

# Alaska Bankers Association

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January 28, 2013

Representative Gruenberg  
State Capitol  
Room 110  
Juneau, AK 99801

RE: Alaska House Bill 9 -- Secured Transactions and Funds Transfers

Dear Representative Gruenberg:

The Alaska Bankers Association consists of the following eight member banks: Alaska Pacific Bank, Denali State Bank, First Bank Ketchikan, First National Bank Alaska, KeyBank, Mt. McKinley Bank, Northrim Bank, and Wells Fargo Bank.

The Alaska Bankers Association supports House Bill 9.

This is a bill to clarify the relationship between UCC Article 4A and the federal Electronic Fund Transfer Act (the "Act") and to confirm Article 4A's applicability to remittance transfers under the Act.

The Act and Regulation E issued under the Act cover "electronic fund transfers," an electronic payment initiated by or on behalf of a consumer to debit or credit a consumer's account.

Generally, UCC Article 4A governs "funds transfers," such as a wholesale wire transfer originated on behalf of a business enterprise. Article 4A governs the rights and responsibilities among commercial parties to a wire transfer, including payment obligations among the parties and allocation of risk of loss.

Under current law, UCC Article 4A does not apply to a funds transfer governed by the Act. By virtue of this section 4A-108 (A.S. section 45.14.108), funds transfers governed by the Act and funds transfers governed by UCC Article 4A are clearly separated by a statutory firewall.

Section 1073 to the federal Dodd-Frank Act amended the Act to add a new section 919 governing "remittance transfers." A remittance transfer includes a wire transfer originated by a consumer to send funds to a designated recipient located in a foreign country. When the federal Consumer Financial Protection Bureau implemented section 919 by issuing amendments to Regulation E, a wire transfer sent on a consumer's behalf that is a remittance transfer became governed by the Act. Consequently, to the extent some funds transfers, such as an international wire transfer originated by a consumer, are remittance transfers under Regulation E, the transfers are governed by the Act, even if they are not electronic fund transfers, as defined in the Act.

Thus, section 1073 changes current law. If UCC section 4A-108 remains unchanged, the effect of current section 4A-108 is to make funds transfers that are remittance transfers (but not electronic fund transfers) fall outside the coverage of Article 4A, leaving the rights and responsibilities among providers of international funds transfers, such as international wire transfers, unregulated by Article 4A. The amendment to section 4A-108 makes such remittance transfers subject to Article 4A so long as the transfers do not fall within the definition of an electronic fund transfer and so long as such coverage is not inconsistent with the Act.

In summary, this bill will continue the firewall between the Act and Article 4A. Therefore, the rights and responsibilities among providers of international funds transfers, including international wire transfers, will continue to be regulated by Article 4A. Further, the consumer's rights and protections afforded under the Act and Regulation E to such remittance transfers will continue to be available to consumers, as the Act will be the governing law between the consumer sender and the remittance transfer provider.

Thank you for the opportunity to provide comment on Alaska House Bill 9.

Sincerely,

Joseph C. Everhart  
President, Alaska Bankers Association