

# Documentary Credit

# WORLD

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### ■ CORONAVIRUS AND LC PRACTICE

As the world comes to grips with the staggering health and economic impacts of the coronavirus, the letter of credit industry faces serious questions regarding key operational issues such as LC signatures and documentary presentation. Over a one-week period (13-20 March), DCW conducted a survey of LC specialists on the use of digital signatures and their approaches toward other LC procedural matters due to COVID-19. The collected and synthesized survey results are presented here. Reactions to the survey findings are then offered by experienced professionals Buddy Baker, Hugo Verschoren, Don Smith, and Carter Klein. Lawyers Michael Evan Avidon and Rachel Kwon follow up with insights on risk considerations relating to LCs and the coronavirus. Muhammad Sohail Hussain then challenges banks to evaluate their business continuity plans.

## USE OF DIGITAL SIGNATURES DUE TO CORONAVIRUS

### Question 1:

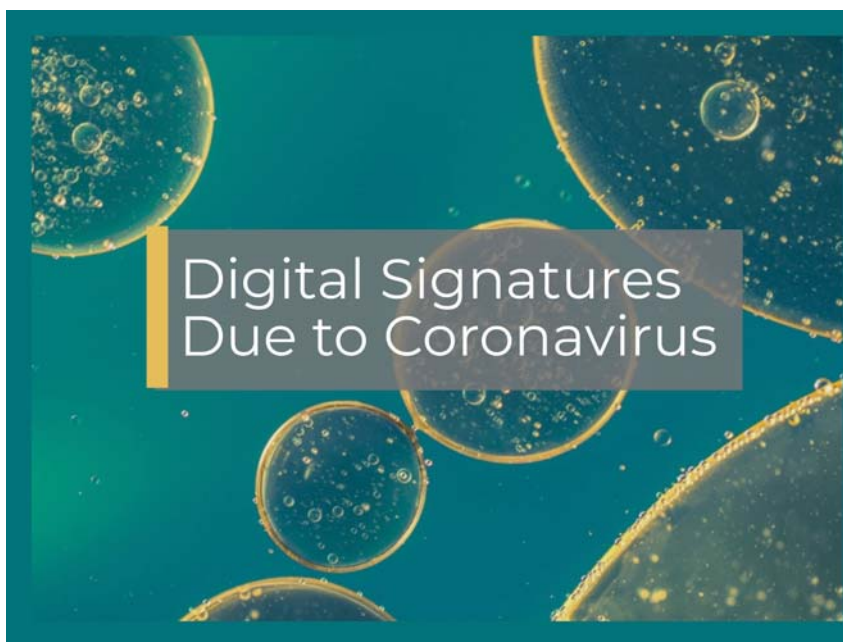
Due to situations and circumstances with the coronavirus, is your bank willing to accept letters of credit, issuance and amendments, with digital signatures instead of original signatures on paper documents?

### Results:

Yes = 36 (58.1%)  
No = 24 (38.7%)  
Other = 2 (3.2%)

### Comments:

- Not at this time unless a qualified signature certificates of authorized signatories exist.
- Yes, in cases where we have a way to authenticate with the issuing bank.
- Subject to a call back being performed to ensure that the digital signatures are from authorized officers. As an Issuing Bank and given the current circumstances, we would be willing to issue letters of credit, SBLCs, and guarantees on paper with digital signatures instead of original signatures as long as the beneficiary of the instrument agrees to it.
- We are undecided at this point.
- Unless required by L/C terms and conditions.
- We do not normally do so but are making an exception due to the pandemic.
- On the condition that all paper work is set up.
- For LCs restricted to issuing banks' counters we would not feel comfortable negotiating against a LC digitally signed that was issued freely negotiable.
- eUCP does not address this ... an obvious gap!
- Would have to call to confirm authenticity; why not use SWIFT?



\* Survey conducted 13-20 March 2020.

# FEATURE

- Also we need to consider mechanically applied signatures (like on cashier's checks).
- In the case of dispute, the legal/arbitration in my country are yet to make it a legally accepted signature.
- Why not? Most are not paper, but SWIFT.
- We are using a web-based solution with secure and authenticated communications with our banks; no need of original signatures for L/C, B/G, FCR release instructions, disposal of docs, etc.
- Only if part of the LC terms. An industry standard on this would be useful.
- It doesn't have the know-how of digital signatures.
- Computer generated documents; no signatures required.
- Receive very small amounts of hard copy LCs anyway.
- This question is a little irrelevant due to the fact that 99% LCs are being digitally signed or authorized i.e., via swift MT700.
- Our customers were using digital signatures already before any coronavirus.

## Question 2:

**Are you presently (or do you anticipate) working from home and issuing documents with digital signatures and forwarding to the beneficiary and/or beneficiary bank as PDFs or other digital documents?**

## Results:

Yes = 35 (56.5%)  
No = 27 (43.5%)



## Comments:

- No, we have availability to staff in the office that can sign and send originals.
- We anticipate working from home but will still be able to provide original documents with manual signatures.
- The documents must not be sent by PDF format as PDF can be easily amended should be sent by authenticated digital documents.

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- But approvals are already in place to do so from our legal department given the current circumstances.
- Except for domestic Standby L/Cs where an arrangement can be made with the Beneficiary to mutually accept digital signatures on the issuance, renewal and amendments through a side agreement. The same thing is implemented for our client, the Account Party.
- We have a skeletal staff onsite who are currently issuing originals. If quarantines increase, we may have no choice but to PDFs and digital documents.
- Not at this time, but potentially in the future.
- Working from home yes, but not sending out with digital signatures, working on it.
- But discussing the possibility
- I intend to do that with the consent of the counterparty.
- We anticipate working from home and accept digital signatures.
- Yes, though we are planning working from home but using domestic courier services to route documents for signing between homes.
- Part of our team already works from remote, a few are still in the office but we are ready to have all employees work from home. They can issue, print & sign relevant docs for LC purposes.
- Not at this time but we are considering it, especially if other banks are moving to this.
- I wish, but we are not at that level means need a digital vpn-based solution to work from home or anywhere.
- Part of the team is working from home but sending of the documents and other correspondence is still sent from office with original signature.
- For some actions/steps this may be feasible but not for all, unless already in full digital mode. Bank to Bank communication through PDFs may not be feasible

## **Question 3:**

**What modifications to your usual LC business procedures are you taking or have been implemented?**

## **Comments:**

- Split operations to have people working from home, others in the recovery site and the rest in the office – working on developing DocuSign to allow e-signatures.
- We have split our team into two and have them working from home and the office on a rotating basis. We are prepared in the event that we cannot access the office at all.
- Part of staff working from home, but some need to actually be in the office to receive/sign/send docs etc.

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- Send authenticated SWIFT LC or confirmed by authenticated SWIFT after digital signature LC or document was sent.
- We have contemplated the situation to have instruments signed by only one authorized officer instead of two. However, an email confirmation from the second authorized officer needs to be attached to the file to evidence the second authorized officer's acknowledgement.
- None
- Split operations
- Spilt Operation sites
- None
- No changes at this time.
- None at this time, I have a limited team come in to the office to examine shipping documents and process them for payment.
- We had not previously digitized document examination. We are doing this now
- Rotating working from home and copies of documents.
- We are currently accepting digital signatures that we would not normally accept.
- No major modifications although 30% of team is working remotely.
- Discussing and implementing sound banking practices to ensure acceptable and compliant standard industry practices as the result of the current critical situation.
- Decentralize waybill print; work from home.
- We have personnel with laptops set up to work from home.
- Shift employee implemented.
- We split our Trade Finance operations team into 2 sites.
- Taking more care with dispatch of documents. Making LCs available at our counters as opposed to with Nominate Bank.
- Digital signatures/PDFs to be discussed.
- Documents checking
- Prepared to have officer in other state sign and issue LCs.



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- Potential standby issuance from an office in another state.
- Looking closely at UCP Article 36 and ISP 3.14
- We have started citing e-UCP in the LC transactions.
- We are trying to go paperless on secondary activities but the handling of physical documents still a challenge.
- Scanning work and sending to processors at their homes. Managing receipt of documents with a limited crew. Staying 12 cubical apart.
- Nothing special
- So far nothing, worst case scenario we may ask counterparties to accept presentation of COPIES of original B/L.
- NIL. We have a digital platform that allows remote application and approvals
- No changes
- Contingency plans have been invoked
- Issuing original LCs or amendments with one signature instead of two.
- Still struggling except some precautionary measures, which are very common nowadays.
- I rely on UCP 600 Art 3 Para 4.
- Working from home, splitting the team in 3 and working from different locations
- None. COVID-19 contamination in Nigeria is at its minimum.
- A digital signature is not that easy to implement in our system so for the time being we try to authenticate it by other means or ask whether or not the recipient accepts unsigned letters until we are able to send a signed one.
- Confirmations are subject to case by case decision.
- Accepting electronic submission through secure emails and/or on-line banking system.
- Business as usual.

## **Question 4:**

**For auto extension standbys, would you agree to inform beneficiaries electronically should you be required to issue a notice of non-renewal?**

## **Results:**

Yes = 45 (72.6%)  
No = 15 (24.2%)  
Other = 2 (3.2%)

## Comments:

- Not this time; notices still sent as usual however it may change as the situation evolves.
- More importantly, would the beneficiary honor the electronic non-renewal, especially if the letter of credit calls for mail or courier notification?
- To be followed with original notice at a later time.
- Only if the applicant and the beneficiary provide their respective acceptance to it and the beneficiary's email address is provided.
- Undecided at this time.
- As long as the beneficiary agrees to accept the copy as a formal notice not to renew.
- This is challenging because the language in our L/Cs provides that we will send notices to their office. We might need to do both to comply with the language in the L/C and to ensure that they receive the message.
- At this time our plan is to continue to follow the notification requirement required in the LC.
- Electronically followed up by hard paper copy.
- I think this is the practice in US. For Asia, the undertaking is irrevocable, Once the auto renewal standby is issued, it will not be cancelled until beneficiary's consent is obtained.
- The majority of these expressly state notification via courier or reg mail; important to discuss for new LCs.
- Since this is not an allowed method of issuing non-extension notices, we have no confidence that it would be accepted by beneficiary.
- If absolutely no courier, mail or in person delivery option is available.
- Not unless the standby allows for this.
- Notification digitally is acceptable as there will be no repudiation.
- Can be through a front end channel.
- We don't have so far this kind of transaction.
- Only if it is part of LC terms.
- Provided it is acceptable legally.
- At this time, we notify electronically in addition to the method stated in the LC.
- Reason being by contract it is an auto rollover instrument.
- We don't issue such SBLCs.



- Many banks have online trade systems; this could be used with arrangement with the parties to SBLCs. Others have a platform through which they communicate. If a bank gives itself the right to electronically communicate with beneficiary, it should also give the right to the other parties to the SBLC the right to communicate with it digitally provide the law to which the SBLC is subject to allows and provided there is agreement the parties in place and a platform or similar secured communication medium exists.
- So long as both parties agreed on the specified email address or electronic platform.
- The question remains would the beneficiary consider this as valid?

## **Question 5:**

**If you agree to receive electronic documents and notices from the beneficiary, would you amend the LC to state as such?**

### **Results:**

Yes = 39 (67.2%)  
No = 19 (32.8%)

## **Question 6:**

**If so, would your answer change if your client (applicant) refuses to amend the LC?**

### **Results:**

Yes = 35 (66.0%)  
No = 18 (34.0%)

### **Comments:**

- Legal will need to opine if by law the applicant is required to agree changing a means of delivery due the force majeure situation and law enforcement the country is implementing – Question here does the beneficiary agree to the amendment? If they have the intention not to accept the notice they may reject the amendment and the bank could be stuck in their obligations for additional period
- Refer to applicant for the amendment requested by beneficiary.
- It would, but we would with our client (try) to convince him to adopt digital signatures as an alternative process.
- However, being the LC is between the beneficiary and the issuer and there is an agreement between the two; the LC wouldn't have to be amended as long as there are documents/email to support as such.
- We require that all parties agree to amend the L/C. That would not change. Rather than amending it we might be inclined to agree to an exception via email.



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- Applicant will instruct, important to make changes for the future.
- Have discussed allowing drawings electronically, but have not approved it as of yet.
- Particularly for presentations where original documents are required and have a particular value.
- Because the transaction is a contract between two parties and if one beneficiary is not comfortable with digital processes, we must find a midway to move the transaction forward.
- We are a trading company; of course we need to be always back to back with import and export LC.
- The client is the party on whose behalf a bank acts. If the applicant refuses, unless the bank's right is covered by ISP, the law or in the reimbursement agreement with client, the bank would not be able to go against its client's will.
- This is something that we have not considered. Currently, we try to push back on including this language in LCs as normal practice even though it's a very common request from our clients. Would expect that most clients would not have an issue with this.
- Because the LC is between issuing bank and beneficiary.
- If the LCs were not originally subject to eUCP, they would need to be amended to be subject to eUCP.

## **Question 7:**

**As beneficiary, would you accept the use of stamps, digital machine or PDF signatures on LCs by work-at-home LC personnel authorized to authenticate LCs the bank wants to issue?**

## **Results:**

Yes = 37 (66.1%)

No = 16 (28.6%)

Other = 3 (5.3%)

## **Comments:**

- It depends on the beneficiary's jurisdiction. If in the US, PDF signatures are enforceable however if they are located in different country, their local laws will have an impact on their decision.
- Yes, but would want the bank to provide me some independent notice that it will accept the letter of credit as an original if x years down the line I need to draw.
- Unless the LC is advised by beneficiary bank.
- Unless this is recognised legally.

- As long as it is a part of a side agreement among all parties.
- Only digital signatures.
- Not a beneficiary.
- Prior verification.
- Hoping that my country will accept digital signatures in case of litigation.
- However, could change if legal approved.
- If UCP600 is amended accordingly.



- I think the authorisation is not via signature, but a two or three Level of Approval on the transaction. Thus, digitization is the key to implement this.
- I'm not sure that we have a choice in the current crisis. I'd simply request that the digitally signed L/C be sent via email copying the signatories on the email or directly from one of the signatories.
- Assuming we can authenticate the issuance by calling the bank.
- I would like to accept such electronic documents but the current rules make it impossible.
- Most of them are not even original. Communication and correspondence is usually through a web-based front end channel.
- No need, as mentioned, we use a web-based platform for communication with banks different level of authorizations.
- With a condition that I, as beneficiary, have prior agreement with the bank with required protective clauses approved by my legal and risk units.
- We receive very few LCs by hard copy but are considering issuing them with digital signatures.
- Due to the inching fraud and money laundering issues it needs fully digitized solution with necessary protection against this.
- Especially PDF signatures seems rather fraud-sensitive. ■