



Nicholas Surmacz Evaluates New U.S. Powers to Subpoena Foreign Banks in GIR

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The recent National Defense Authorization Act significantly expands the scope of foreign bank records U.S. authorities can subpoena, allowing them to track money outside the U.S., Kobre & Kim's Nicholas Surmacz told *Global Investigations Review*.

The law allows authorities to subpoena foreign banks with correspondent accounts in the U.S., even if the evidence sought is unrelated to the account itself. This could allow the U.S. Department of Justice (DOJ) to bypass diplomatic channels, such as via mutual legal assistance treaties, to access evidence located overseas.

Surmacz, the former Assistant Chief of the DOJ Fraud Section, explains the tool "will help the FBI, prosecutors and other law enforcement track money once it has left the United States, because right now it's a bit of a black box once it leaves the U.S." However, he expects challenges to these new powers, arguing, "I would be surprised if big [financial] institutions just give in to this, I would assume that one or more is going to try and fight this in court."

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