. Additionally, Licensees should further review the Financial Crimes Enforcement Network’s (FinCEN) December 8, 2004

TEL (617) 956-1500 ■ FAX (617) 956-1599 ■ TDD (617) 956-1577 ■ www.mass.gov/dob
Interpretive Guidance\(^1\), in which FinCEN requires money services businesses to establish suitable due diligence and monitoring for such foreign correspondents and take appropriate corrective action by terminating relationships where warranted.

Licensees may also increase their exposure to additional compliance and reputational risks, as in some cases, these third-party providers are not appropriately licensed or authorized to engage in their model of business practices. This is especially relevant in Brazil, where a large volume of Massachusetts remittances are sent. During 2011, nearly $414 Million was transmitted to Brazil from Massachusetts residents, representing nearly 20% of all transmissions made in Massachusetts during the year. Brazilian Law 7,492 of 1986 requires all foreign exchange to be conducted through financial institutions properly authorized by the Central Bank of Brazil. It has been estimated that over 50% of the approximately $4 Billion transmitted from the United States to Brazil annually is done via unauthorized third party payment providers or systems.\(^2\)

For these reasons, the Division urges Licensees to review all relevant third party providers and their relationships with these providers to ensure that all consumer, compliance, and reputational risks are appropriately evaluated and addressed on an ongoing basis.

Should have any questions or concerns with the content of this letter, please contact Deputy Commissioner Christopher R. Pope at (617) 956-1537.

Sincerely,

David J. Cotney
Commissioner of Banks

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\(^1\) FinCen Interpretive Release 2004-1, Anti-Money Laundering Program - Requirements for Money Services Businesses With Respect to Foreign Agents or Foreign Counterparties, December 2004

\(^2\) Hugo Cuevas-Mohr, Gray Market Real Exchange System in Brazil, December 2011
APPENDIX III
THE US STEPS-UP TO CONTROL THE PARALLEL MARKET

After the Massachusetts Division of Banks sent all licensed money transmitters in the state the industry guidance in Appendix II warning them on the use of “unauthorized third party payment providers or systems”, in April 2013 it moved to close, in conjunction with other states, a series of Brazilian Money Transmitting Companies, the largest one of them, Braz Transfers, Inc., of Saugus, MA.

The Braz Transfers case is interesting because even if the company alleged that its transfers were done legally through their correspondents in Brasil, Banco Rendimento and Banco Paulista, Division of Banks examiners selected remittances to Brazil to each of the Banks, asked the Banks to report if those remittances were processed through them and with the collaboration of both Banks it was proven that “21 of the 40 transactions had not been remitted through Banco Rendimento” and “11 of the 20 transactions had not been remitted through Banco Paulista, S.A”. Authorities in several countries are tracing the third party payment providers through which those illegal remittances were sent.

Although the US authorities have moved to crack down on US Money Transmitters using these third party payment providers, Europe, especially the United Kingdom where they are mainly located, has not moved to control such illicit activity. As an attorney clearly explained to me: “Unless each jurisdiction clearly states that no licensed entity can make payments to another country through unlicensed entities in that destination country it is hard for local enforcement agencies to act”. The Massachusetts Division of Banks acted on the grounds that Braz Transfers “falsified payment receipts” to deceive the supervising body, which gave them ground to act.

It is my personal experience, visiting money transfer companies in the US, Europe and other regions, that a very large volume of remittances to Brazil is still flowing through the parallel market and that compliance officers in such entities are not totally aware of the risks their companies are facing and company officials are pleased with the foreign exchange differential they receive working with these third party payment providers to Brazil.

Maybe these recent actions by law enforcement will deter other money transmitters in the US and in other parts of the world to avoid the risk and discard these third party payment providers and decide one and for all to work directly with the large number of authorized entities in Brazil providing a fast, secure and efficient payment of remittances in the country.

Hugo Cuevas-Mohr
March, 2014
The Commissioner of Banks (Commissioner) having determined that BRAZ TRANSFERS, INC., (Braz Transfers or the Corporation) located at 999 Broadway, Suite 500, Saugus, Massachusetts has engaged, or is engaged in, or is about to engage in, acts or practices constituting violations of Massachusetts General Laws chapters 169 and 169A, and applicable regulations found at 209 CMR 44.00 and 209 CMR 45.00 et seq., hereby issues the following TEMPORARY ORDER TO CEASE AND DESIST (Temporary Order) pursuant to General Laws chapter 169, section 13(b) and chapter 169A, section 9(b).

FINDINGS OF FACT

1. The Division of Banks (Division), through the Commissioner, has jurisdiction over the licensing and regulation of persons engaged in the business of a foreign transmittal agency pursuant to Massachusetts General Laws chapter 169.

2. The Division also has jurisdiction over the licensing and regulation of persons engaged in the business of a check casher pursuant to Massachusetts General Laws chapter 169A.

3. Braz Transfers is, and at all relevant times has been, a corporation conducting business in the Commonwealth of Massachusetts. Braz Transfer's main office is located at 999 Broadway, Suite 500, Saugus, Massachusetts.

4. According to the Division’s records, Sostenas Souza is the President, Chief Executive Officer and fifty percent shareholder of Braz Transfers.

5. According to the Division’s records, Deneir Rosa is the Treasurer and fifty percent shareholder of Braz Transfers.

6. Braz Transfers is licensed by the Commissioner as a foreign transmittal agency under Massachusetts General Laws chapter 169. According to records maintained on file with the Division, the Commissioner initially issued a foreign transmittal license to Braz Transfers on or about June 16, 2004, with license number FT3346. License number FT3346 authorized Braz Transfers to operate as a foreign transmittal agency at 144 Maverick Street, East Boston, Massachusetts.

7. Braz Transfers maintains a total of ninety-three (93) foreign transmittal agency licenses for 93 agents, for locations operated in the Commonwealth from which the Corporation conducts its foreign transmittal business.

8. Braz Transfers is a money services business as defined by The Bank Secrecy Act (BSA) and its implementing regulation at 31 C.F.R. Chapter X.

9. Braz Transfers is also licensed as a check casher under Massachusetts General Laws chapter 169A. According to records maintained on file with the Division, the Commissioner initially issued a check casher license to Braz Transfers on or about September 2, 2011, with license number CC111542-353. License number CC111542-353 authorized Braz Transfers to operate as a check casher at 377 Somerville Avenue, Somerville, Massachusetts.
1. Pursuant to Massachusetts General Laws chapter 169, section 10 and chapter 169A, section 10, the Division commenced an inspection of the books, accounts, papers, records, and files of Braz Transfers on February 5, 2013 (2013 examination).

A. Regulatory Background

2. On December 2, 2010, pursuant to Massachusetts General Laws chapter 169, section 13(b), the Division issued a Temporary Order to Cease and Desist (Order) against two authorized agent locations of Braz Transfers, Docket Number, 2010-375 based on findings of a November 29, 2009 examination. The Order issued by the Division alleged significant failures to comply with applicable state and federal laws, rules, regulations, and regulatory guidelines governing the conduct of two of Braz Transfer’s authorized agents engaged in the foreign transmittal business in the Commonwealth.

3. The Order alleged that the Division’s examiners reviewed certain information during an examination that indicated that Massachusetts consumer funds were transmitted through an entity that was unrelated to Braz Transfers or any other licensed money remitter from two of Braz Transfers agent locations. Additionally, the funds were remitted to Brazil through what appeared to be an unauthorized foreign agent in Brazil.

4. On July 6, 2011, Braz Transfers entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER (Consent Order) with representatives of the Division, to resolve matters identified in the Order. The provisions of the Consent Order required Braz Transfers to establish, implement and maintain appropriate procedures to ensure compliance with laws and regulations applicable to the foreign transmittal business. The Consent Order is incorporated herein by reference.

B. Failure To Demonstrate the Financial Responsibility, Character, Reputation Integrity, and General Fitness to Maintain a License

5. Massachusetts General Laws chapter 169, section 12 relevant to the licensing of foreign transmittal agencies states: The commissioner may suspend or revoke any license issued pursuant to this chapter if he finds that: (a) the licensee has violated any provision of this chapter or any rule or regulation adopted hereunder or any other law applicable to the conduct of such business; or (b) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the commissioner to refuse to issue such license.

6. The Division’s regulation at 209 CMR 44.04(2) states in part:
   (a) The Commissioner may deny an application to engage in the business of foreign transmittal agency, if the Commissioner upon review of the application and other relevant information, determines that the Applicant has not satisfied the requirements of M.G.L. c. 169 or 209 CMR 44.03. (b) The Commissioner may also deny such an application if the Applicant has:
      1. violated any provision of M.G.L. c. 169 or 209 CMR 44.00;
      2. violated or engaged in a pattern of violations of any state or federal law applicable to the conduct of the business of a foreign transmittal agency and any rule, regulation or administrative order or directive promulgated thereunder;
      3. conducted, or will conduct, its business in an unsafe and unsound manner...

7. Books and records reviewed by the Division’s examiners during the 2013 examination revealed that Braz Transfers failed to maintain the financial responsibility, character, reputation and integrity to conduct the foreign transmittal business in the Commonwealth as the Corporation conducted the foreign transmittal business in an unsafe and unsound manner by providing falsified records to Division’s examiners, including falsified receipts of transfers allegedly made by Braz Transfers on behalf of Massachusetts consumers as specifically enumerated in this Temporary Order.

   i. Falsification of Records Provided to the Division

8. Massachusetts General Laws chapter 169, section 8 states, in part:
All money received for transmission to a foreign country by any licensee shall be forwarded to the person to whom the same is directed within seven days following receipt thereof...

9. The Division's regulation 209 CMR 44.10(5) states:
Grounds for license revocation under M.G.L. c. 169, § 12 and the issuance of cease and desist orders under M.G.L. c. 169, § 13 shall include, but are not limited to, the following prohibited acts and practices by Licensees:
(5) failing to forward all money received for transmission to a foreign country to the person to whom the same is directed within seven days following receipt thereof.

10. Braz Transfers transmits money received from Massachusetts consumers primarily to Brazil. According to information reflected on the Corporation's 2012 annual report filed with the Division, Braz Transfers transmitted $122,932,273.59 for Massachusetts consumers for calendar year 2012.

11. During the 2013 examination, the Division's examiners requested records reflecting proof of payment receipts for the following time periods: February 10, 2011 through February 11, 2011, November 16, 2011 through November 18, 2011 and November 28, 2012 through November 30, 2012. In addition, the Division's examiners requested and were provided proof of payment receipts from February 13, 2013 through February 20, 2013.

12. The Central Bank of Brazil authorizes and supervises the operations of foreign agents conducting business in Brazil. The Division's review of the directory of agents authorized to engage in foreign exchange transactions in Brazil available from the Central Bank of Brazil, indicates that two agent relationships currently maintained by Braz Transfers are authorized banks in Brazil, Bank Rendimento and Banco Paulista, S.A.

13. The Division's examiners review of the proof of payment receipts provided by Braz Transfers indicated that Massachusetts consumer funds were transmitted through either Bank Rendimento or Banco Paulista, S.A. The receipts provided by Braz Transfers appeared to have been generated by either Bank Rendimento or Banco Paulista, S.A.

14. During the examination, the Division's examiners contacted representatives at both Bank Rendimento and Banco Paulista, S.A., to request their assistance in verifying a sample of transactions that Braz Transfers represented had been remitted through both institutions. Both Banks cooperated fully with the Division's requests and agreed to review the information provided by the Division.

15. On February 26, 2013, the Division's examiners forwarded a representative of Banco Rendimento information on 40 transactions that Braz Transfers represented had been remitted through the Bank to the beneficiary in Brazil. On February 27, 2013, a representative of Banco Rendimento notified the Division's examiners that 21 of the 40 transactions had not been remitted through Banco Rendimento.

16. On February 27, 2013, the Division's examiners forwarded a representative of Banco Paulista, S.A., information on 20 transactions that Braz Transfers indicated had been remitted through the Bank to the beneficiary in Brazil. On March 4, 2013, a representative of Banco Paulista, S.A. notified the Division's examiners that 11 of the 20 transactions had not been remitted through Banco Paulista, S.A.

17. The Division's examiners also forwarded the representative of Banco Rendimento a copy of the proof of payment receipt provided by Braz Transfers to confirm its authenticity. On February 27, 2013, the representative from Banco Rendimento notified the Division's examiners that the receipt submitted for review had not been issued by Banco Rendimento.

18. On March 19, 2013 and March 20, 2013, based upon the information received by representatives at Banco Rendimento and Banco Paulista, S.A. the Division's examiners conducted a meeting with the Chief Compliance Officer and the Assistant Compliance Officer of Braz Transfers to discuss the concerns raised in Paragraphs 20 through 26 of this Temporary Order.

19. During both meetings, representatives of Braz Transfers did not dispute the information referenced in
1. Paragraphs 20 through 26 of this Temporary Order.

2. On March 22, 2013, the Division received an email from representatives at Banco Paulista, S.A. stating that the institution had attempted to contact Braz Transfers regarding the irregularities in transactions and had requested a response by March 7, 2013. As of March 22, 2013, Braz Transfers had failed to respond to Banco Paulista, S.A's request. As a result, Banco Paulista notified Braz Transfers and the Division that their existing contract with Braz Transfers would be terminated as of April 26, 2013.

3. As of the date of this Temporary Order, Braz Transfers has failed to demonstrate that funds received for transmissions from Massachusetts consumers were remitted to their intended recipient within 7 days or at all. It is unknown how many Massachusetts consumers have been affected by Braz Transfers’ failure to transmit funds through authorized institutions in Brazil, or if the practice is continuing to date.

   ii. Failure to Notify the Division of Change in Ownership or Personnel

4. The Division’s regulation at 209 CMR 44.08 states in part:
   If any change occurs in the ownership of a Licensee, or in the name or residential address of the Licensee, or the office manager or of the person or persons in charge of an office, a notice shall forthwith be filed with the Commissioner who may thereupon cause such investigation to be made as he deems necessary, as if it were a new license. In the case of a Licensee which is a corporation, a change in the ownership of 10% or more of the stock thereof shall subject such corporation to the provisions of the preceding sentence.

5. During the March 20, 2013, meeting referenced in Paragraph 27 of this Temporary Order, representatives of Braz Transfers provided the Division’s examiners a letter of resignation signed by Sostenas Souza and dated February 12, 2013. To date, the Corporation has failed to appropriately notify the Division of Sostenas Souza’s resignation.

6. On March 26, 2013, due to the concerns raised in Paragraphs 20 through 30 of this Temporary Order, the Division's representatives held a meeting with Deneir Rosa and other representatives of the Corporation to discuss the concerns raised in this Temporary Order.

7. During the meeting, representatives of the Division were notified that the Corporation had undergone significant changes in management.

8. As of the date of this Temporary Order, Braz Transfers has failed to submit any written notification of any of the additional changes in management.

9. Due to the Corporation's failure to notify the Division of any of the aforementioned changes in senior management, the Division is unable to evaluate the condition of the Corporation.

Conclusions of Law

10. Based on the information contained in Paragraphs 1 through 36, by providing the Division’s examiners with falsified records and proof of payment receipts, Braz Transfers has failed to demonstrate the financial responsibility, character, reputation, integrity, and general fitness that would warrant the belief that the business will be operated honestly, fairly, and soundly in the public interest in violation of General Laws chapter 169, section 6, the Division’s regulation 209 CMR 44.03, and the Division’s regulation 209 CMR 44.04.

11. Based on the information contained in Paragraphs 1 through 36, Braz Transfers, failed to ensure that funds received for transmissions to Brazil were remitted in violation of General Laws chapter 169 section 8 and the Division’s regulation 209 CMR 44.10(5).

12. Based on the information in Paragraphs 1 through 36, Braz Transfers failed to notify the Division of changes in management at the office, in violation of the Division’s regulation 209 CMR 44.08.
13. Based upon the information contained in Paragraphs 1 through 36, the public interest will be irreparably harmed by delay in issuing an Order to Cease and Desist under General Laws chapter 169, section 13(b) because, upon information and belief, Braz Transfers has collected funds from Massachusetts consumers that may not have been transmitted to beneficiaries in Brazil. As of the date of this Temporary Order, Braz Transfers has failed to demonstrate that those funds received for transmission from Massachusetts consumers were remitted to their intended recipient within 7 days or at all, and it is unknown if this is a continuing practice, that could possibly affect a growing number of Massachusetts consumers.

14. Based upon the information contained in Paragraphs 1 through 36, had the facts and conditions found therein existed at the time of Braz Transfers original foreign transmittal agency license applications, the Commissioner would have been warranted in refusing to issue such licenses.

15. Based upon the information contained in Paragraphs 1 through 36, had the facts and conditions found therein existed at the time of Braz Transfers original check casher license application, the Commissioner would have been warranted in refusing to issue such license.

16. Based upon the information contained in Paragraphs 1 through 36, the Commissioner has determined that:
   a. Braz Transfers has engaged, or is about to engage in, acts or practices which warrant the belief that the Corporation is not operating honestly, fairly, soundly and efficiently in the public interest in violation of standards governing the licensing and conduct of a foreign transmittal agency including, but not limited to, the provisions under General Laws chapter 169 and the Division’s regulations at 209 CMR 44.00 et seq.
   b. Braz Transfers has engaged, or is about to engage in, acts or practices which warrant the belief that the Corporation is not operating honestly, fairly, soundly and efficiently in the public interest in violation of standards governing the licensing and conduct of a licensed check casher including, but not limited to, the provisions under General Laws chapter 169A and the Division’s regulations at 209 CMR 45.00 et seq.
   c. The public interest will be irreparably harmed by delay in issuing an ORDER TO CEASE AND DESIST to Braz Transfers.

ORDER TO CEASE AND DESIST

After taking into consideration the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby:

17. ORDERED that Braz Transfers, any and all officers, directors, employees, independent contractors, or agents operating on behalf of Braz Transfers, and their successors or assigns, shall immediately cease engaging directly or indirectly in the business of a foreign transmittal agency in Massachusetts, as defined in General Laws chapter 169, section 1, except as otherwise expressly permitted by the terms of this Temporary Order or by the Commissioner.

18. IT IS FURTHER ORDERED that Braz Transfers shall notify all independent contractors, or agents operating on behalf of Braz Transfers to immediately cease engaging directly or indirectly in the business of a foreign transmittal agency on behalf of Braz Transfers.

19. IT IS FURTHER ORDERED that Braz Transfers, any and all officers, directors, employees, independent contractors, or agents operating on behalf of Braz Transfers, and their successors or assigns, shall immediately cease engaging directly or indirectly in the business of a check casher in Massachusetts, as defined in General Laws chapter 169A, section 1, except as otherwise expressly permitted by the terms of this Temporary Order or by the Commissioner.

20. IT IS FURTHER ORDERED that Braz Transfers shall immediately secure all records, files, and documents (Records) relative to the Corporation’s foreign transmittal agency and check cashing business. Braz Transfers is prohibited from destroying, altering, and/or modifying any of the
1. referenced Records. The provisions of this Paragraph require Braz Transfers to ensure that all agents operating on behalf of Braz Transfers are directed to preserve all Records pursuant to the provisions of this Paragraph. The Records shall be available to the Commissioner in their entirety upon request.

2. IT IS FURTHER ORDERED that within five (5) days of the effective date of this Temporary Order, Braz Transfers shall submit to the Commissioner: a detailed record of the Corporation’s pending transmittal orders for funds received from Massachusetts consumers. The records to be provided shall be as of the effective date of this Temporary Order.

3. IT IS FURTHER ORDERED that Braz Transfers shall immediately process and remit all transmittal orders for funds received from Massachusetts consumers with no loss to the consumer. It being understood that “no loss to the consumer” shall mean that if the Corporation is unable to remit funds collected for transmittal, the consumer shall be entitled to a refund of all funds and any fees collected by Braz Transfers. Braz Transfers shall submit a detailed record to evidence compliance of this Paragraph in conjunction with the Report submitted to the Division as outlined in Paragraph 48 of this Temporary Order. Evidence of compliance shall include but not be limited to: receipts confirming the transmittal of funds; check numbers of payments issued by the Corporation to evidence reimbursements made to consumers, and the amount reimbursed to each individual.

4. IT IS FURTHER ORDERED that Braz Transfers shall, within five (5) days of the effective date of this Temporary Order, provide the Division with a complete record of all checks cashed, including the dollar amount of the checks cashed and the fees charged by the Corporation to consumers during the period from September 2, 2011, through the effective date of this Temporary Order.

5. IT IS FURTHER ORDERED that this Temporary Order shall become effective immediately and shall remain in effect unless set aside, limited or suspended by the Commissioner or upon court order after review pursuant to General Laws chapter 30A.

6. IT IS FURTHER ORDERED that a hearing will be scheduled on this matter to determine whether or not such Temporary Order shall become permanent and final only upon receipt of a written request for such a hearing from the Braz Transfers within twenty (20) days of the effective date of this Temporary Order. If no hearing is requested within this twenty (20) day period, this Temporary Order shall become permanent and final until it is modified or vacated by the Commissioner.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS:

Dated at Boston, Massachusetts, this 1st day of April, 2013

By David J. Cotney
Commissioner of Banks
Commonwealth of Massachusetts
APPENDIX V
EXAMINER’S GUIDE FOR THE AUDITING OF INSTITUTIONS OFFERING MONEY TRANSFERS & PAYMENTS TO BRAZIL

1. **Step One:** After determining that the institution being audited offers Money Transfer / Remittances / Payments (“transactions”) to Brazil for individuals or counterparties, establish if it has a direct correspondent agreement with an institution in Brazil
   A. Institutions authorized by the Banco Central do Brasil to sign contracts with foreign institutions are ONLY Banks and Foreign Exchange Brokers (Corretoras de Cambio).
      i. List of Banks and Corretoras: https://www.bcb.gov.br/?IAMCIFO

2. **Step Two:** If the institution sends transactions to Brazil through a Third Party Payment Processor (TPPP):
   A. Require the details of the TPPP such as corporate information, director’s names, licenses, etc.
   B. Review the contract between the TPPP and the institution. The contract must state that payments to Brazil will be done only through authorized institutions in Brazil.
   C. Require a written statement from the TPPP of the counterparties in Brazil making the payments in the country
   D. RED FLAGS:
      i. If the institution has direct correspondents in Brazil (Bank or Corretora) and also uses a TPPP the possibility of the TPPP using illegal payment channels in Brazil is extremely high. There is no reasonable explanation for the use of both direct correspondents and a TPPP other than the attractive price breaks (exchange rates) being offered by these TPPPs.
      ii. Do not accept Bank Deposits Slips as the sole proof of “legal payments” in Brazil as TPPPs and unauthorized entities make bank deposits into beneficiary’s accounts.
      iii. Only for smaller volume of transactions to Brazil (less than 5% of the company’s volume) using a TPPP makes business sense (avoiding some costs of keeping direct correspondent agreements with Banks and Corretoras in Brazil).

3. **Third Step:** If you suspect that the institution is using a TPPPs to make illegal payments in Brazil use a sample of transactions to corroborate if the payment was done by the authorized Bank or Corretora in Brazil. This is the method used by the Division of Banking of the State of Massachusetts in the US for the Cease and Desist order that resulted in the closing of Braz Transfers, Inc. in July 2013. (see here)
   A. In case you need help in contacting the authorized Bank or Corretora in Brazil or require any help with advise or information, contact:
      i. ABRACAM: This is the National association of Corretoras de Cambio. You can send an email to abracam@abracam.com stating your need.
      ii. ABMTransf: This is the Money Transfer Association in Brazil that represents both Banks and Corretoras involved in international transactions. You can write an email to faleconosco@abmtransf.com.br
      iii. The Banco Central do Brasil (BACEN): You can contact the Office of the Executive Secretary of Mr. Geraldo Magela at Ph:+55 (61) 3414-1300
The improvement of the business environment and to stimulate initiatives involved 55 doleiros in 2009 is here: http://bit.ly/1GK4i0L from 2001: http://buswk.co/1DY1UCO. A more recent case which Laundering Probe” and the doleiro market read:

9 For a description of a case in 2004 involving Brazilian MSBs

6 The Brazilian Dollar “Black” Market, Economy & Energy - http://brA8n or this updated publication: http://1.usa.gov/1JKPDbH

7vDrU


8 See the NMTA website for Paul S. Dwyer’s document published later on in this document.

5 The 2011 Cornerstone Report by HSI - Homeland Security Investigations (the Investigative arm of the U.S. Immigration and Custom Enforcement) explains the use of trade based money laundering and the Colombian BMPE and Brazilian GMRE systems are used as examples. http://1.usa.gov/lcbNlO


7 Not all informal activities are necessarily illegal as we will see later on in this document.

6 See FINCEN’s publications on the BMPE, http://1.usa.gov/lc-brASn or this updated publication. http://usa.gov/lKPKDSh

5 The 2011 Cornerstone Report by HSI - Homeland Security Investigations (the Investigative arm of the U.S. Immigration and Custom Enforcement) explains the use of trade based money laundering and the Colombian BMPE and Brazilian GMRE systems are used as examples. http://1.usa.gov/lcbNlO

44 Venezuela is also facing a huge challenge as incoming money transfers are also being swapped; Brokers are swapping US Dol-

31 Remittances to Latin America stabilizing after 15% drop last year - http://bit.ly/1DNaD9F

27 Independently if they are classified as remittances, repatriation of capital, etc.


24 BB Money, a US Money Transmitter from Banco do Brasil closed operations at the end of 2013

23 Although they are TPPPs we will call them Intermediary Gray Market Operators or IGMOs

22 Remittances to Latin America stabilizing after 15% drop last year - http://bit.ly/1DNaD9F


CEMLA’s website the data for Brazilian remittances states that the total of remittances for Banco do Brasil is 2,192 million dollars for 2009 but makes the following statement: “Figures published by the Central Bank of Brazil. MIF data differs from this number since it also considers other components of the balance of payments as part of remittances. The MIF data for 2009 is U.S. $ 4,746 million. MIF Historical data is available at: www.fomin.org” (MIF translation) : http://bit.ly/1KJ4MzC

22 Remittances to Latin America stabilizing after 15% drop last year - http://bit.ly/1DNaD9F


remittances instead of “remittances” since most central banks and multilateral organizations use the term remittances only in the sense of “worker remittances” (money sent to help families back home). However, for the private sector, “remittances” is a broader term, which includes any cross-border money transfers done by an individual, for any reason: family help, repatriation of funds, deposits (for savings, to pay bills, etc.), remittances by seasonal workers, payment of loans, money to buy goods to sell, send, bring, etc. These money transfers are not usually done using wire or bank transfers. Some banks have now both services, remittances and bank transfers, which are very different in terms of cost, exchange rate disclosure, payment speed, nature of the payment, etc.

2 Reais is the Portuguese plural of Real, the Brazilian Currency (BR)

1 Hugo Cuevas-Mohr is the Director of Mohr World Consulting (http://www.mohrworld.com), a consultancy firm based in Miami, Florida. Hugo has been working in the money transfer industry for over 25 years and is also the Conference Director for IMTC (the International Money Transfer Conferences) which include IMTC BRASIL in Sao Paulo, Brazil (http://www.imtcbrazil.com) and IMTC WORLD, IMTC USA, IMTC EMEA and IMTC ASIA. Hugo worked in a Forex firm in South America in the 90s and understands the role TPFPs and Forex firms play in the remittance industry.

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http://www.imtconferences.com/docs/Brasil_vira_paraiso_de_lavagem_de_dinheiro.pdf

See Appendix "Factoring and the GMRE in Brazil"

A good definition for factoring in Brazil is found here: http://bit.ly/1K5xhz2

http://bit.ly/1K5xGH

http://www.anfac.com.br


http://bit.ly/1EQbPwW

http://bit.ly/1KQRQns

http://bit.ly/1EKyk3v

http://bit.ly/1JKS6D8 - Page 154 # 646 (table)

http://bit.ly/1JKS6D8 - Page 143 # 591

http://bit.ly/1F0orzSv

http://bit.ly/1JKS6D8

Page 117: 464 - Beneficial ownership (COAF/FIs)

Page 101: 31 & Page 127: 520 - COAF/FIs - Risk of money laundering or terrorist financing

Page 263: 15 & Page 277: 3.8 - Internal Controls

Page 182: 789 - Factoring companies are not subject to any licensing or registration requirements with COAF67

Page 189: 3.10.2 - Recommendations and Comments

http://bit.ly/1DNQFvk

http://bit.ly/1OSFbCt


It has been estimated that 50% of money transfers/remittances/payments to Brazil are done by illegal entities in Brazil using the funds of illegal activities in the country to make bank deposits to the accounts of unsuspecting money transfer beneficiaries. For a detailed explanation of this parallel market and the law enforcement actions against institutions using this system, read the following document: http://www.imtconferences.com/docs/Understanding_the_Brazilian_Parallel_Market.pdf

Final notes:

- All websites referenced have been originally accessed between September and November, 2011 for the first edition and were updated for the 2015 edition. We are sorry if there are broken links.

- The information herein is based on our experience and knowledge and it is not intended to substitute or challenge the opinions, research and work of qualified professionals in any of the institutions mentioned.

- For any comments and contributions please go to contact at http://www.mohr.world.

- I want to thank all the individuals and companies that have provided information, guidance, advice, comments and insights in order to publish this document.

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- An initial outline of this document was presented at CEMLA and Banco do Brasil’s “Remittances and Migration” Seminar in Salvador, Bahia, Brazil on November 29, 2001 and the final document was presented at IMTC Brazil 2012 in February 2012.

- A version was released in March 2014 with expanded and clarifies the previous edition. In April 2015 we updated again the document to release this third edition.
Mohr World Consulting

MWC was created in 2001 to provide a basis for the consultancy work being given by Hugo Cuevas-Mohr to money transfer companies in North, Central and South America, the Caribbean and Europe. Mohr World Consulting advises money transfer entrepreneurs, companies, corporations, financial institutions, multilateral and government agencies on remittances & money transfers.

MWC has consulted for a number of companies and institutions and has recently expanded its consultancy work to include strategic, business, marketing, legal, compliance, technology, product development and other areas with partners, associates and colleagues in different fields and regions of the world.

You can check the company’s website for information:
www.mohr.world

Mohr World Consulting
16135 SW 109 St,
Miami, FL 33196
+1 786 2387857
hugo@mohr.world
Hugo Cuevas-Mohr is President and CEO of Mohr World Consulting, a consultancy based in Miami, Florida. Hugo is a Money Transfer Expert and has been a consultant for a number of companies and financial institutions in the Money Transfer Industry in Latin America, United States and Europe. Since 2001 he began offering his consulting services. He is invited regularly as a Speaker in International Payment Conferences on Remittances, Financial Inclusion, Mobile Money, Regulation, etc. His work as a consultant lead to the development of IMTC, the International Money Transfer Conferences which he directs since 2010.