WESTERN UNION PAYMENT SERVICES
IRELAND LIMITED
Procedure n° 2017-10

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Reprimand and fine
of EUR 1 million

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Hearing of 19 December 2018
Decision handed down on 10 January 2019

AUTORITÉ DE CONTRÔLE PRUDENTIEL ET DE RÉSOLUTION
SANCTIONS COMMITTEE

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Having regard to the letter dated 24 November 2017 in which the Chairman of the *Autorité de contrôle prudentiel et de résolution* (ACPR – French Prudential Supervision and Resolution Authority) informed the Committee that the ACPR Supervisory College (hereinafter, the 'College'), ruling through the Sub-College with responsibility for the banking sector, decided to open a disciplinary procedure under number 2017-10 against Western Union Payment Services Ireland Limited (hereinafter, 'WUPSIL'), Unit 9, Richview Business Park, Clonskeagh, Dublin 14, Ireland;

Having regard to the notification of objections dated 24 November 2017 and the annexes thereto;

Having regard to the defence submissions dated 28 March, 24 July, 26 September and 19 October 2018, in which WUPSIL disputes the objections, highlights the corrective actions it has implemented and requests that the hearing not be held in public;

Having regard to the statements of reply dated 6 June, 12 September and 8 October 2018, in which Mr Duvillet, and then Mr Constans, who successively represented the College, maintain the objections notified, except objection 2, which was withdrawn;

Having regard to the report dated 16 November 2018 of Rapporteur Christine Meyer-Meuret, in which she acknowledged the withdrawal of objection 2 by the representative of the College and concluded that the nine other objections were substantiated, but that four of them were substantiated subject to a reduced scope (objections 1, 3, 8 and 10);

Having regard to the letters dated 16 November 2018 summoning the parties to the hearing, informing them of the composition of the Committee and indicating that the hearing would not be held in public, as requested by WUPSIL;

Having regard to the other case documents, comprising documents numbered 1 to 2419, in particular the report of 6 July 2017 drafted at the conclusion of the inspection (hereinafter, the 'inspection report'), and unnumbered electronic files, in PDF and Excel format;

Having regard to the French Monetary and Financial Code (*Code monétaire et financier*, hereinafter, the 'Code'), in particular Articles L. 561-6, L. 561-10-2, L.561-15, L. 561-16, L. 561-36-1, L. 612-39, R. 561-5,

R. 561-10, R. 561-12, R. 561-20 and R. 612-35 to R. 612-52, in the versions in force at the time of the on-site inspection;

Having regard to the Sanctions Committee's Rules of Procedure;

The ACPR Sanctions Commission, comprising Rémi Bouchez in the chair, Claudie Aldigé, Elisabeth Pauly, Thierry Philipponnat and Denis Prieur, Committee members;

Having heard, at the session held in camera on 19 December 2018:

– Mrs Meyer-Meuret, Rapporteur, aided by her deputy, Fabien Patris;

– Alice Navarro, representing the Director General of the Treasury;

– Emmanuel Constans, representing the College, aided by the Deputy Director of the Legal Affairs Directorate, the Deputy Head of the Institutional Affairs and Public Law Division, a lawyer from that Division, the Head of the Anti-Money Laundering and Counter Terrorist Financing (hereinafter, 'AML-CTF') Permanent Control Unit of the Banking Supervision Directorate 2 and a lawyer from the Anti-Money Laundering and Internal Control legal division; Mr Constans proposed issuing a reprimand along with a fine of EUR 1.5 million, to be published in a non-anonymous decision;

– WUPSIL, represented by WUPSIL's Country Manager for France, aided by the permanent representative of WUPSIL's French branch, as well as by the barristers Antoine Juaristi and Martin Le Touzé, (Herbert Smith Freehills (Paris) LLP);

Having deliberated in the sole presence of Chairman Bouchez, Mrs Aldigé, Mrs Pauly, Mr Philipponnat and Mr Prieur, and also Mr Jean-Manuel Clemmer, Chief Officer of the Sanctions Committee, who acted as meeting secretary;

1. Whereas, The Western Union Company is incorporated in the State of Delaware, United States, and is listed on the New York Stock Exchange; in October 2018, its market capitalisation was just over EUR 7 billion; through entities domiciled in the United States and Bermuda, it holds WUPSIL, which was licensed in Ireland on 1 November 2009 as a payment institution, with its head office in Dublin; in France, WUPSIL conducts a funds transfer business, under a European passport, through La Banque Postale (hereinafter, 'LBP') (…), as well as through a network of around 1,200 agents (…); in 2017, WUPSIL earned revenue of (...), net income of (...) and, at the end of that financial year, had shareholders' equity of (...); in that same year, its revenue in France totalled (...); over the whole of 2016, WUPSIL had somewhat more than (...) clients in France, compared with less than half that number in 2015, including approximately (...) through its network of agents and (...) through its partnership with LBP; the transactions carried out in France, through WUPSIL, are mainly remittances to foreign countries; the main countries to which WUPSIL's clients transfer funds from France (the "corridors") are, in terms of value, Turkey, Morocco, Senegal, Ivory Coast and Tunisia; WUPSIL has offices in Paris to administer French operations, including a sales department and the ALM-CTF business line, which on the date of the inspection, comprised a manager and six employees; several back-office departments are involved in processing WUPSIL transactions, including the Vilnius centre in Lithuania, which is responsible, in particular, for preparing suspicious transaction reports (hereinafter 'ST reports'), identifying politically exposed persons (hereinafter, 'PEPs') and requesting information from clients, as well as agents' onboarding and monitoring files;

2. Whereas, between 23 November 2016 and 10 February 2017, an on-site inspection was conducted of the compliance of WUPSIL's AML-CTF system, which focused on the business it conducts in France through its network of independent agents; an inspection report was signed on 6 July 2017; on the basis of that report, the College decided to open this disciplinary procedure at its meeting of 8 November 2017;

I. The obligation to identify and verify clients' identities

3. Whereas, Article R. 561-5 of the Code specifies the procedures for verifying the identity of clients; in particular, it provides that the following information is to be collected and kept from the identity document presented by the client: "first and last names, date and place of birth of the person, nature, date and place of issue of the document and the name and capacity of the authority or person who issued the document and, if applicable, who authenticated it; under Article R. 561-10-II of the Code, reporting entities "are required, even in the absence of any suspicion that the transaction may contribute to money laundering or terrorist financing, before carrying out the transaction or assisting in its preparation or completion, to identify their occasional customer and, if applicable, the beneficial owner of the transaction and to verify the information used to identify them: (…) / 3° (…) regardless of the amount of the transaction, if they carry out a fund transfer transaction or a money changing transaction while the client or its legal representative is not physically present for identification purposes, or if they offer asset custody services ;"

4. Whereas, according to **objection 1**, which is based on this legislation, WUPSIL, which is required to identify all its clients, including occasional clients, and to verify their identity, does not collect all the identity information required for occasional clients, who account for the majority of its clients; in particular, the entity does not collect the name and capacity of the authority or person who issued the identity document;

5. Whereas, although WUPSIL points out the specificities in this field of the French rules adopted in connection with the transposition of the European directives and contends that collecting information on the issuing authority of the identity document presented is of little use, the rules in question are clear, apply to institutions that operate in France and are among the rules for which the ACPR is tasked with supervising compliance; WUPSIL does not dispute that, at the date of the inspection report, it no longer collected this information and that this had been the case between April 2016 and mid-2018 as a result of a change in the IT tool it used; although WUPSIL states that, prior thereto, a blank field, called "ID Issuer", was provided for this purpose, this does not mean that the required information was entered therein; the documents that WUPSIL produced for the prior period show, on the contrary, that in the majority of cases, the name of the issuing authority was either missing from the field where it should have been entered or was incomplete, thereby making it impossible to identify such authority; contrary to what WUPSIL contends, this requirement has not been eliminated by the currently applicable regulations, which provide that reporting entities may either copy the administrative identity document presented by the client or collect the same information as before (see Article R. 561-5-1, subsection 3°, of the Code); although WUPSIL points out that this information is not included in the information that Tracfin requires to be included in ST reports, that assertion is irrelevant to the breach at issue, which does not concern the ST report procedure but the verification of clients' identities; in view of the general nature of the objection, it is also irrelevant that for some countries (India, Kuwait and Mozambique), this information does not appear on the administrative documents and, therefore, cannot be collected in any case; the fact that the final version of the inspection report does not criticise the failure to collect this information, unlike the version of the report submitted to WUPSIL for comments, does not invalidate the objection because the College is entitled to lodge any objection it deems justified by the facts found by the inspection team, but, in any event only explains, in part at least, why WUPSIL did not take prompt corrective action in this respect; therefore, objection 1 is substantiated;

II. The obligation to know clients with whom a business relationship is established

6. Whereas, Article L. 561-6 of the Code provides that "Throughout its entire duration, and as stipulated in a decree issued following consultation with the Conseil d'Etat, [the reporting entities] shall, within the scope of their rights and obligations, carry out continuous due diligence checks on the business relationship and a thorough examination of the transactions executed, taking care to ensure that they are consistent with

the latest information they have concerning their client"; these provisions are supplemented by Article R. 561-12 of that Code which provides, in particular, that before entering into a business relationship reporting entities must collect and analyse the information necessary to understand the purpose and nature of the business relationship and to assess the risk of money laundering and terrorist financing (hereinafter, 'ML-TF');

7. Whereas, according to **objection 2**, which is based on this legislation, on the date of the inspection, the criteria that WUPSIL applied to know its clients with whom it established business relationships were inappropriate for its business;

8. Whereas, in view of the defence arguments presented by WUPSIL, the representative of the College withdrew this objection; this withdrawal will be duly noted;

III. The due diligence obligation

A. Continuous due diligence

9. Whereas, the provisions of Article L. 561-6 of the CMF set out above require reporting entities to exercise continuous due diligence over the business relationship and thoroughly examine transactions carried out, ensuring that they are consistent with their up-to-date knowledge of their clients;

10. Whereas, according to **objection 3**, which is based on this legislation, WUPSIL has an automated tool for monitoring transactions before they are executed, called [X] (hereinafter, 'tool X'), which comprises a set of filters that are configured, in particular, to detect if several transactions are carried out by the same client; from 1 January 2014 to June 30, 2016, its information system, called [Y] (hereinafter, 'tool Y'), automatically assigned a unique identifier to each client; however, in 35,693 cases, the same identifier was assigned to at least two clients, and in some cases to over 1,000 clients ('overmatching'), whereas, conversely, 38,773 clients had at least two identifiers ('undermatching'); as a result, WUPSIL did not comply with its obligation to exercise continuous due diligence over its clients or to analyse the consistency of their transactions in light of its up-to-date knowledge thereof;

11. Whereas, WUPSIL contends that the legal ground for this objection is insufficient because, firstly, although Article L. 561-6 requires reporting entities to exercise continuous due diligence over their business relationships, it does not prescribe the practical procedures for doing so and, in particular, does not require the use of an IT tool for assigning identifiers to clients and, secondly, any errors that may have been discovered concerning the use of such a tool do not, in themselves, prove an actual breach of the obligation to exercise continuous due diligence; moreover, it points out that [tool Y], which is used, in particular, by the US authorities to control the entry of persons into the United States, is reliable despite the fact that, like any automated identification tool, it is not immune to anomalies, in particular due to data entry errors; furthermore, it has functionalities ("Re-resolve") that WUPSIL uses to reduce errors; the sample of cases for which it is alleged to have breached its obligations does not distinguish occasional clients from those with which it has a business relationship, whereas the continuous due diligence obligation applies only to the latter; moreover, this sample is neither relevant nor reliable; the criteria used by the inspection team to determine whether two transactions concern the same client, i.e. the same last name, first name and date of birth, are not sufficient, particularly in view of the fact that certain last names and first names are very common; with respect to cases of "overmatching", some persons who know their age but not their date of birth are assigned 1 January as their date of birth by the administrative authorities, which results in a very high number of occurrences for certain clients born on that date, who are in fact different clients (examples of last names A1 and A2); with respect to cases of "undermatching", WUPSIL states that the data about a client may vary slightly without changing the fact that it is the same client (example in file A3, for which the only major difference is the place of birth, Portugal or Guinea-Bissau, which was a Portuguese colony at the client's date of birth); by using a well-known algorithm (Jaro-Winkler) which, in order to detect possible duplicates, measures the similarity between character or text strings on a scale from 0 (total lack of

similarity) to 1 (congruity of the strings compared), it can be seen, at the conclusion of the statistical analysis of a sample of 2,400 cases of presumed "undermatching" and a sample of 1,010 cases of presumed "overmatching" that, in reality, 51% and 90%, respectively, of these cases probably did not fall into those categories, using a threshold of 0.9 on the scale referred to above;

12. Whereas, in order to fulfil its obligation to exercise continuous due diligence over its business relationships, an institution that carries out several million transactions each year at the request of several hundred thousand clients must necessarily have automated identification tools in order to attribute the transactions it actually executes to each of its clients; an established lack of reliability of such tool, or of its implementation, inevitably jeopardises compliance with this obligation, both by preventing the institution from classifying its clients, without error, as occasional clients and clients in business relationships and from having the requisite knowledge of the latter, and by introducing biases in the triggering of alerts due to the same client exceeding the thresholds set for the amount or number of transactions carried out; therefore, any malfunctions or misuse of an IT tool that is essential to exercise continuous due diligence may be considered a breach of the provisions of Article L. 561-6 of the Code;

13. Whereas, however, at the conclusion of the investigation, the Committee finds that the sample of cases identified by the College as "overmatching" (35,693 cases) or "undermatching" (38,773 cases) does not distinguish occasional clients from clients in business relationships, the only category to which the continuous due diligence obligation laid down by Article L. 561-6 of the Code that is the grounds for the objection applies; WUPSIL contends, and supports its contention by applying a statistical and probabilistic analysis (Jaro-Winckler method) to a sub-sample, which is not formally contradicted by the plaintiff, that some of the clients identified in the sample as being apparently different, but who have the same identifier, are in fact the same person and, conversely, some clients who have more than one identifier are in fact several distinct persons; it is also true that, given the number of WUPSIL's clients and their particularities, the use of only three criteria (last name, first name, date of birth) will inevitably lead to many "false positives"; moreover, it has not been proved, or even alleged by the plaintiff, that all or some of the cases of overmatching or undermatching in the sample actually resulted in a breach of the obligation to exercise continuous due diligence over the transactions of relevant clients; the Committee therefore holds that, as the case stands, the evidence introduced by the plaintiff, i.e. the raw data concerning 74,466 cases of alleged overmatching or undermatching of identifiers, is insufficient to prove that, as a result of insurmountable failures of the [Y] tool or errors in its use, WUPSIL has breached its obligation to exercise continuous due diligence over its clients in business relationships; objection 3 will therefore be dismissed;

B. Due diligence when risk is high

14. Whereas, Article L. 561-10-2-I of the Code provides: "If they deem the risk of money laundering and terrorist financing presented by a client, product or transaction to be high, the entities referred to in Article L. 561-2 shall intensify the measures provided for in Articles L. 561-5 and L. 561-6 ";

15. Whereas, according to **objection 4**, which is based on this legislation, 12 clients (files 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11 and 4.12) carried out numerous fund transfer transactions during the period examined by the inspection team for total amounts ranging from just under EUR 20,000 to just under EUR 75,000 to multiple beneficiaries residing in countries on the FATF's list of high-risk and non-cooperative jurisdictions (Afghanistan, Albania, Ecuador, Iraq, Turkey and Syria); of these, 11 were not classified as business relationships, whereas the last one (file 4.12), was in the process of being classified as requiring "Customer Due Diligence" (CDD); the information on the professional category, the origin of the funds and the purpose of the transactions collected about the first 11, who at least once had been deemed to come within the "Enhanced Customer Identification Process" (ECIP) due to the execution of transactions for a total amount greater than or equal to EUR 1,000 over a sliding 24-hour period, was collected on a purely self-reporting basis; moreover, two of these clients carried out transactions with Turkey, despite the fact that WUPSIL considers Turkey to be high-risk; these 12 clients should have been subject to enhanced due diligence for transactions with countries on the lists of high-risk and non-cooperative jurisdictions published by the FATF that were in force at the time these transactions were executed;

16. Whereas, firstly, since 3 December 2016, the provisions of Article L. 561-10-2-I of the Code have been included in Article L. 561-10-1-I of the Code; therefore, non-compliance therewith is still punishable; these provisions require institutions to apply enhanced due diligence measures in the cases they list; the failure to take any measure applying these provisions is therefore punishable;

17. Whereas, secondly, the fact that the inspection report makes no observations relating to a lack of enhanced due diligence does not bind the College, which is tasked with characterising the facts as it deems appropriate on the basis of the findings submitted for its assessment; the rights of WUPSIL have not been infringed because it has been given the opportunity to present to the Committee all observations of use for its defence with respect to this objection, as it has for all others notified to it;

18. Whereas, thirdly, although WUPSIL contends that it imposes stringent requirements in this area, the analysis of the risks specific to France carried out by the Western Union group is insufficient to prove that enhanced due diligence was applied to clients who transferred funds to high-risk countries; the presence of [X] filters (*ex ante*) and (…) rules (*ex post*) in relation to transactions to or from these countries does not respond to the objection in the absence of any proof of specific due diligence indicating that more stringent measures were systematically associated therewith to identify and obtain knowledge of clients within the scope of the enhanced due diligence obligation; furthermore, the information requested from clients (occupation, origin of the funds and purpose of the transaction), which WUPSIL asserts to prove that enhanced due diligence was applied, is no different from what was requested from other clients; objection 4 is substantiated;

IV. Procedures for identifying politically exposed persons

19. Whereas, Article R. 561-20-II, subsection 1°, of the Code requires reporting entities to establish and implement procedures, adapted to ML-TF risk, to determine whether their client is a PEP, during onboarding and throughout the business relationship;

20. Whereas, according to **objection 5**, which is based on this legislation, WUPSIL required the PEP status of clients to be verified if they carried out individual transactions for an amount over EUR 6,000; Western Union's Global PEP Policy requires identifying clients who carry out transactions above a threshold of USD 7,500 or clients subject to "CDD" or "ECDD" procedures; therefore, this system applies a detection threshold different from that required by the laws applicable to this category of clients; furthermore, due to the limits imposed *ex ante* with regard to clients classified within one of the two categories described above, the PEP status of a large number of clients, 34,090 at the time of the on-site inspection, who should have been considered as having a business relationship because they had executed over 31 transactions between 1 January 2014 and 30 June 2016, was not verified;

21. Whereas, the provisions set out above (cf. *supra* recital 19) require reporting bodies to detect whether their clients with whom they have a business relationship are or become PEPs; limiting the detection of such clients solely to clients who request the execution of transactions above a threshold of EUR 6,000, despite the fact that clients may be in a business relationship when they request transactions for lower amounts, is inconsistent with compliance with this obligation; a risk-based approach, founded, as WUPSIL contends, on the conclusions of official bodies such as the FATF and, in France, Tracfin, which show that cases of corruption of PEPs usually involve large amounts and that these flows usually pass through the banking system rather than through fund transfer companies, does not justify applying thresholds much higher than the average amount of transactions executed by an institution subject to AML-CTF obligations; the laws in this area are prescriptive and require the detection of all PEPs with whom institutions have business relationships; although WUPSIL contends that the group's internal procedures support the conclusion that this risk is generally low, this does not justify such a significant reduction in the scope of the PPE detection system; as the Commission has already pointed out (*Generali Vie* decision 2014-07 of 24 July 2015, recital 46, and *Axa France Vie* decision 2015-08 of 8 December 2016, recital 62), reporting entities are required to

set up a system in this area capable of handling all their clients with whom they have business relationships; the reference, in the joint guidelines issued by the directorate-general of the Treasury and the ACPR, to a threshold of EUR 1,000 for occasional clients for funds transfers does not invalidate the allegation; objection 5 is substantiated; however, the fact that the inspection team uncovered no transactions carried out by a PEP may be taken into account;

V. The obligation to carry out a more thorough examination

22. Whereas, according Article L. 561-10-2-II of the Code requires reporting entities to "carry out a more thorough examination of any transaction which is particularly complex or is of an unusually high amount or which does not appear to have any economic justification or lawful object. In such cases, said entities shall make inquiries of the client as to the origin of the funds and the use of such sums, as well as the purpose of the transaction and the identity of the beneficiary";

23. Whereas, according to **objections 6 and 7**, which are based on this legislation, WUPSIL failed to fulfil its obligations to carry out a more thorough examination;

1. The thorough examination system

24. Whereas, according to **objection 6**, WUPSIL's procedures called for a more thorough examination of transactions within the scope of the Large Principal Money Transfer (hereinafter, 'LPMT') system, which applied to transactions of a unitary amount over EUR 6,000, whereas the average amount of this entity's transactions was [a few hundred] euros over the period between 1 January 2014 and 30 June 2016; moreover, this threshold may be bypassed by splitting transactions, which WUPSIL is unable to detect because its system only generates alerts if transactions exceed a cumulative total of EUR 7,500 in one day; the effectiveness of its system for detecting split transactions is further reduced because the same identifier is attributed to certain clients or several identifiers are attributed to the same client; firstly, as an example of these shortcomings, several split transactions were not detected; this was the case for funds transfer transactions for amounts between EUR 5,500 and EUR 5,999.99 executed by (i) three clients, each of whom carried out two transactions within 24 hours for which the beneficiary was the same, some of them only a few minutes apart (files 6.1, 6.2 and 6.3), (ii) 13 clients had transactions with the same beneficiary within 48 hours and, in one case, a client was also a beneficiary (files 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15 and 6.16) and (iii) a client had transactions with the same beneficiary within 72 hours (file 6.17); furthermore, (iv) five clients carried out two funds transfer transactions for an amount of EUR 6,000 to the same beneficiary within 48 hours (files 6.18, 6.19, 6.20, 6.21 and 6.22); in addition, (v) 31 clients carried out transactions for amounts over EUR 6,000 between 13 February 2014 and 16 April 2016 without any additional examination having been conducted due to an IT malfunction (files 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.29, 6.30, 6.31, 6.32, 6.33, 6.34, 6.35, 6.36, 6.37, 6.38, 6.39, 6.40, 6.41, 6.42, 6.43, 6.44, 6.45, 6.46, 6.47, 6.48, 6.49, 6.50, 6.51, 6.52 and 6.53);

25. Whereas, firstly, setting a fixed threshold for transactions below which no additional examination is carried out is, in itself, incompatible with the laws referenced above because it excludes from such examination transactions that do not appear to have any economic justification or legal purpose; furthermore, such a threshold can easily be circumvented, as evidenced by the split transactions that WUPSIL admits it failed to detect; in addition, a threshold of EUR 6,000 is clearly too high given the average amount of the transactions WUPSIL executes; other than making general comments, WUPSIL does not explain why, in view of their characteristics and its know-your-client information, a more thorough examination should not have been carried out of the transactions mentioned by the plaintiff, other than those for which a ST report was submitted to Tracfin, despite the fact that the amounts thereof were much higher than the average amounts of the transactions carried out within the period reviewed during the inspection; moreover, such examination was not carried out in 31 cases in which this threshold of EUR 6,000 was exceeded;

26. Considering, furthermore, although WUPSIL claims that its alert system was not based solely on the EUR 6,000 threshold, but included other scenarios that enabled detecting atypical transactions, the assumptions described for generating alerts also applied to amounts above this threshold or, if such amounts were equal or lower thereto, applied either to numerous transactions (scenario 16.201129) or only to high-risk corridors (scenario 16.55977); therefore, no alternative scenario of the alert system would enable detecting transactions of a unitary amount less than EUR 6,000, even if the amount of such transactions were unusually high; above all, processing alerts or reports does not necessarily constitute a more thorough examination; although WUPSIL claims to have carried out a more thorough examination of file 6.45, which is one of the files involving transactions above this threshold, the measures taken to determine the purpose of the transaction, which consisted in collecting oral information, do not amount to a more thorough examination; objection 6 is therefore substantiated, but the scope is reduced by excluding, firstly, transactions executed in two files by parties whom WUPSIL explains were not its agents at the time they were carried out (files 6.21 and 6.22) and, secondly, those for which, as the plaintiff admits, submitting a ST report to Tracfin relating to transactions mentioned in the notification of objections shows that there was compliance with the obligation to conduct a more thorough examination (files 6.3, 6.5, 6.10, 6.16 and 6.17);

2. The 17 more thorough examination deficiencies alleged

27. Whereas, according to **objection 7**, WUPSIL failed to carry out a more thorough examination of the transactions of 17 clients that were executed between January 2014 and June 2016 (files 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16 and 7.17);

28. Whereas, in these cases, the transactions alleged involved amounts higher than either the average of transactions carried out before then by the relevant parties (files 7.1 to 7.9) or the average amount of transactions carried out by WUPSIL over the same period (files 7.10 to 7.17); the sole or most frequently reported purpose of family support, which cannot be considered to be proved merely by the fact that the beneficiary resides in the country of which the originator is a citizen or a native, was not questioned (files 7.1 to 7.9, 7.13 and 7.14), despite the fact that the last names of the client and of the beneficiary did not seem to indicate a family relationship; similarly, the reported occupation, which was defined vaguely, could also be different for the same client, without this prompting the collection of additional information; the execution of a transaction involving several thousand euros, for an alleged family reason, by a person who reported that he was an *"employee"* 17 times and *"unemployed"* 25 times did not generate a reaction (file 7.5); the lack of any alert about a client's transactions (files 7.5 and 7.6) does not necessarily mean that there was no need for a more thorough examination; in addition, these transactions involved transfers to countries that, in a December 2016 document, WUPSIL had considered to present a major ML-TF risk (Afghanistan, Turkey, Albania, Ecuador, Iraq and Syria); finally, some transactions were carried out within a very short period of time (files 7.10 to 7.12, 7.15 to 7.17); the lack of certainty about the economic justification of these transactions and the lawfulness of their purpose should have led WUPSIL to carry out a more thorough examination; therefore, objection 7 is established with respect to the 17 files;

VI. Tracfin reporting obligations

A. Initial ST report deficiencies

29. Whereas, Article L. 561-15-I of the Code requires reporting bodies to report to Tracfin "the sums entered in their books or transactions relating to sums which they know, suspect or have good reasons for suspecting are the proceeds of a criminal offence punishable by a custodial sentence of more than one year or are linked to terrorist financing"; paragraph III of the same article provides that such entities must file a suspicious transaction report on completion of a thorough examination;

30. Whereas, according to **objection 8**, which is based on this legislation, WUPSIL breached its reporting obligations in 16 cases; WUPSIL contends that its practice is in compliance with Tracfin's recommendations

and seeks to avoid insufficiently substantiated "coverage" or "defensive" ST reports; it is in the light of each of the cases mentioned by the plaintiff that the Committee must take a position;

1°) Breaches of Article L. 561-15-I of the Code

31. Whereas, according to the notification of objections, WUPSIL failed to comply with its reporting obligations under Article L. 561-15-I in five files (8.1, 8.2, 8.3, 8.4 and 8.5);

32. Whereas, firstly, in file 8.1, in light of the transactions carried out for the benefit of persons, one of whom was a flower wholesaler in Ecuador, the information known to WUPSIL about the wholesale plant and flower business in the Antilles provided sufficient justification for the transactions carried out;

33. Whereas, in the other four files, the clients carried out a very large number of transactions, for total amounts ranging from just over EUR 10,000 (file 8.4) to just under EUR 200,000 (file 8.3), sometimes in a fragmented manner (files 8.4 and 8.5); the discrepancy between the explanations provided by the clients for these transfers, usually family support, and the absence of an apparent link to the beneficiaries (file 8.2), did not prompt any reaction on the part of WUPSIL; the professional situation reported by the relevant person, which was collected in a manner that was imprecise and sometimes varied (files 8.2 and 8.3), made no useful contribution to the entity's knowledge about its clients, whose income and assets were unknown; the classification of alerts in relation to the transactions of these clients was justified in a standardised manner that did not take into account their specific characteristics; for example, in file 8.5, between January 2014 and June 2016, the client carried out 45 fund transfer transactions for a total amount exceeding EUR 75,000; after the monitoring threshold of *"6 or more transactions within 30 days to Mali, Ghana, Nigeria, Pakistan, Ivory Coast, China, Romania, Thailand, Turkey, Vietnam, Cameroon or Senegal"* was crossed by this client, whose file contains no know-your-client information other than a statement by the relevant person claiming that he was a "senior executive", the alert generated was closed without further action because, according to WUPSIL, it did not meet any of the suspicious activity criteria of the decision-making matrix and, therefore, did not require submitting a ST report;

34. Whereas, moreover, in file 8.3, the usual reason given for these transfers, i.e. family support, does not appear to be consistent with the beneficiary thereof, a communications company whose registered office is in Germany; collecting funds from merchants in order to acquire minutes of telephone service is not an activity that, in itself, excludes any suspicion of ML-TF; in file 8.4, the transfer of EUR 10,000 by a client in Senegal, to himself, in two transactions carried out on the same day should also have been reported in the absence of any information on the client's assets, profession and income; in that case, the reason given for splitting the transactions, i.e. the prohibition, in Senegal, against receiving transfers exceeding EUR 7,500, is insufficient to remove any doubt as to the origin of the funds;

2°) Breaches of Article L. 561-15-III of the Code

35. Whereas, according to the notification of objections, WUPSIL failed to comply with its reporting obligations under Article L. 561-15-III in 11 files (8.6, 8.7, 8.8, 8.9, 8.10, 8.11, 8.12, 8.13, 8.14, 8.15 and 8.16);

36. Whereas, firstly, in files 8.6 to 8.11, the entity had prohibited the client from carrying out transactions; although the refusal to provide supporting documents does not necessarily require submitting an ST report, if it occurs in connection with a more thorough examination, it is likely to prevent the entity from having the information it needs to rule out any suspicion of money laundering; contrary to what WUPSIL contends, these five files met the legal criteria for a more thorough examination, in particular due to the uncertainty about the lawful nature of the transactions carried out; the fact that WUPSIL was unable to obtain the requested information, and in light of the factors set out below in relation to each of these files, the termination of the business relationship should have been followed by submitting a ST report to Tracfin;

37. Whereas, in file 8.6, the very many transactions carried out for the usually reported reason of providing family support, despite the absence of any apparent family relationship between the client and the

beneficiaries, followed by contradictory explanations and then the refusal to produce the requested supporting documents, should have been brought to the attention of Tracfin, because the profession of international art dealer allegedly exercised by the relevant person is insufficient to eliminate any suspicion of ML-TF;

38. Whereas, in file 8.7, the execution of 182 transactions, for an average amount of EUR 330, primarily to Cameroon and for the benefit of persons with whom the client had no apparent family relationship, as well as receipts of funds for an average amount of EUR 572 from the United States, France and Senegal, which, after three unsuccessful attempts to obtain explanations from the client, should have been reported to Tracfin, because the profession of lawyer that, according to WUPSIL, this client exercised, despite the fact that he had reported that he was an *"employee/manager/senior executive"*, is insufficient to eliminate any suspicion of money laundering;

39. Whereas, in file 8.8, the 105 transfers were requested for the reported purpose of providing family support despite the fact that the majority of the 37 beneficiaries had no apparent family relationship with the client; the commercial relationship with the client was terminated when he stated that some of these transactions were carried out on behalf of third parties he did not know, which is prohibited by WUPSIL's internal rules; the fact that 6 of the 37 beneficiaries have the last name [...] does not eliminate the doubt about the lawfulness of the client's transactions; the failure to provide supporting documents, which resulted in the client being added to the internal blacklist, should also have resulted in submitting a ST report to Tracfin;

40. Whereas in file 8.9, the execution of 175 funds transfers, for a total amount of approximately EUR 75,000, to Spain, Belgium, Mali, Ivory Coast and Burkina Faso, was claimed to be for family support reasons, despite the fact the beneficiaries of the transfers did not have any apparent family relationship with the client; the client, who was interviewed, did not provide any details about his employment or the reasons for the transfers, which he stated he carried out on his own behalf but also on behalf of his employer;

41. Whereas, in file 8.10, the client, who resides [in the French West Indies], carried out 107 funds transfers over a period of slightly less than two years, for an amount of approximately EUR 60,000, in particular to the Gambia, Senegal, Guinea, Guinea-Bissau and Tunisia; despite the reported reason of providing family support, the 16 beneficiaries do not have any apparent family relationship to the client; the explanations that he sent funds to friends to whom he provided support seem too vague to eliminate any ML-TF risk.

42. Whereas, in file 8.11, the client executed 363 funds transfers between January 2014 and June 2016 for a total amount slightly over EUR 45,000; on several occasions, he exceeded the alert threshold of 20 transactions carried out over a 30-day period; these transfers were made to 23 persons in five different countries, some of which the entity classified as high-risk; the client provided varying explanations, stating 296 times that he was an employee and 63 times that he was unemployed, and providing no response on four occasions; neither the very low average amount of these transactions (EUR 124) nor the fact that the beneficiaries may belong to the same family justify not submitting a ST report to Tracfin;

43. Whereas, in file 8.12, the client carried out seven transactions over a very short period, transferring a total amount of EUR 10,500 in several instalments to China, a destination considered at-risk by WUPSIL; the stated reason of providing family support, according to the findings of the inspection report, was inconsistent with the information collected about the business of the client, who claimed to use WUPSIL's services for commercial purposes; there is no apparent family relationship between the client and the beneficiary; the amount of each transaction, i.e. EUR 1,500, was just below the limit set by WUPSIL for a funds transfer transaction to China; despite these factors, no ST report was submitted;

44. Whereas, in file 8.13, the funds transfer transactions carried out from Martinique to Guinea (Conakry), between March and June 2016, were not justified in view of the know-your-client information held by WUPSIL, because the relevant person merely stated that he was employed; the family support reason reported for these transactions is inconsistent with the fact that certain transactions were made for the benefit

of a company; WUPSIL does not explain why, after several alerts expressing doubts by the agent who executed these transfers, no ST report was submitted about this client's transactions;

45. Whereas, in file 8.14, nearly EUR 25,000 was sent to China over a one-year period from April 2015, some of it in separate transactions a few minutes apart, each for an amount just below the maximum set by WUPSIL, which generated alerts that were closed for a standardised reason that made it impossible to determine what analysis had been carried out; WUPSIL, which had no know-your-client information about this client, who had reported that he was an "employee", could not determine the actual reason for these transfers or the origin of the funds; therefore, a ST report should have been submitted to Tracfin;

46. Whereas, in file 8.15, the family justification that led the client to transfer somewhat less than EUR 20,000 over two months in 14 transactions, some of them over a very short period of time, to six beneficiaries in Iraq and, to a lesser extent, in Pakistan, could not be substantiated by the know-your-client information that WUPSIL held, which was non-existent, other than the relevant person's statement that he was an employee;

47. Whereas, in file 8.16, transfers of funds to Morocco totalling over EUR 18,000 in just under two years were made primarily to a person with the same last name; in particular, eight transfers for a unitary amount of EUR 1,000, were executed on the same day; WUPSIL did not have any information enabling it to know the origin of the funds or to understand the reason for splitting certain of these transactions;

48. Whereas, objection 8 is substantiated in 15 of the 16 cases;

B. Additional ST report deficiencies

49. Whereas, Article L. 561-15-V of the Code requires reporting entities to immediately inform Tracfin of any information likely to invalidate, confirm or modify the information contained in a ST report;

50. Whereas, according to **objection 9**, which is based on this legislation, WUPSIL failed to perform an additional ST report in three files (9.1, 9.2, and 9.3);

51. Whereas, in file 9.1, the transfers of funds, on 53 occasions within three months, between 9 September 2014 and 6 December 2014, to Bulgaria, the country of origin of the client, who had indicated that she was unemployed, for a total amount of EUR 9,460, had resulted in a ST report being submitted to Tracfin on 20 January 2015; the fact that on 1 June 2017, the client was placed on "KYC watch" does not compensate for the failure to submit an additional ST report about this client, who carried out 151 additional transactions between 25 January 2015 and 30 June 2016 for a total amount of EUR 26,125; the low average amount of the transactions does not justify WUPSIL's failure to act in this file because the law does not set any amount for submitting such report; these transfers were made to 14 beneficiaries, not all of whom had the same last name as this client, which therefore did not make it possible to corroborate the usually stated reason of providing family support and, furthermore, no reason was provided to justify certain of these transactions; although WUPSIL deems that the failure to submit an additional ST report is consistent with its own procedures, such consideration is irrelevant to the merits of the objection, which is well-founded;

52. Whereas, in file 9.2, the execution of 25 funds transfer transactions, for a total amount of EUR 6,572, between 16 June and 12 September 2015, by an "unemployed" client for the benefit of a Bulgarian resident, resulted in the submission of a ST report to Tracfin on 14 October 2015; these transfers were followed by a further set of 90 transactions executed between 16 October 2015 and 30 June 2016 for a total amount of EUR 16,436 for the benefit of four Bulgarian residents, including 41 transfers to the first recipient of the funds, for a total of EUR 7,188.60; neither the triggering of an alert on 20 October 2016 in accordance with WUPSIL's internal procedures, when the threshold of 20 transactions over a 30-day period was crossed, nor placing this client, with whom the entity had a business relationship, on "KYC watch", constitute a proper response to the breach alleged in this matter; although the remittances were sent primarily to Bulgaria and to the same beneficiaries, this is insufficient to exclude any suspicion of ML-TF;

53. Whereas, in file 9.3, the execution of funds transfers for significant amounts over a short period to the Dominican Republic, a country WUPSIL considers to be high-risk, resulted in the submission of three ST reports to Tracfin on 19 August and 12 November 2015, as well as on 12 February 2016; thereafter, between 24 March and 18 May 2016, the client carried out 13 additional transactions for a total amount over EUR 25,000; although WUPSIL continued to monitor this client's transactions, which resulted in a new alert when the internal threshold of EUR 12,000 was crossed, no additional ST report was submitted to Tracfin, despite the fact that it would have been justified;

54. Whereas, therefore, objection 9 is fully substantiated;

C. ST reporting deadlines

55. Whereas, according to Article L. 561-16 of the Code, if a transaction for which a ST report is required has already been executed because it was impossible to suspend its execution, or because postponing it might have prevented investigations into a suspected ML-TF transaction, or because it became apparent that such report was required after the transaction was completed, reporting entities must inform Tracfin promptly;

56. Whereas, according to **objection 10**, which is based on this legislation, the entity's organisation does not enable it to promptly report suspicious transactions to Tracfin; in fact, proposed ST reports are prepared either by the Western Union group's global head office in Denver or by WUPSIL's compliance department in Lithuania; they must then be translated into French and verified by the "compliance" department in France before they can be submitted to the financial intelligence unit, which generates delays in submitting reports; for example, ST reports on client transactions were submitted late in five files (files 10.1, 10.2, 10.3, 10.4 and 10.5);

57. Whereas, it does not appear from the file that the specificities of the organisation of the "compliance" function of WUPSIL and the group to which it belongs, in themselves, establish a deficiency in WUPSIL's suspicious transaction reporting system that would not enable it, in general, to comply with its obligation to "promptly" report suspicious transactions to Tracfin; such a deficiency can also not be deduced either from the five cases highlighted by the plaintiff, given their low numbers and the very modest delays thereof, compared to other cases previously submitted to the Committee, as well as the explanations given for these delays; because the delays observed in these five cases were presented by the plaintiff as an illustration of a deficient system, they cannot also be sanctioned as such; accordingly, the objection should be dismissed;

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58. Whereas, in view of the foregoing, although WUPSIL contends that, at the global level, the group complies with the AML-CTF standards issued by the FATF, as well as with the regulatory requirements of each country in which it operates, this entity was not fully in compliance with several legal provisions at the date of the inspection; the deficiencies noted in terms of conducting more thorough examinations are due to insufficient knowledge of the relevant clients, setting high thresholds given the average amount of client transactions and, in some cases, improper application of these thresholds (**objections 6** and **7**); in many cases, sometimes involving the transfer of significant amounts, the apparent lack of an economic justification or lawful purpose for the transactions did not result in submitting an initial ST report to Tracfin, even if the atypical nature of the transactions had been detected; this was the case in 15 of the 16 files mentioned on these grounds by the plaintiff; WUPSIL's AML-CTF system allowed alerts to be closed without further action, without providing any reason explaining why such alerts had been closed, in particular after a more thorough examination had been conducted (**objection 8**); the execution of further suspicious transactions did not, in some cases, lead to submitting additional ST reports to Tracfin, as required (**objection 9**); in addition, WUPSIL's system at the time of the inspection did not enable it to comply with its enhanced due diligence obligations in the event of a high risk (**objection 4**); and, lastly, the system for detecting PEPs was inadequate, in particular due to the fact that a high threshold had been set for detecting PEPs (**objection 5**);

59. Whereas, however, the allegations relating to WUPSIL's deficiencies with respect to the knowledge of clients with whom it has a business relationship (**objection 2**) and continuous due diligence (**objection 3**) were not accepted; moreover, the allegation that WUPSIL inadequately identifies its clients and verifies their identities concerns only one aspect of these obligations, which is not the principal aspect (**objection 1**); the objection concerning deficiencies in the PEP detection system was nuanced (**objection 5**) and the scope of the allegation concerning WUPSIL's organisation with regard to its more thorough examination obligation was reduced (**objection 6**); lastly, the allegation that the organisation of WUPSIL's AML-CTF function necessarily rendered it unable to comply with the obligation to promptly report suspicious transactions was not proved (**objection 10**);

60. Whereas, in view of their nature and severity, the shortcomings identified by the Committee justify a reprimand; for the same reasons, and in view of the circumstances described above, in compliance with the principle of proportionality in view of WUPSIL's financial standing, a fine of EUR 1 million will also be imposed;

61. Whereas, WUPSIL has not produced any evidence to suggest that publication of this decision in non-anonymous format would cause it disproportionate harm; nor would such publication seriously disrupt the financial markets; therefore, this decision should be published in that form in the register of the ACPR for a period of five years; thereafter, it will be retained in a format that no longer mentions the name of the entity sanctioned;

FOR THE FOREGOING REASONS

DECIDES:

ARTICLE 1 – A reprimand and fine of one million euros shall be imposed on Western Union Payment Services Ireland Limited.

ARTICLE 2 – This decision will be published in the register of the ACPR for five years in non-anonymous format and, thereafter, in anonymous format, and may be consulted at the Committee Secretariat.

Chairman of the Sanctions Committee

[Rémi Bouchez]

This decision may be appealed within a period of two months from its notification, in accordance with Article L. 612-16-III of the Monetary and Financial Code.