

2013 AMERICAS ANNUAL SURVEY OF LETTER OF CREDIT LAW & PRACTICE

WHERE THE LC WORLD COMES TOGETHER...

*CDCS Specialists
Will Earn 13 PDUs*



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Tampa, FL: 14-15 March 2013

Americas Annual Survey Program*

When: Thursday-Friday 14-15 March 2013

Hosted by Citi Transaction Services

Held at: Tampa Regional Center

3800 Citibank Center Bldg C, Tampa, FL 33610 USA

Thursday, 14 March 2013

8:30-9:00 Check-in and Registration

9:00-11:00 Hot Topics (and a Few that are Smoldering)

Timely topics raised by the panelists or participants, including particularly the proposed Bank Payment Obligation (BPO) and ICC BPO Rule: What is it? Will it be accepted? Are the rules workable? Issues with the product and the rules. An objective assessment and balanced discussion.

11:00-11:30 Networking Break

Take Advantage of these opportunities to interact with the top LC People in the World!

11:30-12:30 Revision of the International Standard Banking Practices (ISBP 2013): What's Muscle and What's Mass

The International Standard Banking Practices (ISBP 2007) is undergoing extensive revision and is likely to be adopted by the ICC Banking Commission in 2013. What is the effect of these provisions? How will they affect LCs issued prior to adoption of the revision? How will courts react to them? The panel will also discuss specific rules that are of interest or concern.

12:30-1:30 The Effect of Bankruptcy on LC Practice

A review of the effect of bankruptcy by the applicant, beneficiary, issuer, and confirmer and what can be done to protect against it including recent cases: Applicant bankruptcy (*Ace American Insurance*); contract to issue LC: (*In re Grayson*); FDIC actions re LCs (*Greater Midwest Builders*); Assignment of Proceeds (*Export-Import Bank of the US v. United California Discount Corp.*).

1:30-2:30 Lunch

2:30-4:00 LC Compliance Review: My, How You've Grown!

With record fines being assessed against banks for alleged violations of various sanctions regimes, this topic is of the greatest concern to banks throughout the world. The panel will review recent developments and make predictions about the unfolding of sanctions and enforcement.

4:00-4:30 Networking Break

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* Items on this program are subject to change without notice as new topics and issues arise. Please visit www.iiblp.org/AnnualSurvey for the latest programme.

4:30-5:30 Recent & Upcoming ICC Opinions: The Good, the Bad, and the Bizarre

The panel will discuss and analyze the significance of select opinions finalized at the Fall 2012 ICC Banking Commission meeting and draft opinions proposed for the Spring 2013 ICC Banking Commission meeting.

Fall 2012 Opinions include: **TA 765** (Is an on board notation required on an air transport document?); **TA 767** (refusal because “AWB not showing actual airport of departure” and “insurance policy showing incorrect AWB date”); **TA 762** (effect of unqualified confirmation on credit containing automatic extension clause on the obligation of the confirmer); **TA 761** (the effect of entering the term “NONE” in SWIFT Field 40C); **TA 763** (credit required invoice calling for value of goods &/ or services and transport document copy only for value of goods. Invoice presented showed value of goods as 0.00 and no transport document copy presented. Confirmer honoured but issuer refused to reimburse); **TA 768** (Despite LC instruction that documents sent in two lots, they were sent in one lot; is this a discrepancy?); **TA 769** (what is necessary for an invoice to be “signed, sworn, and detailed?”); **TA 772** (Does “produced by [name of company], Switzerland” indicate origin?).

To be considered: are the opinions sound, will they be respected by courts, what difference should they make in practice?

5:30-6:00 Summary of Critical Issues

Critical issues discussed and conclusions reached during the day will be summarized and reviewed.

6:00 Cocktail Reception (Location TBD)

Friday, 15 March 2013

8:30-9:30 The Year 2012 in Review: All the News that's Fit to Report!

2012 was a big year for **SWIFT** initiatives and the **ISP98 Forms** project. In addition, this panel will offer a review of regulatory and statistical developments, including **Basel III**

9:30-10:00 Networking Break

10:00-12:00 Troublesome Practice & Legal Trends

Practice and legal trends will be identified and discussed by the panel and participants including whether a commercial LC should provide that all disputes are subject to Docdex; Obligation of a Negotiating Bank to refund to Issuer payment from Reimbursing Bank where documents are discrepant (*Malayan Banking Herhad*); Negotiating Bank’s right of recourse against Beneficiary: e.g., Banker issued LC relying on fraudster’s account for reimbursement which was subsequently frozen by court order (*SEC v. Stanford*); Can a nominated bank be reimbursed if it prints electronic data as paper, signing it pursuant to a power of attorney, and forwards it to the issuer?; Enforceable: “Beneficiary may not draw until xx days after [event not determinable from issuer’s records]”?

12:00-1:00 Luncheon

1:00-2:30 Lessons From Major LC Cases from the US & Around the World

Part 1

Cases involving jurisdiction: (*Dorchester Financial Securities & First Metro Bank*) reimbursement obligations of applicant's sureties and their defenses; (*Andrews v. JPMC*); enforceable contracts where payment is by LC (*Control Screening LLC*); post honour action by applicant vs. beneficiary regarding arbitral award and LC drawing for liquidated damages (*Dearborn Maple Venture*); Amendment by conduct (*Lincoln National Life Insurance Co.*); transfer under UCP500 (*Networks USA*); Statutory limits on collection of deficiency judgment (*Bank of North Georgia*); strictness of expiry terms (*Lincoln National, Louisville Mall, Gilday*); Judgment for issuer in beneficiary's action for wrongful dishonor; (*Piaggio*)

2:30-3:00 Networking Break

3:00-4:00 Lessons From Major LC Cases from the US & Around the World

Part 2

What is an independent undertaking outside a statutory framework: (*Wuhan* and its antecedents); Cases involving: LC Fraud or Abuse (*Hook Point LLC*); (*Sistem Mühendislik Insaat* [Ontario]); Contract to Issue LC (*Associated Warehousing*); Contract to Provide LC (*Global Manufacture Group*); Non-Documentary Conditions (*US Acquisition*)

4:00-4:30 Summary of Critical Issues

Critical issues discussed and conclusions reached during the day will be summarized and reviewed.

AND MUCH MUCH MORE including

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- The top LC lawyers in North America
- Distinguished practitioners and bankers from other regions
- Unparalleled interaction between bankers and lawyers
- Significant participation by knowledgeable corporate users
- 13 CDCS credits
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In short, THERE IS NOTHING ELSE IN THE LC WORLD LIKE IT



Our Annual Survey style encourages 2 way discussion between Panelists and Delegates



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2013 ANNUAL SURVEY

INVITED PANELIST AND SPEAKER BIOGRAPHIES

*Panelist and speaker participation subject to change.
No endorsements of any sort by organizations are made or implied.*

Michael Evan AVIDON is a partner in Moses & Singer LLP, a New York City law firm, where he co-chairs the Banking and Finance Group and the International Trade Group.

Walter (Buddy) BAKER joined Fifth Third Bank in May 2009 as head of their Trade Services Sales team, based in Chicago.

James G. BARNES practices law in the Chicago office of Baker & McKenzie LLC.

Professor James E. BYRNE is the Director of the Institute of International Banking Law & Practice, Inc. and teaches at George Mason University School of Law.

Christopher S. BYRNES is Managing Editor of the LC industry's monthly journal publication, *Documentary Credit World*.

Lisa CHIN is a Vice President and Compliance Manager at JPMorgan Chase Bank, N.A., specializing in anti-money laundering oversight of global trade services and escrow services in the U.S.

John CITROLA is currently VP of Trade Services Risk Management with Wells Fargo Bank NA

Derek ENNIS is CEO of Coastline Solutions, a company specialised in the delivery of the highest quality online training and information systems in the areas of International Trade and Arbitration.

Robert L. FOUTTS is the global trade transaction risk manager for JPMorgan Chase and is based in Tampa, Florida.

Shelly GANNAWAY is a Vice President and Group Manager of a Product Risk Management team for International Trade Services of Comerica Bank.

Paula GREAVES, CDCS, is SVP & Global Policies & Procedures Technical Consultant, Global Trade Operations, at Bank of America Merrill Lynch.

George A. HISERT is Of Counsel in the San Francisco office of Bingham McCutchen LLP.

Saibo JIN, lawyer, litigator, and arbitrator of PRC, is a partner of Commerce & Finance Law Offices of China.

James L. KERR is counsel to the firm of Davis Polk & Wardwell, and his practice includes general commercial litigation and banking and securities litigation.

Carter KLEIN is a partner at Jenner & Block LLP where he has practiced for the past 38 years in the areas of financial services, Uniform Commercial Code, credit enhancements and commercial law.

Walt J LEWANDOWSKI is a Senior Vice-President, Trade Services Global Product Manager at Citi, with primary focus in the North America segment.

Ricardo MARTINEZ is a partner in the New York office of Baker & McKenzie, focusing on advising in complex cross-border finance transactions, representing lenders and borrowers in project finance, acquisition finance and trade finance.

Vincent MAULELLA is the principal of an international banking and trade consultancy.

Dennis L. NOAH is a retired senior international banking officer and was employed by three different banks during his 39 year career.

Jorge Luis RIVA is an Attorney at Law at the law offices of R&R – RASCHI Y RIVA specialising in Technical and Legal Consulting in Exchange Market and International Trade Rules in Argentina.

Donald R. SMITH is President of Global Trade Advisory, Ltd., providing services to firms involved in international trade, typically importing and exporting companies and banks.

Jeremy SMITH joined the Overseas Department of -what was- Lloyds Bank Ltd (now Lloyds TSB Bank plc) on 31 August 1977 and started in the export documentary credits department.

Lorna STRONG joined HSBC in 2001 and is Deputy General Counsel for HSBC Bank Canada and its subsidiaries, managing a team of lawyers and legal professionals.

Dan TAYLOR is Executive Director of Global Market Infrastructures, Treasury and Securities Services at J.P. Morgan.

Charnell C. WILLIAMS, a Senior Vice President, is Department Manager, Accounting/Billing, US Standby and Foreign Standby Letters of Credit, Reinsurance Letters of Credit, and Latin America Initiation for all products in Global Transaction Services at Citigroup in Tampa, Florida.

James WILLS is a business manager and the SWIFT Standards representative for the North American Market as part of the Banking Initiatives Team.



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