



**AbdulJaami, PLLC**

**International Commercial Transactions**

# International Bank Money Transfer US

## Electronic Transfer of Funds

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This bank money transfer Presentation reviews the electronic transfer of funds in the context of international money transfer. The focus is commercial bank funds transfer and not consumer electronic fund transfers which are covered by the electronic funds transfer act. International fund transfer is viewed from the perspective of money transfer from us and money transfer to usa. Bank to bank money transfer regulation is mentioned.



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# International Money Transfer

- Bank Money Transfer
- International Money Transfer
- Tracing International Money Transfers
- Starting a Money Transfer Business
  - Click for [Money Service Business Compliance](#)
- Conclusion



# Bank Money Transfer

- Cash Transfer other than currency
  - Money transfers commonly take place in two forms:
    - Cash transfers through negotiable instruments (e.g. checks)
    - Transfer funds through electronic means (e.g. wire transfer)
  - Bank funds transfer or “bank money transfers”
    - The series of transactions, beginning with the originator’s payment order, made for the purpose of making payment to the beneficiary of the order.
      - Originator = the sender of the first payment order in a funds transfer
      - Beneficiary = the person to be paid



# Bank Money Transfer

- Electronic transfer funds – law and practice
  - US electronic fund transfer law:
    - Article 4A of the Uniform Commercial Code (UCC)
      - Adopted in all 50 states and by the Federal Reserve (FedWire), covers bank to bank money transfer
      - Does not cover consumer transactions (see Slide 6)
  - US Electronic fund transfers; practical aspects
    - Large-dollar electronic transfer of funds handled by:
      - FedWire system of the Federal Reserve Banks; or
      - CHIPS system of the New York Clearing House Association
  - A dollar-denominated international bank to bank money transfer will usually move through CHIPS



# Bank Money Transfer

- Electronic transfer funds – acceptance, rejection, execution
  - Payment order = request by the sender to receiving bank
    - Receiving bank can either accept or reject request
    - Acceptance – by paying Beneficiary or obtaining funds for payment
    - Unaccepted request – expires after 5 days; may be rejected earlier
  - Duty of bank upon acceptance
    - Issue payment order, on the stated payment date
    - 100% compliance with sender's orders and instructions
  - Acceptance by Beneficiary's bank =
    - Completion of funds transfer
    - Creation of beneficiary bank's obligation to pay Beneficiary
    - Payment of the Originator to Beneficiary



# Bank Money Transfer

- Federal Electronic Fund Transfer Act of 1978 (consumer transfers)
  - Purpose:
    - “to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems. The primary objective..., however, is the provision of individual consumer rights.”
  - The Electronic funds transfer act applies to:
    - any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account
    - E.g. point-of-sale transfers, ATM transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone
- Electronic funds transfer agreement
  - Bank agreements that regulate consumer electronic fund transfers



# International Money Transfer

- International fund transfer
  - International funds transfer: similar to (US) bank money transfer
    - A series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order.
      - Originator = the sender of the first payment order in a funds transfer
      - Beneficiary = the person to be paid
  - International bank to bank money transfer – types of bank
    - Originator's bank
    - Intermediary bank – link the Originator's bank and Beneficiary bank
    - Beneficiary's bank



# International Money Transfer

- International fund transfer – law and practice
  - International money transfers – law
    - Domestic law of originator
    - Domestic law of intermediary bank(s) (if any)
    - International rules, regulations or norms
      - E.g. UNCITRAL Model Law on International Credit Transfers
  - Money transfer – international practical aspects
    - The Society for Worldwide Interbank Financial Telecommunications (SWIFT) operates a global payment messaging network
      - Links banks and financial institutions in 200 countries
      - Many CHIPS transfers initiated by SWIFT payment message



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# Tracing International Money Transfers

- Bank Secrecy Act (BSA)
  - Requires banks and financial institutions to maintain records of customer transactions
  - Requires banks, financial institutions and others to:
    - File reports on currency and other transactions of potential interest to law enforcement, and maintain related financial records
    - Implement counter-money laundering programs and compliance
- Annunzio-Wylie Anti-Money Laundering Act of 1992
  - Banks and other financial institutions required to maintain records of commercial wire transfers (domestic and international) of US\$3,000 or more



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# Tracing International Money Transfers

- Other BSA Reporting
  - Currency Transaction Report (CTR)
    - Financial institutions must report all customer-institution currency transactions in excess of US\$10,000
  - Suspicious Activity Report (SAR)
    - Banks, money service businesses, securities broker-dealers, futures commission merchants, casinos and insurance companies must report any “suspicious” transaction relevant to possible violation or law or regulation
      - Banks have wide discretion in reporting
      - Many institutions will file an SAR just to be on the safe side



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# Tracing International Money Transfer

Number of Suspicious Activity Report Filings by Year								
Form	1999	2000	2001	2002	2003	2004	2005	2006
Depository Institution	120,505	162,720	203,538	273,823	288,343	381,671	522,655	279,703
Money Services Business	-	-	-	5,723	209,512	296,284	383,567	270,718
Casinos and Card Clubs	436	464	1,377	1,827	5,095	5,754	6,072	3,425
Securities and Futures Industries	-	-	-	-	14,267	5,705	6,936	3,913
Subtotal	120,941	163,184	204,915	281,373	507,217	689,414	919,230	557,759
('96-'06)	<b>3,684,826</b>							



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# Tracing International Money Transfers

- Sample SAR suspicious activities [FT = funds transfer]
  - Many FTs sent in large, round dollar, US\$100, or US\$1,000 amounts
  - FT activity to or from a financial secrecy haven or high-risk geographic location w/o apparent business reason or activity is inconsistent w/customer's business or history
  - Many small, incoming FTs are received, or deposits are made using checks and money orders. Almost immediately, all or most of the transfers or deposits wired to another city or country
  - Large, incoming FTs are received on behalf of a foreign client, w/little or no explicit reason
  - FT activity is unexplained, repetitive, or shows unusual patterns
  - Payments or receipts with no apparent links to legit contracts, goods, or services
  - FTs sent or received from the same person to or from different accounts
  - FTs contain limited content and lack related party information



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# Starting a Money Transfer Business

- Formation of Entity
  - Corporation or Limited Liability Company
- Federal Tax Identification (EIN)
- State Money Transmitter Application
  - Net worth requirements
  - Surety bond (typically \$500,000 minimum)
  - Financial Statement Disclosure
  - Background Check
  - Application Fee
- U.S. Department of Treasury Registration
  - FinCEN Form 107
- Compliance – [click for [Money Service Business Compliance](#)]
  - Anti-Money Laundering
  - Bank Secrecy Act



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# Conclusion

- Bank money transfer is core to international commercial operation
- Electronic fund transfer has both domestic and international aspects
- Ancillary law, such as anti-money laundering law, may have a strong impact on international money transfer
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