

ICC unveils new rules for demand guarantees

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In an effort to provide greater financial security following the global recession, the International Chamber of Commerce (ICC) today unveiled an extensively revised version of the Uniform Rules for Demand Guarantees (URDG), which will be instrumental in adopting uniform practices in trade finance.

The revised URDG rules are the latest example of ICC's leadership in writing rules that govern some \$14 trillion of international trade. Since its founding in 1919, one of ICC's primary missions has been to write rules to facilitate cross-border trade and investment.

Today, ICC rules are globally accepted in the fields of banking, customs, marketing, advertising and trade finance.

"The present revision of the URDG rules does not merely update the existing rules," said ICC Chairman Victor K. Fung. "It is the result of an ambitious project to create new rules for the 21st century that are clearer, more precise, and more comprehensive."

"The new rules also offer the fairest balance yet between the parties' competing interests and do so in innovative ways not yet covered by other ICC rules," Mr Fung added.

The revised rules, which were first adopted by ICC in 1992, reflect international practice in the use of demand guarantees and provide safeguards against abuse in the calling of such guarantees.

"The new rules are destined to become the international standard for demand guarantee practice," remarked Georges Affaki, a member of the Executive Committee and Head of Structured Finance Legal Affairs at BNP Paribas, who chaired the ICC group that drafted the new version following two-and-a-half years of close consultation among all sectors of trade, finance, and industry across the world.

"They level the playing field among demand guarantee issuers and users regardless of the legal, economic or social system in which they operate," Mr Affaki added.

In 35 articles, the URDG set out the liabilities and responsibilities of the parties; the nature of a demand; the expiry circumstances; and the governing law jurisdiction for the guarantee or counter-guarantee. Each rule is concisely expressed and easy to understand.

The URDG apply to all guarantees, from those payable on simple written demand, to those requiring the presentation of a judgment or arbitral award. They also apply to intermediate forms of guarantees such as those requiring a statement of default by the beneficiary with or without an indication of the nature of the default.

Demand guarantees are irrevocable undertakings, independent from underlying contracts, issued by a guarantor on the instructions of an applicant to pay the beneficiary any sum that may be demanded up to a maximum amount determined in the guarantee.

Whereas a documentary credit assures the exporter of being paid upon the presentation of complying documentation showing that shipment is made, a demand guarantee provides protection to the importer against non-performance, or late or defective performance, by the exporter.

In recent years, the URDG have gained increasing worldwide acceptance. They were adopted by the International Federation of Consulting Engineers in their model guarantee forms and later by

the World Bank. National lawmakers have taken the URDG as a model for independent guarantee statutes.

The revision of the URDG has been carried out by the ICC Banking Commission and the ICC Commission on Commercial Law and Practice, which are made up of representatives from companies around the world.

To purchase the Uniform Rules for Demand Guarantees (URDG) please [click here](#)

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