

UPDATES



ISBP vs. ISBP

To the surprise of no one, voting ICC National Committees approved by the nearly unanimous margin of 87 to 1 (Singapore the lone dissenting vote) a revision of the International Standard Banking Practice (ISBP 2013) at the ICC Banking Commission Meeting in Lisbon, Portugal, on 17 April.

Instead, the surprise may come when the banking community probes deeper into the ICC's statement that this freshly approved ISBP text has no implementation date. It appears that it has been with us since July 2007 when UCP600 entered into force – even though we did not know it until now. Unlike UCP600 which is comprised of rules whose effect comes from being expressly incorporated into a LC, ISBP is intended to constitute practice standards to complement those rules. The ICC's expectation is that ISBP reflects practice under UCP600. As such, parties should already be utilizing it in their daily documentary credit activities.

Dangers Lurk. A great deal of ISBP (2013) is aligned with ISBP (2007) and is useful in interpreting UCP600. However, applying it is problematic when there are differences between ISBP 2007

and ISBP 2013, as is the case in several instances.

What Version to Use and When? Problems also arise when new formulations are made with respect to decisions made prior to the approval of ISBP 2013. Some possibilities include the ISBP in place: at time of issuance of the credit; when the beneficiary presented; or when documents are examined. But the approach of the ICC Banking Commission suggests that ISBP 2013 constitutes the definitive expression of practice.

If You Refuse, How? It is uncommon – and discouraged – for credits to be issued subject to ISBP. With this in mind, can a bank refuse a presentation based on a provision in ISBP that is not reflected in UCP600?

Does This Draft Comply? At Europe Annual Survey of LC Law & Practice conferences held in London (22 April) and Stockholm (25 April), attention was called to ISBP 2013 Paragraph B14 (Amounts) which differs from ISBP 2007 Paragraph 50 (Amounts). The question is what to do when the written numeration differs from the numeral numeration. The problem of what to do is deepened because there is no provision whatsoever in UCP600 about drafts.