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Madoff Foreign Entanglement Ruling Unsurprising

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U.S. District Judge Jed S. Rakoff of the Southern District of New York held on July 6, 2014, that the Madoff Securities SIPA trustee could not recover customer funds subsequently transferred abroad by “foreign feeder funds” to their foreign “customers, managers, and the like.” *Securities Investor Protection Corp. v. Bernard L. Madoff Investment Securities LLC (In re Madoff Securities)*, *1 (SDNY July 6, 2014). The trustee had sued not only certain feeder funds for having received “allegedly avoidable transfers,” but also their “immediate and mediate transferees.” *Id.* at *1. Essentially, the trustee sought to “recover [the] subsequent transfers — transfers made abroad between a foreign transferor and a foreign transferee.” *Id.* The court merely dismissed the trustee’s recovery claims “to the extent that they seek to recover purely foreign transfers.” *Id.* at *8. In this article, SRZ partner Michael L. Cook discusses why the decision is unsurprising in view of Supreme Court and Second Circuit precedent.

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