Cross-border Payment Risks and Prevention Strategy from Legal Perspective

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Abstract. Cross-border e-commerce has tremendous potential risks in payment, such as the lack of supervision, network pay risk, third parties cross-border payment of foreign exchange. Therefore, the author has put forward the corresponding prevention strategies concerning cross-border payments, which will help to solve the bottleneck problem of cross-border e-commerce development.

Introduction
Cross boarder e-commerce refers to the trading main bodies from different customs areas through the e-commerce platform, conduct international business activities including reaching a deal, the payment and settlement, and delivery goods through the cross-border logistics and complete the transaction. At present common cross-border e-commerce mode mainly includes B2B (Business to Business), B2C (Business to Customer) and C2C (Customer to Customer). According to the ministry of commerce from 2008-2014 period, China's traditional foreign trade import and export scale average annual compound growth rate was 6.97%, while that of cross-border e-commerce was 33.1%. For more than 20 m foreign trade enterprises, on various types of cross-border e-commerce platforms, carry out the businesses. And there are more than 5000 electric business platforms for enterprises. Cross-border e-commerce has great development potential, will become an important growth point of China's foreign trade. The phenomenon of the rapid growth of cross-border e-commerce in adverse environment in international trade has aroused the intense interest in the academic world. However, with cross-border electric commercial explosive growth, laws and regulations and regulatory systems are not perfect at all levels, cross-border e-commerce in payment risks seriously hinder its healthy and orderly development. Therefore, to study the payment risk of cross-border e-commerce and mitigation strategy from a legal perspective is significant in theory and practice.

Positive Impact of Cross-border E-commerce upon Economy
Since the outbreak of the financial crisis in 2008 in the United States, the combined impact of the world economic weakness, increasingly rampant protectionism, together with the people's currency appreciation, raw material prices and labor costs increase, China's foreign trade import and export growth has slowed sharply, A large number of foreign trade export-oriented small and medium enterprises have closed and stopped business. In the increasingly grim situation, foreign trade is in urgent need of transformation and upgrading to deal with the global economic downturn. Cross-border e-commerce has maintained a rapid growth trend.2011, according to the figures of the ministry of commerce, cross-border e-commerce transactions in our country is 1.6 trillion Yuan, up to 33% from a year earlier. Cross-border e-commerce transactions in China, reach 2 trillion Yuan in 2012, up to 25% from a year earlier, according to the ministry of commerce, in 2016 China's cross-border e-commerce transaction scale increased to 6.5 trillion Yuan, an average annual growth rate of nearly 30%. At the same time traditional foreign trade growth rate is only 6.2%. Cross-border e-commerce has soon become the new channels of China's enterprises to develop international market, as an important gripper boost China's foreign trade transformation and upgrading.
Cross-border Payment Risk from Legal Perspective

Cross-border payments involve cross-border third-party payment and cross-border RMB payment. Legal problems and potential risks still exist in current laws, regulations and rules. Risks that may occur in the whole trade links include the following.

The Risk of Absence of Supervision

Cross-border payment business has a certain scale, but payment institutions’ different size, degree of business compliance and maturity of technology result in disorders in business development. There is no unified standard for operation scheme such as business transaction process, international balance of payments reporting and risk control and so on. There is not yet a mature caliber in reported information from cooperative banks and payment agencies to the Exchange Bureau. Besides, customers’ excess reserves of foreign exchange accounts are specifically designed to do cross-border foreign exchange business, in a certain days, when the account funds accumulate to a certain limit, the payment institutions tend to use the accounts, cashing short-term deposit in an account or short stage investment is to gain a profit. Namely in the process of cross-border trade, there is a risk of misappropriate cover or loss of the funds.

Network Payment Risk

Cross-border payment of foreign exchange is a key step of cross-border e-commerce trade, because it involves the funds transfer security in transaction for both sides. Domestic customers may face personal privacy information being stolen, the risk of bank card stolen. In the process of transaction data transfer, payment information may be lost to information failure or system collapse. In addition, some illegal people use phishing site or other computer technology to steal account and information, which can cause great loss to the counter party.

Foreign Exchange Problems in the Third Parties Cross-border Payment

First of all, from the rules and regulations of the Cross-border Payment Guidance, the third party payment agencies positioning is not clear in the foreign exchange management system. For instance, in the business of main body participation in cross-border payments, third-party payment mechanism is only part of the foreign exchange dealing with similar bank of responsibility, but from the consideration in the nature, third-party payment institutions are not financial institutions. How to clear from the legal angle third-party payment institutions of foreign exchange management is an urgent issue. In the field of cross-border pay, a large amount of precipitation in the third-party payment institution, for some time, can not only produce the problems of security of the funds, but also affect the international agency for foreign exchange statistics. In addition, because cross-border payment complete the transaction and transaction information through the channels of information, the lack of traditional written document, t will reduce regulatory institutions’ sureness of trade authenticity.

Cross-border Payment Risk Mitigation Strategy

Prudent Supervision of the Business

Foreign Exchange Bureau should in general formulate a unified standard, each branch should adjust measures to local conditions and design a set of operations plan to fit the development of the region to facilitate cross-border trade expansion. Regulators should rectify substandard operation process and the corresponding business to provide better service for domestic and overseas customers and merchants and t provide a healthy and orderly operating environment cross-border e-commerce, ensure the legitimacy of the money transaction, and limit the collection and payment scope of excess reserves account.

Strengthening Technology Research and Development to Ensure the Safety of Payment

Payment institutions, located right in the heart of cross-border trade, is the mediation of the
participants in the cross-border transactions. In order to ensure the security of transactions, they should increase the intensity of technology research and development, improve cross-border payment network security technology, such as system that can accurately test participants’ identity information, data of cross-border payment information that can be encrypted to provide more safe and secure shopping network environment for domestic and overseas customers and win the trust of more participants. In addition, regulators should check regularly cross-border shopping network environment, increase the payment security violation penalties, cross-border consumption for domestic customers to build a harmonious atmosphere.

**Perfecting Laws and Regulations to Ensure Efficient Services**

First of all, there is a need to establish supervisory duties. Cross-border payments belongs in the realm of electronic payment regulation, and is also a regulatory component of the organization. To realize high supervision of cross-border payment, they need to arrange and set up the supervision model of electronic payment. In addition, it is necessary to perfect service framework of non-financial institutions and mechanisms. On the one hand, by the central bank should increase the depth of the authority legislation, safe, and the China banking regulatory commission and other regulators research and service management regulations of the non-financial institutions, and focused on the guidance of cross-border payments, detailed group to formulate the management regulation, make its contents include the meaning of cross-border electronic payments, regulatory risk control measures such as technical, regulatory processes. To carry out the payment application principles of institutional money management and information management, and give an information disclosure on web pages.

**Summary**

Cross-border e-commerce has tremendous potential risks in payment, such as lack of supervision, network pay risk, third parties cross-border payment of foreign exchange. Therefore, the author has put forward the corresponding prevention strategies concerning cross-border payments, such as prudent supervision of business, strengthening technology research and development to ensure the safety of payment, perfecting laws and regulations to ensure efficient services. These strategies will help to solve the bottleneck problem of cross-border e-commerce development, hence has practical significance.

**References**


