



International Chamber of Commerce

The world business organization

ICC Banking Commission guidelines for dealing with queries that could be the subject of court action

Approved at the meeting of the Commission in Paris, 16-17 May 2001

Because there has been some confusion about whether the ICC Banking Commission will provide Opinions on queries that concern matters that could be, or that are the subject of court action, the Commission wishes to clarify its position as following:

Guiding principle:

The Banking Commission will only respond to the facts in any query as they are presented to the Commission. If the facts do not reflect the actual circumstances of the case or dispute, that is not a matter for the Banking Commission, but for the courts or other legal bodies to decide, if the dispute later results in a court action.

Disputes which could become the subject of court action

- *If, to the knowledge of the Banking Commission, no court case has been filed, or whether or not a dispute could later become a matter for court action, the Banking Commission may, if requested, provide an Opinion concerning the facts of said dispute as they are presented to the Commission. The Commission is not responsible for determining which disputes may or may not later become matters for a court to consider, nor is it responsible for determining whether the facts, as presented to it, are an accurate reflection of the circumstances of the case.*

Disputes in which a court case has been filed or in which a case is on appeal

- *If it is known to the Banking Commission that a court case has been filed, the Banking Commission will not consider a query based on the facts relating to that case. This will be Commission policy even if the facts (if recognized) as presented are stated in a general way and are not said by the questioner to relate to a specific case a court has been asked to decide. The controlling words in this regard, written at the end of Commission Opinions, are as follows: "If this query relates to a matter currently under consideration by the courts, the ICC Banking Commission will refrain from considering it for adoption as an Opinion." (Emphasis added)*
- *If a court case has been decided, and the matter in question is on appeal, or could possibly be the subject of appeal to a higher court, and known to the Banking Commission, the Commission will not consider a query based on the facts relating to that case.*

Disputes in which a court has ruled and no further court action is contemplated

- *If a court has decided a case, and if no further court action is contemplated, the Commission may provide an Opinion based on the facts of that case, as those facts are presented to it, provided that the request for an Opinion is not made by a party to the case.*

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