

UNCITRAL webinar - International Experiences with the Dematerialisation of Negotiable Transport Documents



United Nations
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**MLETR in Banking:
Focus on Letters of Credit**

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Banking

- Banks have embraced Electronic Commerce
- SWIFT (Society for Worldwide Interbank Financial Telecommunications)
- Personal and Merchant Banking
- Payment Systems

Letters of Credit

- Commercial Letters of Credit
 - “The lifeblood of international commerce” – “as being equivalent to cash in hand”
- Banks as Intermediaries
- Management of Risk in International Trade
- Documentary Credits
- An Irrevocable Independent Obligation by banks to “Honour” on receipt of Complying documents.




Uniform Customs and Practice for Documentary Credits

- **UCP 600** - July 2007 - International Bankers in more than 175 countries - International Chamber of Commerce (ICC)
- “Truly Universal Normative Usage” (Professor Kozolchyk)
- **eUCP** - 2019

- 11-15% of International Trade Worldwide
- 50% in Asian region
- In excess of **US\$6.3 Trillion** annually

3RD QUARTER 2020

Rank	Institution	City	State	Net Financial Standby LCs	Net Performance Standby LCs	Net Standby LCs	Commercial & Similar LCs	Net Letters of Credit
1.	CITIBANK NA	SIOUX FALLS	SD	64,526,000	10,505,000	75,031,000	4,508,000	79,539,000
2.	WELLS FARGO BANK NA	SIOUX FALLS	SD	67,142,000	3,438,000	70,580,000	1,340,000	71,920,000
3.	JPMORGAN CHASE BANK NA	COLUMBUS	OH	52,245,000	5,193,000	57,438,000	3,511,000	60,949,000
4.	BANK OF AMERICA NA	CHARLOTTE	NC	33,095,000	3,341,000	36,436,000	1,191,000	37,627,000
5.	U S BANK NA	CINCINNATI	OH	8,754,644	1,083,590	9,838,234	479,317	10,317,551
6.	HSBC BANK USA NA	TYSONS	VA	6,201,991	3,027,339	9,229,330	199,974	9,429,304
7.	PNC BANK NA	WILMINGTON	DE	7,628,494	1,451,214	9,079,708	179,750	9,259,458
8.	TD BANK NA	WILMINGTON	DE	7,467,907	486,778	7,954,685	14,615	7,969,300
9.	TRUIST BANK	CHARLOTTE	NC	4,000,000	481,000	4,481,000	43,000	4,524,000
10.	MUFG UNION BANK NA	SAN FRANCISCO	CA	3,754,952	331,093	4,086,045	13,155	4,099,200
11.	MORGAN STANLEY BANK NA	SALT LAKE CITY	UT	4,078,000	0	4,078,000	0	4,078,000
12.	GOLDMAN SACHS BANK USA	NEW YORK	NY	3,149,000	235,000	3,384,000	0	3,384,000
13.	STATE STREET BK&TR CO	BOSTON	MA	3,240,000	0	3,240,000	0	3,240,000
14.	COMERICA BANK	DALLAS	TX	2,874,000	237,000	3,111,000	28,000	3,139,000
15.	SILICON VALLEY BANK	SANTA CLARA	CA	2,797,796	114,556	2,912,352	2,044	2,914,396
16.	BMO HARRIS BANK NA	CHICAGO	IL	2,415,840	299,693	2,715,533	76,283	2,791,816
17.	KEYBANK NA	CLEVELAND	OH	2,181,269	269,442	2,450,711	46,698	2,497,409
18.	MANUFACTURERS&TRDRS	BUFFALO	NY	1,877,867	476,932	2,354,799	32,537	2,387,336
19.	CITIZENS BANK NA	PROVIDENCE	RI	2,023,372	68,973	2,092,345	39,612	2,131,957
20.	EAST WEST BANK	PASADENA	CA	1,993,061	35,932	2,028,993	72,303	2,101,296
21.	BNY MELLON	NEW YORK	NY	1,885,000	67,000	1,952,000	87,000	2,039,000
22.	NORTHERN TRUST CO	CHICAGO	IL	1,838,202	127,603	1,965,805	46,948	2,012,753
23.	FIFTH THIRD BANK NA	CINCINNATI	OH	1,094,006	801,086	1,895,092	5,377	1,900,469
24.	REGIONS BANK	BIRMINGHAM	AL	1,175,000	292,000	1,467,000	41,000	1,508,000
25.	BANK OF THE WEST	SAN FRANCISCO	CA	1,158,839	205,403	1,364,242	51,028	1,415,270
26.	SANTANDER BANK N A	WILMINGTON	DE	654,039	508,673	1,162,712	16,694	1,179,406
27.	CAPITAL ONE NA	MCLEAN	VA	1,087,483	29,735	1,117,218	2,920	1,120,138
28.	BBVA USA	BIRMINGHAM	AL	746,218	85,208	831,426	101,551	932,977
29.	CITY NATIONAL BANK	LOS ANGELES	CA	784,167	52,023	836,190	94,404	930,594
30.	FIRST REPUBLIC BANK	SAN FRANCISCO	CA	926,305	0	926,305	0	926,305
31.	BOKF NA	TULSA	OK	758,076	30,663	788,739	1,158	789,897
32.	FIRST HORIZON BANK	MEMPHIS	TN	684,061	56,498	740,559	1,719	742,278
33.	ZIONS BCORP N A	SALT LAKE CITY	UT	516,552	178,419	694,971	14,127	709,098
34.	CIBC BANK USA	CHICAGO	IL	583,205	108,985	692,190	8,957	701,147
35.	SIGNATURE BANK	NEW YORK	NY	652,705	0	652,705	22,730	675,435
36.	MIZUHO BANK USA	NEW YORK	NY	454,010	146,294	600,304	0	600,304
37.	HUNTINGTON NATL BK	COLUMBUS	OH	490,541	79,357	569,898	11,461	581,359
38.	NEW YORK COMMUNITY BK	HICKSVILLE	NY	367,387	3,341	370,728	18,950	389,678
39.	DEUTSCHE BK TR AMERICAS	NEW YORK	NY	350,000	17,000	367,000	1,000	368,000
40.	UMB BANK NA	KANSAS CITY	MO	362,157	0	362,157	1,155	363,312

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- UCP600 Article 5:
 - Banks deal with **documents** and not with goods, services or performance to which the documents may relate.
 - **Principle of Independence** (Principle of Autonomy)




Documents in Documentary Credits (International Trade)

- Commercial Invoice
- Bill of lading (or other Transport documents)
- Certificate of Inspection
- Maritime Insurance Certificate
- Export Certificate ...
- Warehouse Receipts – Dock receipts ...



Model Law of Electronic Transferable Records


- Confidence
- Trust
- Reducing Risk
- Mutually Acceptable

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- Many documentary issues resolved by:
 - *Model Law of Electronic Commerce* (1996)
 - *UN Convention on the Use of Electronic Communications in International Contracts* (2005) (ECC)
 - ECC - Article 2(2)
 - This Convention does not apply to bills of exchange, promissory notes, consignment notes, bills of lading, warehouse receipts or any transferable document or instrument that entitles the bearer or beneficiary to claim the delivery of goods or the payment of a sum of money.



Model Law of Electronic Transferable Records

- *Considering* that **uncertainties** as to the legal value of **electronic transferable records** constitute an obstacle to international trade,
- *Convinced* that legal certainty and commercial predictability in electronic commerce will be enhanced by the harmonization of certain rules on the legal recognition of **electronic transferable records** on a technologically neutral basis and according to the functional equivalence approach,

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- “**Transferable document or instrument**” means a document or instrument issued on paper that entitles the holder to claim the performance of the obligation indicated in the document or instrument and to transfer the right to performance of the obligation indicated in the document or instrument through the transfer of that document or instrument.
 - **Functional Equivalence**
 - Possession = Exclusive Control
 - Delivery = Transfer of Control
 - [Reliability Standard]

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- Conservative Nature of Banks
 - Met by strong unified laws
 - UNCITRAL enhances the facilitation of International Trade

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