

CDCS and CSDG Points Applied For

Law Society CPD Points Applied For

New Program

Legal FAQs on L/Cs, SBLCs, Bank Guarantees, Receivables Finance & PRC Injunctions

A survival kit for

**Bankers - Risk, Product, Credit Admin., Relationship, Operations, Legal, Compliance & Audit
Regulators, Lawyers, Accountants, Finance, Credit Control, Shipping & Logistics Managers**

Unique features:

1. By way of case studies, equip you with succinct and precise answers to questions frequently raised by credit and risk, products, operations as well as legal and compliance departments.
2. You will be able to master the **latest cases and legal principles** and apply the same to your transactions after attending this interactive and practical workshop.

Highlights:

A. The latest L/C, Standby L/C & Guarantee Injunction and Trade Fraud Cases in PRC

1. In 2015 and 2016, a number of PRC banks instructed various banks (located outside PRC) to re-issue local guarantees which are subject to foreign laws and jurisdictions. The applicant of the counter-guarantee in PRC then applied for injunctions in PRC courts prohibiting the counter-guarantee issuing banks from honouring the foreign banks' claims. Such injunctions also prohibited the foreign banks from honouring drawings received from local beneficiaries. It is dubious whether PRC courts are entitled to grant such injunctions, not to mention that such injunctions would seriously undermine the integrity of PRC counter-guarantees. The choice of governing law and jurisdiction would be discussed thoroughly in this workshop.
2. The Qingdao warehouse scam is still unresolved but an English court has already ruled on the position of a fraudulent warehouse receipt under a repo transaction. Many banks have concerns about the credit and operation controls of warehouse receipt financing and calling warehouse receipts under L/Cs. By unraveling how the fraudsters design the scam, banks may detect and mitigate the risks of triangular trade, switching bills of lading, forged bills of lading and long tenor L/Cs designed for interest or foreign exchange arbitrage.
3. An update on the PRC L/C injunction cases and the implementation of the L/C Law & Practice (關於審理信用證糾紛案件若干問題的規定) promulgated by the Supreme People's Court in 2006. The attitude currently adopted by PRC courts in handling alleged fraud cases has important impact on your transaction structuring and control.

B. What constitutes an L/C negotiation

This has become a highly controversial issue in recent L/C injunction cases adjudicated in PRC courts:

1. What are the differences among negotiation, prepayment, purchase, discounting and 押匯?
2. Can negotiation be performed after the issuing bank has accepted the documents?

3. Is it a prerequisite to specify in the covering letter that the presenting bank has negotiated the documents?
4. Is it a must for the negotiating bank to accept the nomination in writing?
5. Is partial negotiation acceptable?
6. How to determine whether a negotiation is made in good faith?
7. Is L/C acceptance only applicable to acceptance but not negotiation L/C?
8. How to draft the related documents (agreement, application forms, advices and covering letter) in order to secure the negotiating bank status?

C. Receivables Finance

1. What are the key differences between export invoice discounting and factoring, negotiation and assignment, assignment by way of purchase and by way of security?
2. When is registration required? Is factoring truly without recourse and considered off balance sheet?
3. Ramifications between disclosed and undisclosed factoring – a deciding factor in recovery process
4. Effective and practical ways to give a notice of assignment - is obtaining an acknowledgement necessary?
5. How to deal with prohibition of assignment and convince a buyer that selling receivables to banks does not mean a deterioration of financial position of the seller?
6. Differences in rights between a loss payee and a co-insured

Speaker:

Mr. King-Tak FUNG (e-mail: kt.fung@shlegal.com)

- Banking & Finance Partner at Stephenson Harwood specializing in Banking and International Trade Law and Practice
- Co-chair of the ICC Consulting Group on the latest ISBP revision
- Member of the ICC Consulting Group on Forfaiting and UCP 500 Revision
- Member of the Drafting Group on the revision of the ICC Documentary Instruments Dispute Resolution Expertise (“DOCDEX”) Rules
- Technical Advisor to the ICC-HK Banking Committee
- Former Vice President and Head of Trade Finance at Bank of America N.A.
- Trade Finance & Banking Expert Witness in Hong Kong and PRC Courts
- Accredited mediator of HK International Arbitration Centre & the HK Law Society
- Author of "UCP 600 - Legal Analysis & Case Studies" (2008) and “Leading Court Cases on Letters of Credit” (2005)

KT will address all the commonly asked questions on the above topics that he has accumulated from various banks, credit insurance companies as well as buyers and sellers in past years. He has been handling a number of the counter-guarantee/standby cases and dozens of PRC fraud and injunction cases in both Hong Kong and PRC courts. He will share with you insight in all these tricky issues.

Logistics:

- Date:** 15 April, 2016 (Friday) – Cantonese session
18 April 2016 (Monday) – English session
- Time:** 2:15 pm – 6:00 pm followed by a cocktail reception
- Venue:** Stephenson Harwood
18/F., United Centre, 95 Queensway, Hong Kong
- Co-organizers:** ICC-Hong Kong (ICC-HK) and P.E.E.R. Consultancy Ltd. (P.E.E.R.)
- Cancellation:** There will be no refund for cancellation of booking initiated by the applicant. However, the registration may be transferred to another person from the same company or organization at no extra charge, subject to the prior consent of ICC-HK and P.E.E.R.
- Seat Confirmation:** Seat confirmation is based on receipt of payment on a first come, first served basis
- Enquiry:** Contact Ms. Kokko Ko at Tel: 2973 0060 or e-mail to: publn@icchkcbc.org

Registration fees:

- ❖ *Fee includes course attendance, materials, refreshments and cocktail reception*
- ❖ *You will enjoy early bird discount if you register and pay on or before **2 April, 2016.***

- ❖ **HK\$ 2,800/person** (*regular*)
- ❖ **HK\$ 2,500/person** (*“early-bird” for public*)
- ❖ **HK\$ 2,400/person** (*“early-bird” for ICC-HK members*)
- ❖ **HK\$ 6,600/group** (*“early-bird” for a group of 3 persons from the same company, HK\$2,200 for each extra registrant in the same company*)
- ❖ **HK\$ 6,300/group** (*“early-bird” for a group of 3 persons from ICC-HK members, HK\$2,100 for each extra registrant in the same company*)
- ❖ **HK\$ 19,000/group** (*“early-bird” for a group of 10 persons from the same company, HK\$1,900 for each extra registrant in the same company*)

Reference Book: (optional)

"UCP 600 - Legal Analysis and Case Studies" by King Tak FUNG, ICC Publication No.1000C

Unit price at HK\$1,000/copy, special discount for workshop attendees at HK\$900/copy

By way of Q & A technique, this book addresses 99 highly controversial trade finance issues and analyzes 55 landmark court cases and unpublished banking cases. This book contains a total of 12 chapters including PRC L/C Law & Practice, Fraud & Injunctions and **Standby L/Cs - UCP 600 and ISP98 Compared.**

The majority of these unpublished cases involved KT himself either as a banker or a legal practitioner which cannot be found in any other source or commentary.

REGISTRATION FORM

Subject:	Legal FAQs on L/Cs, SBLCs, Bank Guarantees, Receivables Finance & PRC Injunctions
Date:	Please select the date: “√” 15 April, 2016 (Friday, Cantonese session) <input type="checkbox"/> 18 April, 2016 (Monday, English session) <input type="checkbox"/>
Time:	2:15pm – 6:00pm (followed by a cocktail reception)
Venue:	Stephenson Harwood, 18/F., United Centre, 95 Queensway, Hong Kong
Points:	CDCS, CSDG and Law Society CPD points applied for

Please return this form to:
Fax: 2869 0360, or e-mail to publn@icchkcbc.org
for seats reservation.
Enquiry:
Ms Kokko Ko at
Tel: 2973 0060

Company: _____ Date: _____

Address: _____

As a matter of our practice, we intend to use your personal data provided by you and set out in this form for direct marketing of the services of International Chamber of Commerce - Hong Kong and P.E.E.R. Consultancy Ltd. in relation to banking and financial services, arbitration, e-commerce, trade and investment, environment, competition, intellectual property and protection of the business interests of Hong Kong. However, we cannot so use your personal data without your consent.

Pursuant to Personal Data (Privacy) Ordinance, you have the right to ascertain whether we hold any of your personal data, access to such personal data and request us to correct such personal data.

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- Registration Fee:**
- *Fee include course attendance, materials, refreshments and cocktail reception.*
 - *You will enjoy early bird discount if register and pay on or before **2 April, 2016.***

- | | |
|--|--|
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| ➢ HK\$2,800/person (regular fee) | ➢ HK\$ 2,200/person (early bird for 3 participants +) |
| ➢ HK\$2,500/person (early bird for public) | ➢ HK\$ 2,100/person (early bird for 3 participants + for ICC-HK member) |
| ➢ HK\$2,400/person (early bird for ICC-HK member) | ➢ HK\$ 1,900/person (early bird for 10 participants +) |

	Participant's information	Participant's information	Participant's information
Name			
Position			
Department			
Tel No.			
E-mail			
Signature			

(E-mail address must be filled in. For extra participants over 3, please use a new registration form)

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