

*New Program*

**6.5 CDCS PDU's**  
**6.5 CPD Points Applied**



**P.E.E.R. Consultancy Ltd.**

*Practical, Educational, Entertaining & Rewarding*

International Chamber of Commerce - Hong Kong, China 國際商會-中國香港區會

*The world business organization*

## **New Uniform Rules for Demand Guarantees (“URDG”) - Legal Analysis, Processing Procedures, Case Studies & Model Forms**

**A survival kit for**

**Bankers (Risk Management, Product, Relationship, Operations & In-house Counsel),  
Lawyers, Project Managers, Importers & Exporters**

### **Background:**

1. Effective 1 July 2010, the new URDG (ICC Publication No. 758) will replace the old URDG 458 and will provide clear guidelines and operation procedures on drafting, processing and the relevant legal ramifications of demand guarantees.
2. This new program, by way of case studies and comparison with UCP 600 and ISP98, will provide a complete analysis of the changes, legal principles and proper procedures in issuing and drawing demand guarantees and standby L/Cs. This workshop will substantially reduce the risks and burden of bankers, lawyers and corporations in drafting, negotiating, issuing and reviewing such irrevocable payment undertakings.

### **Highlights:**

1. What are the contractual relationships between a counter-guarantee and the corresponding demand guarantees? What are the implications if the governing laws and jurisdictions of the counter-guarantee and corresponding demand guarantees are different?
2. Are guarantees, which are subject to URDG, independent of the underlying contract(s), goods, services and performance? What are the differences between a guarantee with primary obligation and a surety?
3. How to draft contents of a demand guarantee under URDG including variation of amount and evergreen clauses? How to determine whether amendments to a guarantee have taken effect?
4. How to determine whether a presentation under a demand guarantee is complying or not?
  - May a presentation indicate that it is to be completed later?
  - May a presenter adopt other modes of delivery e.g. use courier instead of air mail?
  - May the language of a presented document be in any language?
  - What are the prescribed requirements of a demand for payment?
  - What is the maximum time limit that a guarantor must complete examination of a presentation?
  - Key issues - dates of documents, signatures, data conflict, partial demand and multiple demands etc.
5. What are the new procedures in handling non-complying demands and non-documentary conditions?
6. How to handle an “extend or pay” demand in respect of suspension of payment, advice to instruction party, refusal of extension by the instructing party or guarantor?

7. Under what situations will a guarantee be considered as terminated? How about an open-ended guarantee which bears no expiry date?
8. What are the new provisions of URDG in respect of force majeure events, re-calculation of figures under a formula stated in a guarantee and declaration of breach in a demand?
9. How to handle a transfer of guarantee to another party (this is a new provision under URDG)? What are the differences between a transfer of guarantee and an assignment of guarantee proceeds? May a guarantor refuse to recognize an assignment of guarantee proceeds?
10. Comparison with ISP98 (a set of international rules applicable to standby L/Cs and guarantees) and UCP 600 (another set of international rules applicable to standby L/Cs). How to determine which set of rules best meet your clients' needs?
  - Interpretation of non-documentary conditions, branches of issuer, separateness of each presentation and independence principle;
  - Language of documents, standards of documents examination and "extend or pay" procedures;
  - Refusal notice, termination, force majeure, transfer and assignment of proceeds;
  - Governing law and jurisdiction issues
11. Case studies on
  - Overdrawing of a demand guarantee - liable in conversion? (Uzinterimpex JSC v Standard Bank (England))
  - Secondary or primary payment obligations? - (Marubeni Hong Kong & South China Ltd. v Mongolia (England))
  - Independent guarantee - Is the guarantor obligated to pay even if the beneficiary has defaulted in the underlying contract? (Edward Owen Engineering Ltd. v Barclays Bank International Ltd. (England))
  - Applicable governing law - Hong Kong or PRC law? (China Reliance Finance Co. Ltd. v China Merchants Bank (Hong Kong))
  - Automatic extension of expiry clause (3Com Corp v Banco Do Brasil (USA), AXA Assurances Inc. v Chase Manhattan Bank (USA))

## **Speakers :**

### **1. Mr. Fung King Tak**

- Partner of Stephen Mok & Co./Eversheds specializing in Banking and International Trade Law and Practice
- One of the three private practice lawyers to be members of the ICC Consulting Group on UCP 500 Revision
- Expert of ICC Documentary Instruments Dispute Resolution Expertise ("DOCDEX") Rules
- Former Vice President and Head of Trade Finance at Bank of America N.A.
- Trade Finance & Banking Expert Witness in Hong Kong Courts
- Accredited mediator of HK International Arbitration Centre
- Member of the Banking Committees of ICC - HK, China
- Author of "UCP 600 - Legal Analysis & Case Studies" and "Leading Court Cases on Letters of Credit"

### **2. Mr. Michael Yau**

- Partner of Stephen Mok & Co./Eversheds specializing in Banking and International Trade Law and Practice
- Specialist in drafting and enforcing Guarantees and Standby L/Cs, Factoring and A/C Receivables Financing, Debt Recovery, Inventory Finance, Trade Dispute Resolution, Structured Trade Finance, Security Taking and Enforcement



**Logistics :**

- Date :** 27 February 2010 (Saturday)
- Time :** 9:00 a.m. – 5:00 p.m.
- Venue :** Intercontinental Grand Stanford Hong Kong Hotel, 70 Mody Road, Tsimshatsui East, Kowloon, Hong Kong
- Medium :** Cantonese with an English Workbook
- Registration:** Please return the registration form together with the cheque / bank transfer receipt to:  
Unit 1612, Tower II, Grand Central Plaza,  
138 Sha Tin Rural Committee Road, Shatin, N.T., HK  
OR Fax to: **2869 0360.**
- Early Bird Discount :** Only if you register and pay on or before **8 February 2010.**
- Cancellation :** There is 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.
- Seat Confirmation :** Seat confirmation is based on receipt of payment on a first come, first served basis.
- Enquiry :** Contact Ms Christy Li at TEL: 2973 0060 or e-mail to : **publn@icchkcbc.org**
- Complementary book:** Each participant will receive a **free** copy of **“ICC Uniform Rules for Demand Guarantees, URDG 758, including Model Forms.** Regular price of this book : **HK\$370 per copy.**
- Reference Book:** "UCP 600 - Legal Analysis and Case Studies"  
**Author :** Fung King Tak
- Topics :**
1. Contracting Parties
  2. Amendments & Confirmation
  3. Availability, Nomination & Presentation
  4. Document Examination & Refusal
  5. Transport Documents & Control Over Goods
  6. Insurance Documents
  7. Transferable L/Cs
  8. Assignment of Proceeds
  9. Standby L/Cs
  10. Trade Finance Risks
  11. Fraud & Injunctions
  12. The Latest L/C Law & Practice in the PRC
- Special Features :** By way of Q & A technique addressing 99 highly controversial trade finance issues and analyzing 55 landmark court and banking cases.
- Price:** HK\$900 per copy **Special discount for workshop attendees: HK\$700 per copy**
- Publisher:** P.E.E.R. Consultancy Ltd. Tel. 852-2543 3312 Email: [info@peer.com.hk](mailto:info@peer.com.hk)



**REGISTRATION FORM**

**Please return to :**  
**ICC – HK**  
Unit 1612, Tower II,  
Grand Central Plaza,  
138 Sha Tin Rural Committee Road,  
Shatin, N.T., HK  
OR, fax to: 2869 0360,  
OR, e-mail to [publn@icchkcbc.org](mailto:publn@icchkcbc.org)

**Date :** 27 February, 2010 (Saturday)  
**Time :** 9:00am – 5:00pm  
**Venue :** Intercontinental Grand Stanford Hong Kong Hotel,  
70 Mody Road, Tsimshatsui East, Kowloon, Hong Kong  
**Medium :** Cantonese with an English workbook

**Subject :** “New Uniform Rules for Demand Guarantees (URDG 758)”

**Name :** Mr / Ms (Family name) \_\_\_\_\_ (First name) \_\_\_\_\_

**Position :** \_\_\_\_\_ **Department:** \_\_\_\_\_

**Company :** \_\_\_\_\_

**Address :** \_\_\_\_\_

**Telephone :** \_\_\_\_\_ (Mobile) **Fax :** \_\_\_\_\_

**E – mail :** \_\_\_\_\_

*(Please provide the direct e-mail address of each participant)*

**Registration Fee :** Please tick (√) the appropriate fee :  
**Each participant will receive a free copy of “ICC Uniform Rules for Demand Guarantees” - URDG 758, including Model Forms. Regular price of this book : HK\$370 per copy.**

- HK\$ 4,000/person** (regular)
- HK\$ 3,700/person** (“early-bird”- if register and pay on or before 8 Feb. 2010)
- HK\$ 3,600/person** (ICC-HK members)
- HK\$ 3,400/person** (“early-bird” for ICC-HK members - if register and pay on or before 8 Feb. 2010)
- HK\$ 9,900/group** (for a group of 3 persons from the same company, **HK\$3,300** for each extra registrant in the same group - if register and pay on or before 8 Feb. 2010)

*(please supply the name and e-mail address of each participant in the group)*

**Extra Book Order :**  
1. **HK\$315** x \_\_\_\_\_ copies of “Uniform Rules for Demand Guarantees, URDG 758”  
2. **HK\$700** x \_\_\_\_\_ copies of “UCP 600 - Legal Analysis and Case Studies”  
= **HK\$** \_\_\_\_\_ (total)

**Methods of Payment :**  
By cheque made payable to “Int’l Chamber of Commerce – HK, China”  
By bank transfer to: “HSBC, No. 1, Queen’s Road Central, Hong Kong, Account No: 500-423736-001”

**CDCS PDU :**  Required **HK Law Society’s CPD Points :**  Required

**Please return this registration form together with the cheque or copy of bank transfer receipt.**