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# WORLD

2016 Year in Review

Top 10 Themes of 2016



## Iran – In or Out of Bounds?

### The Headline:

- US Lifts Nuclear-Related Sanctions on Iran ... Now What?

### Why It Made News:

- Implementation Day in Jan 2016
- Secondary vs. Primary

### Impact:

- A ripple, no splash
- Small regional banks, not int'l banks
- Mixed signals
- Derisked?





## SWIFT – Unauthorized Use

### The Headline:

- SWIFT Asks Banks to be Vigilant Following Cyber Heist Incident

### Why It Made News:

- Bangladesh Bank systems hacked Feb 2016
- USD 951m
- Internal operational fail, not SWIFT system

### Impact:

- Other incidents
- SWIFT Customer Security Programme (May 2016)



## Countering Expansion of the Fraud Exception



### The Headline:

- Unconscionability Claims Excluded in Performance Bonds

### Why It Made News:

- Singapore, Malaysia, Australia
- Singapore courts allowed removal of unconscionability claim as basis to enjoin payment
- The “Asplenium” Clause



### Impact:

- Benes strike back!
- Positive stipulation a response to negative stipulation





## Lessons from Legal Cases

### The Headline:

- **Impossibility: The *Exxon* Case**

### Why It Made News:

- Presentation requirement impossible to comply with prior to LC expiration.
- Exxon tried to draw twice after expiry.
- 1987 case, USD 19.5m standby.

### Impact:

- Issuing badly worded LC for your Applicant is asking for trouble.
- Courts increasingly construe ambiguity against Issuer.



## Sea Containers

### The Headline:

- **Sea Containers: A Primer for Today's Trade Finance Banker**

### Why It Made News:

- **More is expected of bankers**
- **What must / should / could bankers know about containers?**

### Impact:

- **Container types, weights, and numbers could offer clues for fraud and compliance breaches**
- **Knowledge helpful in detecting red flags**





## Strict Compliance

### The Headline:

- **Strict Compliance: How Strict is Strict?**

### Why It Made News:

- UCP, ISBP, isbp, ICC Opinions
- Questions asked worldwide
- Objective decisions and subjective influences

### Impact:

- ICC paper on Strict Compliance principle (May 2016)
- Responses worldwide, within regions inconsistent and hard to explain
- Benes will decide on future use of LCs



## Nominated Banks – Role and Duties

### The Headline:

- What is the relationship between a Nominated Bank and Issuing Bank?

### Why It Made News:

- *Grains* case in Singapore
- Can agency relationship exist between NB & IB?
- What does the Nominated Bank certify to do and when?

### Impact:

- Does ICC need to clarify this relationship?







## Blockchain

### The Headline:

- Can blockchain be the disruptive technology that competes with traditional trade?

### Why It Made News:

- Hype vs. reality
- Its potential for trade finance
- Steps for issuing LC using it

### Impact:

- Transparency, security, efficiency
- Harmonization, or hindrance among stakeholders
- Will it be different?





## Sanctions & Compliance

### The Headline:

- ICC Publication 900?

### Why It Made News:

- Sanctions screening not part of traditional trade operations
- Are banks charging appropriately?
- ICC has tried issuing guidance papers and opinions

### Impact:

- Biggest growth industry within banks
- Sanctions clauses cannot be prohibited
- Following law and using rules



## UCP Revision

### The Headline:

- UCP700 Wish List

### Why It Made News:

- UCP600 rules still appropriate for practice? User-friendly?
- Standbys in or out?
- ISBP in or still separate doc?
- Improvement of other articles

### Impact:

- ICC decision: No ... maybe?
- Massive task. Can it be done right?



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