

**CDGS, CSDG, CSCF and CTFC 3 PDU points granted**

**Zoom workshop  
- New program**

## **International Standard Demand Guarantee Practice ("ISDGP") Legal Analysis and Case Studies – for URDG 758**

**Tailor-made for**  
**Financiers (Risk, Operations, Credit Administration, RMs, Products, Legal & Compliance)**  
**Importers and Exporters (Shipping, Logistics, Sales, Accounting & Finance Officers)**  
**Insurers, Regulators and Lawyers**

### **Key objectives:**

1. ISDGP, promulgated on 31 March 2021, is a statement of best international practice when applying the ICC Uniform Rules for Demand Guarantees 758 ("URDG").
2. Unlike the UCP 600 International Standard Banking Practice, ISDGP addresses various practical and legal issues such as set-off, subrogation, automatic extension, force majeure, transfer by operation of law, assignment of proceeds, fraud, court orders and sanctions...
3. This workshop will provide detailed analysis (comparison between URDG, ISP98 and UCP 600), case studies and suggested solutions to the practical problems encountered by the guarantee-related parties.

### **Content highlights:**

1. Drafting the Guarantee
  - Pitfalls in "demand statement" drafting and making references to the underlying contract in the guarantee or counter-guarantee
  - Proper interpretation of "Guarantor's own record", proper drafting of "electronic presentation clause" and the binding effect of "documents counter-signed by applicant"
  - Is a demand guarantee "unconditional" in nature?
  - Is confirmation of a guarantee allowed under URDG?
  - How can an issuer resolve the conflict of law and jurisdiction between a guarantee and a counter-guarantee under the default position of URDG (Articles 34 and 35)?
2. Payment
  - What is the time limit to effect payment once the guarantor determines a demand is complying?
  - May a guarantor apply set-off right against the beneficiary?
  - May a guarantor subrogate in the beneficiary's rights against the applicant after payment?
  - Under what circumstances may a guarantor effect payment without a demand?

### 3. Rejection and expiry of a guarantee

- Proper wording to be used in a rejection notice
- Standard examination practice in respect of corrections made to non-complying documents
- Landmark court cases on automatic extension of guarantee and drafting tips

### 4. Legal issues

- Force majeure – is pandemic or sanctions a force majeure event? What should the parties do when no documents can be physically delivered to the guarantor?
- Transfers – is partial transfer allowed under URDG? Should a demand be signed by the transferor or transferee? Best practice in handling a transfer by operation of law.
- Assignment of proceeds – what are the differences between a transfer and an assignment of proceeds? If the guarantor has not agreed to the assignment, may the applicable law override such contractual provision? Legal analysis on "ban on assignment" clause.
- Fraud and injunction – Best practice in handling a fraudulent demand, an illegal or abusive drawing or an injunction prohibiting the guarantor from effecting payment against a complying demand?
- Sanctions clauses – in-depth analysis on the structure and drafting of sanctions clauses and ramifications and mitigating factors in waiving the insertion of a sanctions clause in a guarantee.

## **Speaker:**

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

- Partner of Stephenson Harwood specializing in Banking and International Trade Law and Practice
- Arbitrator and expert witness on credit insurance disputes
- Vice Chairman and Technical Advisor to ICC-HK Trade-based AML Sub-committee
- Co-chair of the ICC Consulting Group on the last ISBP revision (2013)
- 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 and a panel DOCDEX expert
- 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
- Member of the Academy of Experts on Banking and Structured Trade Finance
- 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)

Mr Fung has advised dozens of financial institutions on bank guarantees, standby LCs and commercial LCs drafting and dispute resolution. He has conducted over 900 legal and banking workshops in Asia, Australia, Middle East, Europe, North and South America. Over 90,000 judges, lawyers, bankers and business executives have attended his highly interactive workshops with excellent feedback.

## **Logistics:**

- Date:** 30 November, 2021 (**Tuesday**)
- Time:** 9:30 am – 12:45 pm
- Medium:** Cantonese
- Co-Organisers:** ICC-Hong Kong (ICC-HK), P.E.E.R. Consultancy Ltd. (“P.E.E.R.”)
- Zoom meeting:** You may attend the session through computer, iPad or mobile phone, easy and simple. (**Suggest to use computer for better connection**)
- 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, P.E.E.R.
- Seat Confirmation:** Seat confirmation is based on receipt of payment on a first come, first served basis
- Enquiry:** Contact Ms. Ling Cheng / Connie Kwok at [Tel: 2543 2668](tel:25432668) or e-mail to: [publn@icchkcbc.org](mailto:publn@icchkcbc.org).

## **Registration fees:**

- ❖ *You will enjoy early bird discount if you register and pay on or before **19 November 2021**. Registration Deadline for Workshop is **24 November 2021**. Successful registrants will receive a **link and password** confirming their attendance by email, WhatsApp or WeChat.*
- ❖ *Registration fee for each workshop:*
  - ❖ **HK\$ 2,000**/person (regular)
  - ❖ **HK\$ 1,800**/person ("early-bird" for public)
  - ❖ **HK\$ 1,700**/person ("early-bird" for ICC-HK members)
  - ❖ **HK\$ 1,700**/person ("early-bird" for company registration with 5 persons+)
  - ❖ **HK\$ 1,600**/person ("early-bird" for company registration with 5 persons+ for ICC-HK members)

## **Reference Book (e-copy): (optional)**

**"International Standard Demand Guarantee Practice for URDG 758"** ICC Publication No. 814E  
*Unit price at HK\$170/e-copy, special discount for workshop participants at HK\$145/e-copy*

\*\*\* After the workshop, an e-book link will be sent by ICC-HK to those participants who ordered it through the registration form.