THE ICC GUIDE
to the Uniform Rules for Bank Payment Obligations

INTERNATIONAL CHAMBER OF COMMERCE

by David J. Hennah

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While every care has been taken to ensure the accuracy of this work, no responsibility for any loss occasioned to any person or company acting or refraining from action as a result of any statement made therein can be accepted by the author or the publisher.

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Dedication

For Miriam, Tamsin, Jeni, Kerenza and Serena

About the Author

David Hennah is an Associate of the Institute of Financial Services, formerly the Chartered Institute of Bankers. He has considerable expertise, accumulated over many years, in transaction banking, software services, financial services marketing and business consultancy and has a track record of driving change through the innovative use of new technology to deliver business benefit. He has previously lived in France, Belgium and Germany, as well as in the UK, and has worked for Barclays Bank, ICL/Fujitsu Services, Misys Banking Systems and SWIFT.

At SWIFT, David held a key role in bringing the Bank Payment Obligation to market and was a member of the ICC Drafting Group that worked on version 1.0 of the Uniform Rules for Bank Payment Obligations (URBPO). He is a well-known chairperson, speaker and moderator at trade and industry events worldwide. He is also the author of numerous articles, often related to product innovation and the use of technology in international payments and cash management, trade and supply chain finance. He is a regular contributor to Trade and Forfaiting Review.

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Foreword

The trade finance industry has often been subject to criticism for using outdated platforms and processes. Industry initiatives that are designed to simplify transaction processing and bring the business of trade finance into the 21st century are to be welcomed by bankers and corporates alike. The Bank Payment Obligation (BPO) is a great example of one such initiative.

As an instrument of trade finance, the BPO is similar in nature to a documentary letter of credit. Simply put, it is an irrevocable undertaking given by one bank to another bank that payment will be made on a specified date after the successful matching of electronic data. The key difference here is that the BPO works in an environment that is totally automated, relying on the comparison and matching of structured messages as opposed to the physical examination of paper documents. The ability to process trade data in this way represents a significant leap forward in terms of industry efficiency.

A landmark agreement signed in 2011 between the International Chamber of Commerce (ICC) Banking Commission and SWIFT has paved the way for the ICC to assume responsibility for the rules governing the BPO. The importance of this change cannot be understated. Not only will the BPO benefit from the established role and reputation that the ICC has in managing industry rules, but it will also obtain a globally accepted dispute resolution capability, building on the solid foundations that have already been laid. The Uniform Rules for Bank Payment Obligations (URBPO) will underpin the future strength and standing of the BPO in international trade. Over time, these rules may eventually help to elevate the Bank Payment Obligation to a status similar to that enjoyed for decades by the documentary letter of credit.

There are two important aspects of the URBPO to be noted here. The first is that they are technology neutral. This means that the rules can be applied to any BPO transaction, regardless of the underlying Transaction

Matching Application or service provider used for the exchange of BPO-related data. The second is that the rules rely upon mandatory compliance with ISO 20022 messaging standards. This means that the data itself must always be presented consistently and in accordance with established industry requirements.

There can be no doubt that the establishment of the Bank Payment Obligation as an accepted market practice has been significantly enhanced as a result of the transfer of governance to the ICC. The next step is for the market to embrace this new way of doing business and to adapt established processes and procedures accordingly. At a time of restricted risk management and lending practices, transaction bankers have an open opportunity and responsibility to guide their corporate clients to take advantage of new developments in best practice, such as those engendered by the introduction of the Bank Payment Obligation. Education and communication are of vital importance in assuring successful adoption. Works such as this Guide to the URBPO will help to extend knowledge, awareness and understanding as we look forward to the continued evolution of a next generation of financial supply chain solutions.

Gary Collyer
Chair, ICC BPO Rules Drafting Group

"If I had my life to live over again, I would elect to be a trader of goods rather than a student of science."

– Albert Einstein

Introduction

The letter of credit is a creation of commerce. There are those who believe that its origins date back to ancient Babylon in the year 3000 B.C. Indeed, a clay promissory note of that era is exhibited in the University Museum of Philadelphia and bears an inscription providing for the repayment of a specified amount plus interest on a specific date.

It is widely believed that the development of letters of credit in Europe was inspired by the discoveries of Marco Polo in China in the 13th century. By the 17th century letters of credit were in common use both on the European continent and in England, and by the 19th century British banks had a virtual monopoly on the issuance of letters of credit, owing to the pre-eminence of both the pound sterling and the grand reputation of the bankers of London in furthering the field of international finance.

The outbreak of World War I severed many of the trusted trading links that had become well established between merchants worldwide. In 1919 the International Chamber of Commerce was created to help facilitate the flow of trade at a time when nationalism and protectionism had taken hold.

Since 1933 the universal usage of lex mercatoria has been supplemented by a set of rules aimed at establishing uniformity of practice. Now in its sixth revision, the Uniform Customs and Practice for Documentary Credits (UCP 600) remains the most successful set of private rules ever developed for trade.

At the start of the 21st century, we are faced with an inexorable flow of more and more trade across borders. At the same time, we are embarking on a new chapter in the history of trade and trade finance. Whatever walk of life we may pursue, whatever business interests we may have, our daily existence cannot fail to have been touched by the irresistible tidal wave of new technology. When applied to positive effect, technology can both form and change culture. The exploitation of new technology enables us to pursue our business goals and objectives through the application of science.

Today, thanks to the power of new technology, we are facing a paradigm shift in the processing of trade instruments. The demand to mitigate risk is now complemented by an even stronger demand for systems and services that are both smart and simple. Corporates regard clear visibility into their supply chains as key to the unlocking of trapped cash. Technology can be deployed to deliver detailed insights into day-to-day dealings and enable the leveraging of information flows to support the movement of goods and money.

Unlike the letter of credit, the Bank Payment Obligation (BPO) is the brainchild of bankers. It has variously been described as a "game changer" and a "creative vision of the future".

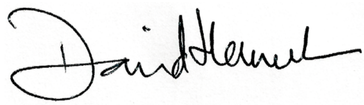
To interpret a BPO as merely an electronic or "lite" letter of credit is an injustice. Nevertheless, the simplest definition of a BPO does rely upon a direct comparison to the letter of credit.

Whereas the letter of credit places an obligation on the issuing bank to pay subject to the physical presentation of compliant documents, the BPO places a similar obligation on the issuing bank (the Obligor Bank) to pay subject to the electronic presentation of compliant data.

The execution of a BPO-based transaction relies in practice upon the consistent interaction of three components. The first is a set of structured messages to support the exchange of data in accordance with predefined standards. The second is a platform to support the matching of the data in accordance with a predefined workflow. The third is a set of rules to support uniformity of practice and thus promote universal adoption, just as the UCP has successfully supported uniformity of practice in the universal adoption of documentary letters of credit.

Every student of trade finance will know that the term "letter of credit" is derived from the Latin accreditivus, meaning "a power to do something". The Bank Payment Obligation empowers us to take the business of trade finance to another level and to give birth to a whole new tradition for the next generation of trade financiers.

In this book, we will closely examine the above-mentioned three components of standards, platform and rules. We will look at the ways in which these three components must interact and complement one another in order to facilitate the successful completion of a BPO transaction. We will discuss workflow and provide some examples of how a Bank Payment Obligation may be applied in practice to support a variety of value propositions such as pre-shipment and post-shipment finance. As such, this work is designed not only to guide practitioners in their interpretation of the Uniform Rules for Bank Payment Obligations but also to provide substance to the practical application of the BPO in the context of real life business scenarios.



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April 2013

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