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# SVB Accelerator Online Seminar

Going Global: What You Need to Know as You Expand Overseas

September 16, 2010

# Agenda

## Panelists

- Stephan Eberle - Assistant General Counsel, SVB Financial Group
- Mary Jo Mack - Sr. Global Financial Service Advisor, Silicon Valley Bank
- Matt Wysong - Global Trade Advisor, Silicon Valley Bank

## Building for the Future

Stephan Eberle

Assistant General Counsel  
SVB Financial Group

# A Few Tips As You Begin Going Global

- Act quickly but be patient . . . it may take longer to set up internationally than it does in the U.S. or your home jurisdiction
- Develop a thoughtful plan for the short and long term
  - Understand the company's goals in setting up in a foreign country
  - Outline the steps to get set up your operations
  - Develop a roadmap to revisit whether your foreign structure is working according to plan or needs to be changed
  - Put together a strong team to brainstorm, issue spot, make decisions, execute and build for the future

# Where to Set Up Operations/Entities

- In the country where you will have activities/employees
- Holding company in tax/corporate efficient jurisdiction
  - May help speed set up, sales, changes in structure in the future
  - May reduce potential tax liability/create tax efficiency
  - May help protect assets such as intellectual property
  - May help speed up movement of funds to and from subsidiary
  - Some countries:
    - Cayman Islands (and other Caribbean countries)
    - Mauritius
    - Hong Kong
    - Singapore
  - Reminder: You need to balance the potential benefits with the burdens such as cost to set up and run another entity (accounting, legal, audit, etc.) and keep in mind potential changes in political winds such as taxing companies globally

# What Type of Entity to Set Up – Type of Activities

The optimal type of entity to set up will depend on the scope of activities

- **Representative office** – A business development office that is part of the parent entity (just an office) that may be limited in what it can do – primarily liaising with prospects, clients, partners, etc.
- **Branch** – Similar to a representative office but may be able to do more than just liaising with prospects, clients, partners, etc.
- **Subsidiary** – An entity owned by the offshore parent or other entities (e.g., WFOE in China)
- **Joint venture/jointly held entity** – An entity jointly held by two or more investors/owners. This may be required in some countries when partnering with local parties

# What Type of Entity to Set Up – Legal Entity

Most countries have legal entities similar to the United States

- o **Corporation or Limited Liability Company** – Most countries recognize legal entities that generally limit a shareholder's/investor's liability to the amount invested or committed to the company. Can be called:
  - Private limited companies (“Pvt. Ltd.” or “Ltd.”)
  - Public limited companies (“p.l.c.” or something similar)
- o **Partnerships** – Typically a membership rather than a share-based ownership; they can be both unlimited and limited in liability; typically can provide pass-through tax benefits
- o **Joint Venture** – Specific legal entity in China used for joint ownership of an entity that involves Chinese shareholders/investors

# Setting Up Your Entity – Key Action Items

- Decide who will manage your entity, including who will be:
  - Directors
  - Officers
  - Third-party representatives/agents (local directors, corporate secretaries)
- Gather domestic information, documents and approvals
  - Entity formation can be document/information intensive, requiring multiple approvals, documents and information, such as:
    - Board and shareholder approvals for setting up entity in-country
    - Corporate documents (certificates of incorporation, by-laws, etc.) and leases/contracts
    - Business plans for in-country growth
- Identify and engage with local service providers
  - Finance professionals (including outsourced accounting/controller provider)
  - Audit firm (financial and tax)
  - Local bank for bank accounts (this can take time and be document intensive)

# Setting Up Your Entity – Funding

- **Initial capitalization** – Initial capital contribution requirements vary per country and depend on actual activity
  - Thin capitalization is the norm for unregulated entities
  - Higher capital requirements may be required for higher regulated entities (e.g., financial services)
  - A key focus should be how much cash will be needed for the set up and initial period of operations of the new entity
- **Ongoing funding** – There are several ongoing funding options for foreign entities
  - Inter-company service fees/transfer pricing arrangements can provide “as needed” funding on a cost-plus, tax-efficient basis
  - Inter-company debt/borrowings can be formal (i.e., inter-company debt agreement) or through inter-company payables/receivables
  - Third party financing/borrowing
  - Additional capital contribution – can be time-consuming and inefficient

# Setting Up Your Entity – Management and Oversight

- **Who is involved is important** – Striking the balance between “home office” and “local team” management is key and can affect:
  - Management of funds/bank accounts
  - How and to what the local company is bound (e.g., to contracts)
- **Corporate Governance and Administration** – Ongoing entity governance and corporate administration takes time and requires planning and organization (policies, processes, etc.), including:
  - Board meetings, obtaining resolutions for corporate actions
  - Managing bank accounts, cash, funding, etc.
  - Signing and approval authorities for contracts, spending, reimbursements
  - Financial and non-financial audits
  - Corporate seals/chops
  - Service providers (accounting firms, law firms, etc.)

# Structuring Your Accounts & Foreign Exchange

Mary Jo Mack

Sr. Global Financial Service Advisor

Silicon Valley Bank

# Ask the Questions First

## Three categories

### 1. Overseas banks

- Size
- Location
- Electronic Banking
- Credit card
- Future global treasury needs

### 2. Account set up

- Hands on
- Let the sub deal with it

### 3. Other issues

- Global Enforcement Agencies
- Complications

# Look at Cash Flow

- **Company needs**
  - Managing operations across foreign subs
  - Optimizing cash and working capital
  - Gaining efficiencies
  - Improve visibility
  - Maintain control over account/s (eventually SOX compliance)
- **When do you set up an account**
  - Payroll
  - Large amount of wires in or out
- **Utilize free service of your bank**
  - International advisory Service

# Account Comparison

	SVB Nostro acct/ wire payments	Multi-currency acct with SVB	In-market acct with partner bank
Account Opening Process	N/A	10 days	4-6 weeks, varies by country
Account Opening Documentation	N/A	1 page form	More cumbersome, may meet additional KYC/AML requirements
Visibility on SVBeConnect	No	Yes	Yes
Maintain deposits in FC	No	Yes	Yes
Control over account	N/A	Yes	Yes
Credit Interest Paid	N/A	Yes, with limitations	Yes, some countries prohibit
<b>Collections</b>			
High value payments (wires)	Yes, only	Yes	Yes
Low value payments/BACS	No	Yes	Yes
Checks	No	No	Yes
<b>Disbursements</b>			
High value payments (wires)	No	Yes	Yes, using SVBeConnect <i>for select clients</i>
Low value payments – ACH	N/A	No	Yes
Repatriation	Yes	Yes	Yes, also on SVBeConnect
Checks	N/A	No	Yes

# What Account is Right

Green Tech company has one-off receivables varying from \$10,000 to \$2MM sent high value with no foreign expense

**Solution: Nostro account**

Hardware company is selling in Europe and operates R&D in India owned by a European firm, expenses paid in euro

**Solution: Multi-currency account**

Life Science company testing product in Australia has needs to pay multitude of patients by checks

**Solution: In-market account**

Software company hires salesforce in UK. Due to UK laws it is prudent to hire as employees not consultants

**Solution: In-market account**

# Conducting Business Overseas

- Usually two different currencies involved
- Fluctuations of currency
- Risk to profitability
- Exporters make themselves less competitive when quoting in USD
- Overseas vendors will increase their price 2-5% when quoting in USD

## Example:

- Buyer agrees to pay 500,000 euro
- At date of agreement euro is 1.30 to the USD
- At date of wire receipt euro is 1.25 to the USD
- Profit/loss of \$25,000

# Setting up a Foreign Exchange Policy

A Foreign Exchange Policy can help you manage risks and stabilize cash flow

In your plan you will want to do three things:

- Protect the U.S. value of your foreign currency revenues
- Minimize the translational impact on your balance sheet
- Reduce impact on earnings due to foreign currency cash flow conversions.

*In developing a currency risk management plan you will establish accountability within your organization along with identifying risk and pain threshold.*

# Steps to Managing FX Risk

## ANALYSIS

- 1) Data Collection
  - Define key questions
  - Develop collection system
- 2) Exposure Analysis
  - Quantify the exposure
  - Compare quantified risk to cost of hedging

## DEVELOP FX POLICY

- 1) Identify key features
  - Objectives
  - Guidelines
  - Hedging Tools
  - Internal responsibility
- 2) Communicate Policy
- 3) Regularly evaluate Policy

## CHOOSE METHOD

- 1) Adhere to Policy
- 2) Think Internal Hedge 1<sup>st</sup>
- 3) Be flexible
- 4) Use a combination of tools

## MONITOR EVENTS

- 1) Be alert to events that may affect FX markets
- 2) Identify new risk management tools

# Forward Contracts

Consult your international banker for strategy in mitigating risk

## Background

- Contractual commitment between two parties (bank and client) to exchange a fixed amount of one currency against another at a fixed price
- On a future date (up to one year)
- Rate fixed but no money changes hands until that future date

## Forward Contracts

- To know exactly date of the USD value of future payments and receivables

## Forward Window Contracts

- Delivery date is uncertain but can estimate within a certain range of time

# Currency Control

## Governments can:

- Establish rules
- Specify an official conversion rate
- Require conversion at their banks

## Example:

- China will only allow USD on all incoming and outgoing wires
- Other countries restrict outgoing wires
- Hong Kong pegged

# Non Deliverable Forward

- Allows a hedge in foreign currency when there is no traditional forward market
- No delivery or receipt of foreign currency will occur under this contract
- The net U.S. dollar difference offsets the change in market pricing of the currency hedged
- Your local USD bank account is debited or credited for the difference between the rate you locked and the rate on the day it matures
- This type of hedge is often used as an overlay on a U.S. dollar-based cash flow to protect margins

# Solution to Mitigate Risk on Company Cash Flow

Company needs to send sub cash based on cost plus

Solution: Forward contract (date-specific)

Large euro receivable from company in Latvia

Solution: Forward window contract

Payment to R&D center in India in a tax-free zone

Solution: Indian rupee non-deliverable forward contract

Chinese receivable

Solution: Make contract in USD with an LC to back it

# Mitigating Risk and Financing Foreign AR

Matt Wysong

Global Trade Advisor

Silicon Valley Bank

# International Risks

- **Commercial risk (credit risk)**

Risk associated with the individual or institution responsible for payment (risk factors such as poor profitability, lack of sales, cash flow problems, insolvency, etc.)

- **Political risk (country risk)**

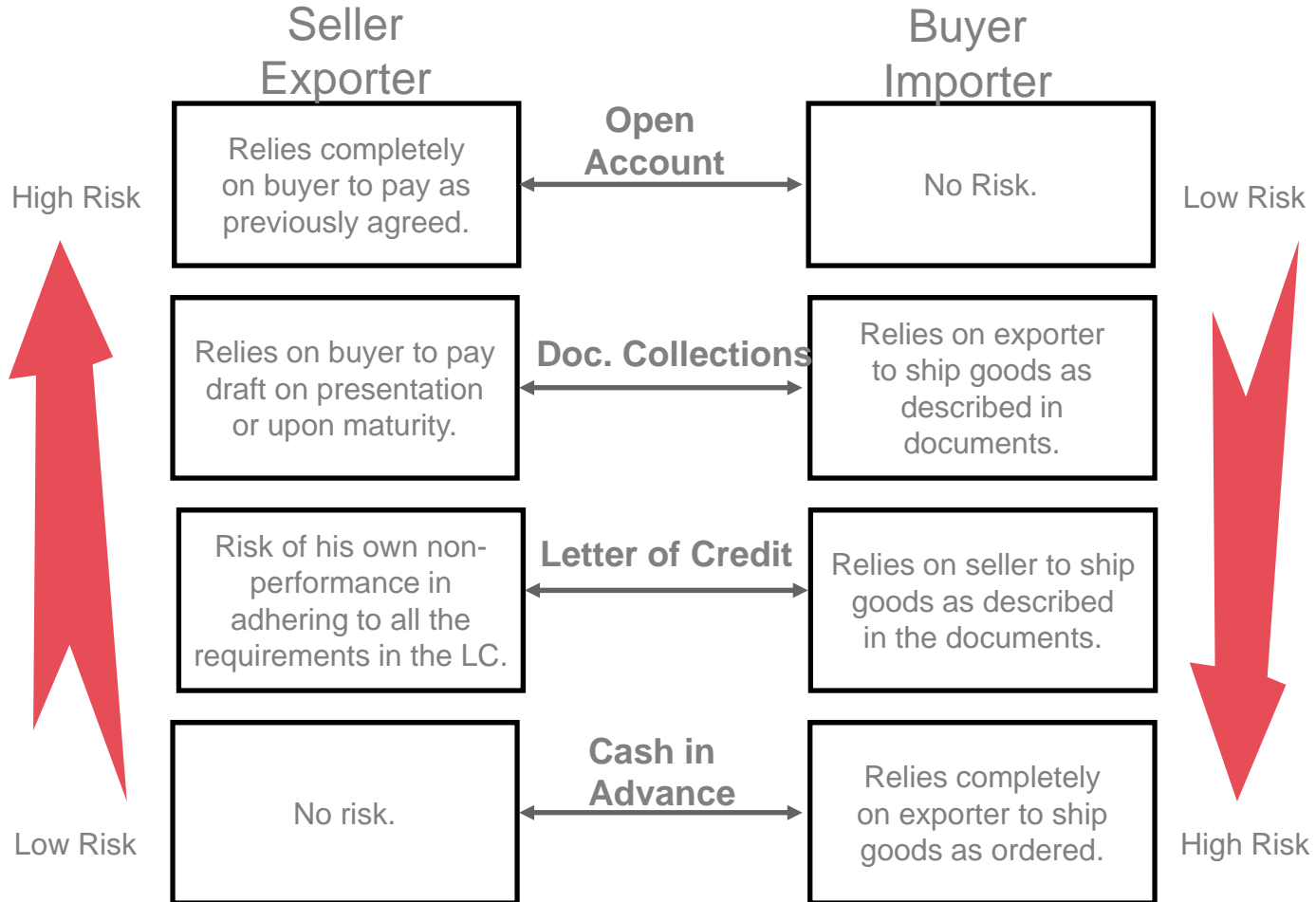
Inability of your customer to pay the receivable in full or on time due to government action (risk factors such as, war or military actions, revolution, changes in export-import laws, currency inconvertibility)

- **Foreign exchange risk**

Transaction, translation and economic exposure



# Method of Payment: Risk Assessment



# Letters of Credit Usage by Geographic Region

Volume of letters of credit use by geographic region

Region	Letters of Credit Usage
European Union	9%
Rest of Europe	20%
North America	11%
Latin America	27%
Middle East	57%
Asia Pacific	43%
Africa	49%
Asia	52%
Aust. & New Zealand	17%

Source: Ninth Survey of International Services Provided to Exporters, commissioned by the Institute of Export

# Alternative Financing Solutions

## What is L/C discounting?

- Letter of credit discounting is an advance against a future letter of credit payment where a Bank purchases the payment option of an L/C from the client at discount of the face value on a non-recourse basis, then SVB collects the proceeds of the L/C at maturity
- Utilize Commercial Letters of Credit to offer extended payment terms to buyers as a sales incentive
- Eliminate Country and Commercial Risk
- Source of Cash beyond Traditional Lines of Credit or Equity and eliminates DSO

# Letters of Credit Discounting - Calculation

Discounting of **\$1,000,000** L/C for **180 days**

**Formula:** Amount of L/C X Discount Rate X No. of Days / 360

$\$1,000,000 \times 4.00\% (0.50\% [6\text{Mo Libor}] + 3.5\%) \times 180 / 360 =$   
 $\$20,000.00$

**Net proceeds** = \$980,000.00

## **Pricing considerations:**

- Creditworthiness of issuing bank of the L/C
- Country risk
- Tenor of draft
- Party responsible for discount fee

# Potential Benefits

## **Benefits to Seller**

- Accelerates cash flow and provides non-recourse financing
- Mitigates foreign risk and vendor performance risk
- Competitive advantage – allows seller to offer financing to buyer
- Finance AR that may be ineligible under client's line or Ex-Im facility

## **Benefits to Purchaser**

- Assures that shipment was made according to the LC terms
- Financing vehicle used to leverage U.S.-based interest rates
- Extend payables without damaging seller relationship
- Structure deals for favorable cash balances for quarter- and year-end financials

# International Credit Products and Services Description

## U.S. Export-Import Bank Programs

### Working Capital Guarantee (“WCG”)

- Short-term (less than 360 days) foreign accounts receivable and inventory financing
- Advance rates of up to 90% (AR) and 75% (Inventory) respectively on product sales with minimum 51% US content
- Billed from the US
- LCs issued under the Ex-Im loan only require 25% collateral coverage

### Use of Disbursements

- To purchase finished products for export
- To pay for raw materials, labor, and overhead
- To cover the costs of producing goods and/or providing services for export
- To cover standby letters of credit serving as bid bonds, performance bonds, or payment guarantees
- To finance foreign receivables

# Working Capital Impact of Guarantee

		Your Working Capital Facility <b>without</b> Ex-Im Bank		Your Working Capital Facility <b>with</b> Ex-Im Bank	
Collateral (Inventory)	Amount	Advance Rate	Borrowing Base	Advance Rate	Borrowing Base
<b>Export Inventory</b>					
Raw Materials	\$200,000	20%	\$40,000	75%	\$150,000
WIP	\$200,000	0%	\$0	75%	\$150,000
Finished Goods	\$600,000	50%	\$300,000	75%	\$450,000
<b>Export/Foreign Accounts Receivable</b>					
Open Account	\$400,000	0%	\$0	90%	\$360,000
L/C Backed A/R	\$600,000	70%	\$420,000	90%	\$540,000
<b>Total Borrowing Base</b>		<b>\$760,000</b>		<b>\$1,650,000</b>	

# Credit Insurance

- Export credit insurance protects your foreign receivables against commercial and/or political risks which could result in non-payment of your invoices.
- Protects exporter in open account terms – not bank
- Premiums range from 0.25% to 1.25% of reported and insured sales. Premiums can be paid upfront or as sales are reported on a monthly or quarterly basis
- Coverage to a certain percentage – usually 80–90% of account
- Available in commercial market or through Ex-Im
- Exporters electing an Ex-Im Bank Working Capital Guarantee may receive a 25% premium discount



Questions?

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# Appendix

# Documentary Collections - Export Transaction

- Documentary Collection is a method of effecting payment for goods. The seller/exporter ships goods to the buyer, but instructs the seller's bank to collect a certain sum from the buyer/importer in exchange for the transfer of title, shipping, and other documentation. This enables the buyer/importer to take possession of the goods

## **Benefits**

- The seller retains title to the goods until payment is made
- Collections are handled by at least two banks, the bank to which the seller has entrusted the handling of the collection and the foreign buyer's bank
- The process is safer than having to receive payment based on open account

# Commercial Letter of Credit - Export Transaction

- An **Irrevocable** commitment by a bank to pay a seller of merchandise when documents evidencing shipment are presented to issuing bank
- The issuing bank substitutes its credit for that of the buyer, thus assuring the seller that payment will be made by the bank provided that the terms and conditions of the L/C are met
- If the L/C is “confirmed” by a U.S. bank, the U.S bank undertakes to pay seller, thus eliminating the foreign bank and country risk associated with an unconfirmed L/C

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As the assistant general counsel, Stephan Eberle is responsible for legal matters concerning SVB Financial Group's global commercial banking business lines. In this role, he provides legal guidance on the development of the firm's global expansion overseas, including oversees global entity formation, governance, regulatory and general legal matters for SVB Financial Group's subsidiaries in China, India, Israel and the United Kingdom.

Eberle is also responsible for strategic and tactical legal matters concerning SVB Financial Group domestic commercial banking businesses, including commercial and consumer lending, deposit and global trade finance.

Eberle oversaw the legal and regulatory aspects of establishing SVB Financial Group's financial valuation business, SVB Analytics, including leading legal due diligence and negotiations for the acquisition of a majority share in eProsper, which provides web-based software and third party outsourcing solutions to help clients manage corporate equity ownership information.

Eberle also has also provided legal guidance on general corporate matters, including SEC reporting, governance, marketing, human resources, litigation, bank regulatory compliance, company formations, mergers and acquisitions, asset sales and other general business matters.

Prior to assuming his current role, Eberle was senior counsel at Silicon Valley Bank for four years. During that period, he provided legal support for the formation of SVB Financial Group's first two venture funds, a fund-of-funds and a direct equity fund, overseeing the operations and investments. In addition, Eberle led the legal due diligence for some of the Company's intended acquisitions.

Before joining SVB Financial Group, Eberle spent seven years at law firms in San Francisco, including Sonnenshein, Nath & Rosenthal, where he practiced general business and intellectual property litigation. Eberle earned a juris doctorate from the University of California, Hastings College of the Law, and a bachelor of arts degree from the University of California at Berkeley, where he graduated magna cum laude, Phi Beta Kappa and with high distinction.

Eberle was a member of the California State Bar UCC Committee from 2002 to 2004.

# Mary Jo Mack



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Mary Jo Mack is a Senior Global Financial Service Advisor, experienced in mitigating risk for a wide range of problems in global cash management, foreign exchange, trade services and structured trade finance. With over 20 years in banking, Mary Jo has assisted companies in finding global cash flow efficiencies through foreign and U.S.-based accounts, and use of derivatives for stabilizing expense and profit, along with creating liquidity and leveraging for overseas receivables. Regularly Mary Jo speaks publicly on various international topics.

Previous to Silicon Valley Bank, Mary Jo worked at Wells Fargo Bank as a Foreign Exchange Advisor, Equity Trader, Bond Trader and Private Banking.

Mary Jo holds a Bachelor of Science degree from the University of Rhode Island, is a Certified Financial Planner and has completed the Export-Import Bank Delegated Authority Underwriting Program.

# Matt Wysong



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Matt Wysong is a Global Trade Advisor for Silicon Valley Bank. He is responsible for advising clients on international expansion and provides foreign accounts receivable financing as well as risk mitigation.

Prior to joining Silicon Valley Bank in 2008, Mr. Wysong was a Relationship Manager for Wells Fargo focusing on credit and domestic cash management for commercial clients in the Rocky Mountain Region. He started his career in industry as an account manager at Matchlogic, an e-Customer Relationship Management Solutions (eCRM) company.

Mr. Wysong holds both a BS and MBA from the University of Colorado at Boulder, possesses a Series 6 license from the National Association of Securities Dealers, is a Certified International Credit Professional from the FCIB, and has completed the Export-Import Bank Delegated Authority Underwriting Program.

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