

# Trade Exchange **tfp**

THE QUARTERLY MAGAZINE ALL ABOUT THE EBRD'S **TRADE FACILITATION PROGRAMME** SEPTEMBER 2012

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helps local  
capital markets  
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### TFP web site

[www.ebrd.com/tfp](http://www.ebrd.com/tfp)

### TFP e-Learning Programme:

[ebrd.coastlinesolutions.com](http://ebrd.coastlinesolutions.com)

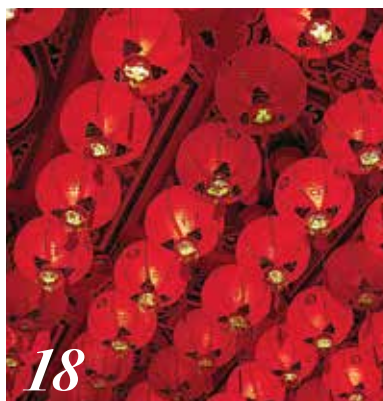


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**Taiwan**  
THE HEART OF ASIA

© All figures are as of 30 June 2012



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## NEWS

### \_4-7

Find out how the EBRD has been helping local capital markets and what it has been up to in Jordan.

## IN-DEPTH

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Read how banks in Central Asia are faring in light of the global financial crisis. And learn what the EBRD's Municipal and Environmental Infrastructure team are all about.

## TRAINING

### \_20-23

Discover how two of our best graduates got on during their training after gaining great results in the Trade Finance e-Learning Programme.



# EDITOR'S LETTER

I cannot believe how quickly our readership is expanding. We received feedback on our last issue from colleagues in the Far East and the United States. But the summer highlight was when the *Trade Exchange's* trade finance clinic case went viral and was discussed across online platforms and social networks; no wonder we received a record number of responses to this case. The correct answer and the list of winners can be found on page 23. *Trade Exchange* has established special awards – TFP gold, silver and bronze – for our most active readers who provided correct answers to the trade finance clinic cases in 2012. The medal table will appear in the next issue.

The TFP team supports many important trade projects that help upgrade municipal infrastructure in large and small cities of the EBRD's countries of operations. I invited our colleagues from the Municipal and Environmental Infrastructure team to give our readers a full overview of their important work and showcase their award winning projects such as the financing of the Istanbul ferries and bringing clean water to cities in the Kyrgyz Republic.

Regional focus in this issue is dedicated to the Central Asian countries, where we support most of the trade transactions, especially in these turbulent economic times. Our colleagues from Almaty, Ashgabat, Bishkek and Dushanbe give us an interesting insight into their daily trade activities and current market trends. Another exciting feature of the in depth section is dedicated to Taiwanese trade with the EBRD's countries of operations, which is growing every year.

Our training section features the stories we received from both our e-Learning Programme award winners and the sponsors. And don't forget to check out our next challenging case in the trade finance clinic.

Perhaps you will be as bold as Bolt to win TFP gold!

Happy reading!

**Kamola Makhmudova, Executive Editor**  
makhmudk@ebrd.com



Find out how  
to be a "super  
banker"

**PAGE 14**





# NEWS UPDATE



FOCUS ON

Romanian lei

## Developing local capital markets

In the current environment where debt and equity markets are illiquid and trust between counterparties is low, companies need support in accessing capital generally and importantly, without currency risk. The development of well-functioning domestic capital markets is vital to meeting these capital needs and for the sustained growth of a country's economy.

### THE LC2 INITIATIVE

To encourage local capital market development, and in parallel with the promotion of local currency lending in the EBRD's countries of operations, the Bank established the Local Currency and Capital Market Development Initiative (LC2) in 2010.

The objective of this initiative is to proactively support the development of local currency debt and equity capital markets, as a viable alternative to the international capital markets.

LC2's approach includes a combination of policy dialogue with governments

and regulators, Bank support of tailored transactions that maximise the impact of capital market development, and technical assistance in areas such as legal and regulatory reform to improve the transaction's environment and encourage liquidity.

During 2011-12 the LC2 team assessed financial sector development in many of our countries of operations, including Central Asia. We will continue to update these assessments as well as develop products, provide technical assistance and take part in policy dialogue that will lead to improvement in the operation of the domestic financial markets.

Focus areas include supporting local currency bond issuance by the EBRD and our clients, developing the domestic institutional investor base, improving the functioning of money and foreign exchange markets, and evaluating investments in financial infrastructure, including stock exchanges. ●

### OPINION

**“The LC2 Initiative is an integral part of the EBRD’s mandate to support the development of our countries of operations. The LC2 is focused on identifying actions and projects that will lead to near-term development of local capital markets. LC2 coordinates its efforts with the Resident Offices, the country’s banking and finance sector, local regulators and the Central Bank in order to achieve workable solutions.”**

Noel Edison  
Director for Insurance  
and Financial Services,  
Financial  
Institutions,  
EBRD



## AMMAN DISCUSSIONS

# This is Jordan calling...

The TFP team organised an information session on financing foreign trade with Jordan on 29 May 2012 as part of the EBRD's Transition to Transition (T2T) Initiative. This was held in Amman in cooperation with several Jordanian partners.

On the first day the T2T event attracted some 350 prominent Jordanian businessmen and women, senior government officials, members of the Royal Court, diplomats, clients and policy experts from the EBRD's existing countries of operations, representatives from other IFIs, EBRD staff members, as well as more than 20 journalists from the major Jordanian and regional media.

The TFP information session on the second day, which was organised with strong support from the Association of Banks in Jordan, was opened by its Director General Adli Kandah. The EBRD's Managing Director for Southern and Eastern Mediterranean, Hildegard Gacek, emphasised the Bank's commitment to developing the private sector in Jordan, and outlined the ratification process currently under way, which should allow initial projects to commence in the country in September 2012.

Over 75 bankers and trade finance

specialists from 15 Jordanian banks and government officials attended the session, where the EBRD presented its trade finance products and training projects. The EBRD also invited its most active confirming banks to share their global experience and the benefits of working with the TFP.

The technical cooperation (TC) panel, the most popular with the participants, was moderated by Vincent O'Brien, the Chair of the ICC's Education and Market

Intelligence Group. The EBRD's TC projects are sparking a growing interest in the country with 15 participants from Jordanian banks already enrolled in the Trade Finance e-Learning Programme and the first trade finance workshops scheduled to take place in Amman by the end of 2012. ●

Below:  
Jordanian  
bankers and  
trade finance  
specialists



## REGIONAL GRADUATION CEREMONY

# Tbilisi hosts e-Learning Programme graduation

On 28 June 2012, 15 young professionals from banks in Armenia, Georgia and Ukraine gathered in Tbilisi anticipating their graduation from the EBRD's Trade Finance e-Learning Programme. There were no gowns or mortarboards, but it was a proud moment for the students nonetheless.

The EBRD launched the Programme in May 2010 – developed jointly with the International Chamber of Commerce in Paris – and it has seen over 400 participants from 114 banks in 25 countries register since then. The Programme ensures that trade finance specialists from the EBRD's countries of operations have the requisite skills to issue, process and honour trade finance instruments. In fact, it has turned into one of the EBRD's leading capacity building projects.

The EBRD's Paul-Henri Forestier, Director for Caucasus, Moldova and Belarus, and Otar



Above:  
Paul-Henri  
Forestier,  
EBRD opening  
the graduation  
ceremony, hosted  
by VTB Bank  
(Georgia)

Nadaraiia, Vice-Governor of the National Bank of Georgia, congratulated the students on their achievements and wished them success in their careers.

For these graduates, it was the end of their studies on the Programme yet it symbolised a new beginning – as more experienced, skilful professionals. ●

## Future Events

### Financing Foreign Trade with Tunisia

10 OCTOBER 2012

#### TUNIS, TUNISIA

The TFP will host an information session in which leading foreign commercial banks active under the TFP will share their experiences of financing foreign trade with Tunisia. The TFP will also present its recent initiatives in education and professional development of bankers and trade finance specialists in the region.

Contact the EBRD TFP team for more information.

### Trade Finance e-Learning Programme Graduation Ceremony

5 FEBRUARY 2013

#### MOSCOW, RUSSIA

The EBRD's Trade Finance e-Learning Programme graduation ceremony will take place during the 6th Annual Russia and Eurasia Trade and Export Finance Conference organised by Exporta. All students who have successfully completed the Programme by 30 December 2012 will be eligible to attend the 2013 graduation ceremony.

Contact the EBRD TFP team for more information.

### ICC Banking Commission Meeting

15-19 APRIL 2013

#### LISBON, PORTUGAL

Contact Paulina Martinez at paulina.martinez@iccwbo.org for more information.

### EBRD Annual Meeting and Business Forum

10-11 MAY 2013

#### ISTANBUL, TURKEY

For more information, visit: [www.ebrd-annual-meeting.com](http://www.ebrd-annual-meeting.com).



## PRESS TALK

**“Most foreign commercial banks are now very cautious about financing trade with countries like Belarus, Ukraine and Kazakhstan, and trade finance activity is often confined to partnering state-owned banks and commodities such as oil and minerals. Unsurprisingly, the EBRD has never been busier...”**

*Trade & Forfaiting Review*  
May 2012

**“This year sees a reversal of the first and second positions in this category [Best Global MFI/DFI], as the EBRD cruises over IFC to take winning position by a clear margin in the poll. The award for the EBRD also comes... when the institution is moving into new territories in the Near and Middle East.”**

*Trade Finance*  
June 2012

## E-LEARNING WEB SITE

## A new-look web site

The TFP team has launched its new Trade Finance e-Learning Programme web site, which is now based on a state-of-the-art learning management system.

The new site includes a description of the Programme, country-specific statistics and news from the EBRD's trade finance community. You can also find more about the special offers that the TFP team has negotiated for its issuing banks.

Please visit <http://ebrd.coastlinesolutions.com> for more information and to see photos from previous graduation ceremonies. You can also learn who has made it into the top 20 best students in the class of 2012. Will you make it into the top 20 in 2013?●



# Facts & figures

## A brief history

Launched in 1999, the Trade Facilitation Programme (TFP) aims to promote foreign trade to, from and among the EBRD countries of operations through a range of products.

Through the Programme, the EBRD provides guarantees to international confirming banks and short-term loans to selected issuing banks and factoring companies for on-lending to local exporters, importers and distributors.

**€7.8 billion**  
**TOTAL TRANSACTION VALUE SINCE 1999**

CONFIRMING BANKS OPERATE  
IN 77 COUNTRIES

**TOP 10 CONFIRMING BANKS**  
*January-June 2012*

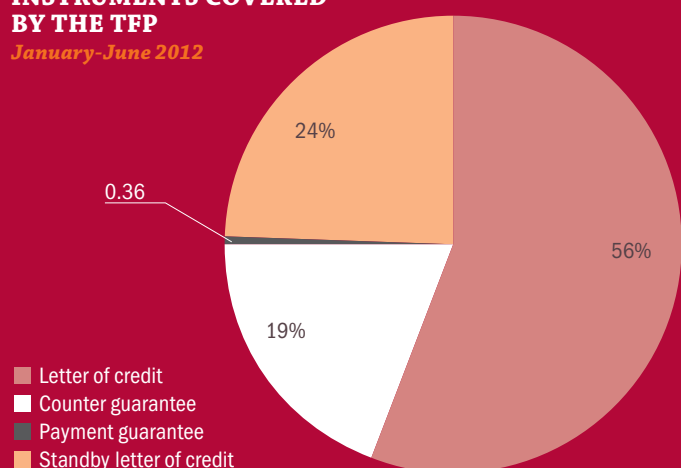
Bank	Country
1 Commerzbank	Germany
2 UBS	Switzerland
3 Deutsche Bank	Germany
4 Raiffeisen Bank International	Austria
5 UniCredit Bank Austria	Austria
6 UniCredito Italiano	Italy
7 Raiffeisenlandesbank Niederösterreich-Wien	Austria
8 KBC Bank	Belgium
9 Intesa Sanpaolo	Italy
10 UniCredit Bank (former Bayerische Hypo- und Vereinsbank)	Germany

**TOP 10 COUNTRIES  
BY NUMBER OF  
TRANSACTIONS**  
*January-June 2012*

Country
1 Belarus
2 Russia
3 Georgia
4 Armenia
5 Ukraine
6 Kazakhstan
7 Azerbaijan
8 FYR Macedonia
9 Moldova
10 Serbia

**TYPES OF UNDERLYING  
INSTRUMENTS COVERED  
BY THE TFP**

*January-June 2012*



NUMBER OF CONFIRMING  
BANKS OPERATING IN  
77 COUNTRIES *see map above*

800+

101

NUMBER OF ISSUING BANKS IN  
20 EBRD COUNTRIES OF OPERATIONS

12,400+

TOTAL NUMBER OF  
TRANSACTIONS SINCE 1999





# IN *DEPTH*



EBRD RESIDENT OFFICE, ASHGABAT



## ON THE *STARTING BLOCKS*

**Turkmenistan has great potential to develop trade and the private sector.**



**A**n epoch of great revival and transformation – that’s how people in Turkmenistan term the current state of the country’s economic development.

And Senagat Bank is playing its part in this development. It is one of the leading commercial banks to focus on the private sector in Turkmenistan, and since 2004 when the EBRD extended its trade finance guarantee facility Senagat Bank has essentially created its own market from scratch.

In many ways, Senagat Bank has also pioneered trade finance in the country and was the first to launch several sophisticated forms of documentary lending. The bank currently has a network of more than 14 branches and is the prime local bank to provide this kind of service to its growing private sector clientele.

Due to huge oil and gas reserves, Turkmenistan has become a fast developing country that invests its revenues in constructing new production

and processing plants, rebuilding its major cities and upgrading infrastructure. The government is increasingly engaging the country’s nascent private sector in public goods tenders, which in the past were only accessible to foreign contractors. In addition, rapidly developing local industries and improving living standards ensure that there is an untapped market for importers who turn to the local banks for trade products.

The EBRD believes that from the outset it is vital to obtain and develop the skills and experience necessary to process sophisticated trade transactions. Evidence of this is seen in Senagat Bank’s participation in the EBRD’s ground-breaking Trade Finance e-Learning Programme.

Nury Gurdow, Head of the Foreign Currency Operations Department at Senagat Bank, is at the forefront of cooperation with the EBRD: “On behalf of our Chairman of the Board, let me confirm our delight in being part of the extensive EBRD family of issuing banks under the TFP. We are grateful to the EBRD for providing both the trade finance guarantee facility and technical assistance, the value of which we cannot really quantify.”●

*Muzaffar Khakimov, Associate Banker,  
the EBRD’s Resident Office in Ashgabat*



## Trade in the ETCs

The early transition countries (ETCs) are the poorest of the EBRD’s countries of operations, and within these, the countries of Central Asia, Kyrgyz Republic, Tajikistan and Turkmenistan are the least developed.

In order to improve the economies of these countries and thereby alleviate some of the poverty within them, it is fundamental to have a well-functioning financial architecture. At this stage, this means a sound banking system that can efficiently and effectively intermediate between the depositors and budding entrepreneurs.

Trade finance is an important banking product for these entrepreneurs as the initial needs of their growing businesses require short-term, trade-related financing, followed later by longer-term and more complex trade products.

By supporting trade in the Central Asian economies the EBRD is playing a major role in its development as well as providing an increasing standard of living for the peoples of the region.

*Andrew Ostaszewski,  
Senior Banker, EBRD*



DEMIR KYRGYZ INTERNATIONAL BANK, KYRGYZ REPUBLIC

\_09

# THE *SPECIALISTS*

**Expert knowledge and reliability are essential in difficult times.**



A low sovereign country rating and unstable economics over the last few years, a result of two “people’s revolutions”, have created difficulties in negotiating trade finance deals with foreign counterparties. While partners from CIS countries could accept unconfirmed documentary credits and guarantees from their business partners in the Kyrgyz Republic, foreign counterparties, as a rule, prefer them to be confirmed.

Foreign commercial banks consider documentary transactions on a case-by-case basis since they have no credit lines with Kyrgyz banks. For the same reason fees and commissions charged by foreign financial institutions are quite high.

In spite of these factors the total volume of trade finance transactions is increasing year-by-year. It should be noted that Kyrgyz companies started using documentary credits more often when dealing with their foreign partners because amounts in some cases are quite considerable. An increasing number of our corporate and small and medium-sized enterprises (SME) customers benefit from these kinds of payment instruments mainly thanks to the specialised training and presentations that we conduct for them.

Many foreign banks prefer to deal with reliable banks that have international recognition and high

ratings, so tight collaboration with the TFP became an integral part of our international documentary operations. Looking through the list of confirming banks participating in the TFP we can easily find a bank in the required country. Usually confirming banks are open for cooperation if a transaction is covered by the EBRD. Thanks to this, Demir Kyrgyz International Bank was able to significantly expand its documentary operations geographically. As a result we have successfully connected our customers with their partners from China, Turkey, Germany, United Kingdom, Ireland, Hungary and the United States, as well as CIS countries.

Being a leader in trade finance in the Kyrgyz Republic we pay a lot of attention to the further development of this sector. Our specialists who deal with documentary operations actively participate in specialised training courses held by the EBRD and other international financial institutions. These specialists were also successful in the EBRD’s Trade Finance e-Learning Programme where they were ranked among the top 20 graduates in 2012.●

*Chinara Alybaeva, Senior Specialist in the Financial Institutions Department, Demir Kyrgyz International Bank*



**“Many foreign banks prefer to deal with reliable banks that have international recognition”**

Supporting the producers of Kyrgyz national woollen hats “Ak-Kalpak”



# CREDIT WHERE IT IS DUE

**Despite a tough few years Bank CenterCredit has kept trade flowing thanks to TFP support.**



**B**ank CenterCredit joined the EBRD's Trade Facilitation Programme in 2003. The facility represented a new product on the market and we processed 16 transactions under the TFP within the initial period. From 2005 to mid-2007 we had multiple trade finance lines from Western banks on a clean basis, and could support trade finance transactions at a relatively low price, mostly with a three-year tenor. Bank CenterCredit succeeded in building a wide client base with a number of regular customers who successfully developed their businesses and benefited from the bank's credit lines. They could issue letters of credit with post-financing and guarantees confirmed by banks chosen by their partners for longer terms; the average tenor being between 210 and 360 days.

However, the second wave of the global financial crisis had a negative impact on the trade finance market in Kazakhstan and Western banks became more cautious, decreasing the volume of trade finance credit lines offered to our bank by half. Consequently, maturities of documentary transactions serviced by banks became shorter, not exceeding 180 days. The said terms and conditions did not meet the requirements of our customers who were seeking longer maturities.

After receiving refusals to our consecutive proposals to service transactions from Kazakh clients, we decided, in 2008, to more intensively utilise our existing TFP facility. As a result, we won the title of the "Most Active Issuing Bank in Kazakhstan in 2008" under the TFP, which we have retained for four years. This award greatly motivated our team to increase its efforts in developing trade finance operations.

In 2009 the situation worsened in the Kazakh banking sector and many

of our partner banks closed their lines for Kazakhstan. However, with TFP support, we managed to maintain our trade finance business. Tenors and pricing for documentary transactions remained unchanged. Bank CenterCredit was able to confirm and finance L/Cs through banks of beneficiaries directly. At that time a good part of our bank's trade finance volume was contributed by products and raw components imported by food companies and pharmaceutical distributors. Continued development of these important economic sectors was to a great extent supported by the TFP.

Due to its involvement in the TFP, Bank CenterCredit has expanded its network of counterparty banks in Europe while also expanding its trade finance business. We have also trained staff via the EBRD's Trade Finance e-Learning Programme and attended seminars run by the EBRD consultants.●

*Zaure Salimbayeva, Head of Structured and Trade Finance Sector, Bank CenterCredit*



A view of Bayterek, a monument and observation tower in central Astana



## Significant investment

Kazakhstan is in the middle of a transformation; one that is seeing the country modernise and diversify its economy, strengthen its financial sector, increase the efficiency of its power and energy industry, improve its infrastructure and unleash the vast potential of its agribusiness. And the EBRD is committed to helping this process.

Reflecting its commitment, the Bank invested €289 million in Kazakhstan in 2011, and plans to invest €450 million in 2012. In August the EBRD signed its first renewable energy project – Shardara, a hydro power plant in the south of the country.

Trade facilitation is an important part of the EBRD's role in Kazakhstan and under the TFP there are currently five issuing banks in Kazakhstan.

Keeping trade moving has become even more important in the wake of the financial crisis. The TFP has enabled this to happen, and since 1999 more than 800 trade finance transactions have been concluded with issuing banks from Kazakhstan, and over €1.3 billion of foreign trade in Kazakhstan since 1999 has been supported.

*Janet Heckman, Director for Kazakhstan, EBRD*



## BANK ESKHATA, TAJIKISTAN



# MAKING A *GLOBAL NAME*

**The TFP supports not only trade but also the banks that take part in it.**



Bank Eskhata was one of the first banks in Tajikistan to become a member of the TFP back in 2004. Ever since, we have been active under the Programme, supporting the import of goods and services from near and far.

But the TFP has given us something else as well – new relationships and contacts with international first-class banks that have helped us to increase our capabilities and meet our clients' needs.

One of our first international trade finance transactions was a letter of credit for the import of tyres from Russia in the amount of US\$ 30,641, which was confirmed by a Russian bank under the cover of the EBRD's guarantee. Since then each year we gained higher trade finance turnover volumes until 2009-10. That is, before the global crisis struck.

We have come a long way since then. For example, in early 2011, one of our clients, a soft drinks producer, concluded an agreement with an Italian company worth €2 million for the supply and installation of

equipment for processing fruit and vegetables.

On the recommendation and assistance of the EBRD our bank initiated cooperation with an Italian bank, which acted as a confirming bank in this transaction. Purchase of the necessary processing equipment enabled our client to further reduce costs associated with the production of juice, improve the appearance of packaging and increase its competitiveness in the market.

We are very pleased and highly appreciate our cooperation with the EBRD, not only within the framework of the TFP, but also for its assistance in establishing links with international banks, which has led to our bank being recognised in the global market. The TFP team has made a huge contribution, offering support and assistance to our documentary operations specialists.●

*Firuza Khatamova, Leading Economist in the International Business Department, Bank Eskhata*



## KBC BANK, BELGIUM

KBC Bank has been acting as confirming bank under the EBRD's Trade Facilitation Programme since 1999. Since then, we have exchanged a lot of expertise and learned a lot from the EBRD's experience in different regions.

We have strong experience in trade finance but due to internal risk policies it is often difficult for us, as a confirming bank, to accept credit risk in certain regions. Working with the EBRD allows us to provide solutions for our clients and, importantly, guarantees a high level of service and expertise.

During the financial crisis, for example, we completed an impressive flow of commercial transactions with Kazakh banks, thanks to the TFP. This proves that the TFP is more important than ever in light of the global financial crisis, if not crucial for certain financial organisations.

We are very keen to further develop our relationship with the EBRD in Central Asia, as we trust the EBRD's knowledge of the region as well as its impressive business capabilities.

*Eugenia Zhiglova,  
Financial Institutions –  
Russia and CIS, KBC Bank*



# THE PEOPLE'S SECTOR



**How does the EBRD help communities gain access to things such as a decent water supply or a well-functioning public transport system? The answer lies in sustainable investment.**

**T**he Municipal and Environmental Infrastructure (MEI) sector covers investments and services that fall under the ultimate responsibility of local governments, whether provided by public or private entities.

Our MEI team aspires to long-term sustainability for its investments, focusing on projects that offer tangible benefits for communities. This means creating sustainable urban infrastructure and services, attaining environmental and social sustainability (such as health and safety improvements, environmental protection and climate change mitigation), achieving financial and budgetary sustainability and gradually moving towards an energy-efficient, low-carbon economy while addressing people's concerns as infrastructure users.

## **BENEFITING PEOPLE ACROSS THE REGION**

In 2011 the EBRD financed 39 municipal infrastructure projects for nearly €600 million. In doing so, the Bank succeeded in mobilising significant co-financing from development partners, including the European Union, which contributed almost €1.3 billion to joint projects with Structural and Cohesion Funds in Bulgaria, Poland and Romania.

The Bank's successful collaboration with other national and international



Jean-Patrick Marquet, Director, Municipal and Environmental Infrastructure, EBRD

financial institutions (IFIs) mobilised an additional €450 million for municipal projects across the region, making the EBRD a significant participant in responding to calls from the G-8 and G-20 for enhanced collaboration among IFIs.

Recent highlights for the MEI team include financing an energy savings company for municipal infrastructure in Romania, contributing to reform of the Ukrainian budget code to allow municipal finance, and expanding support to small and medium-sized municipalities.

While generally the provision, financing and management of municipal and environmental services are the responsibility of local or regional governments, the EBRD tries to involve the private sector in service delivery, with specific know-how and capital.

Sustainability is not purely about the environment, since competent

management and economic viability are key factors of success. The Bank's financing, coupled with technical assistance, allows municipal clients to develop and implement sound commercial and financial structures for their projects, competitively procure services and manage complex infrastructure projects.

## **DONOR GENEROSITY AS A KEY CONTRIBUTOR**

Donor support is central to the Bank's operations in MEI. Grant funding for technical cooperation in MEI grew from €10.7 million in 2005 to €25.6 million in 2011 with some 180 technical cooperation assignments conducted annually. While most donors remain robust contributors, budget constraints are expected to be a challenge in years to come, thus requiring a determined mobilisation effort. In 2011 we enhanced the developmental impact of our projects by adding new features such as gender action plans, now rolled out with success across the region (notably in Armenia, Georgia, the Kyrgyz Republic, Romania, Turkey and Ukraine).

Considerable donor support also enabled the Bank to start technical cooperation activities in the southern and eastern Mediterranean (SEMED) region in 2011. Funding for around 40 potential TC projects has been approved so far. In particular, the Bank is assessing the MEI sector in Egypt, Jordan, Morocco and Tunisia, for example analysing private sector opportunities, reviewing the legal

One of IDO's ferries, soon to be privatised







frameworks for sub-sovereign financing, and assessing market demand for sustainable energy investments.

The aim in the SEMED region is to improve financing of the private sector via direct investments in loans and equities while providing support and expertise through policy dialogue, capacity building and other forms of technical assistance. The Bank's highest priority is to find non-sovereign solutions for infrastructure; there are significant investment needs that cannot be financed from fiscal sources alone. Decentralisation of municipal services, private sector involvement and other approaches, together with solid regulation in order to ensure best value for users, will be important in all SEMED countries in the coming years.●

**“Our MEI team focuses on projects that offer tangible benefits for communities.”**

#### IN NUMBERS

**€600m**

In 2011 the EBRD contributed nearly €600 million to the region with a record number of 39 municipal infrastructure projects.

**40**

Donor support has enabled funding for technical cooperation (TC) activities in the southern and eastern Mediterranean (SEMED) region in 2011. Around 40 potential TC projects have been approved so far.

#### CASE STUDY: TURKEY

## Istanbul Ferries

With a population of over 15 million Istanbul needs to ensure that people and goods move around the city efficiently. In the past few years, the city has spent over US\$ 3 billion on urban transport and plans to spend a further US\$ 12 billion over the next decade.

The EBRD is helping in this effort by supporting TASS, a vehicle established by Turkish and international sponsors to acquire Istanbul's municipal ferry company,

Istanbul Deniz Otobusleri Sanayi ve Ticaret A.Ş. (IDO). This transaction is a milestone, being the first privatisation in the municipal public transport sector.

The EBRD's investment of US\$ 150 million will enable TASS to make ferry operations more efficient and to bring the necessary commercialisation to this municipal service.

Given Greater Istanbul's geographic layout defined by a sprawling urban agglomeration formed around the Bosphorus

Strait, the Golden Horn and the northern part of the Marmara Sea, the development of a commercially oriented, efficient, clean and safe ferry system is an essential element of the city's ability to meet its future needs.

This important project has been recognised globally and has been awarded Euromoney's "European Transport Privatisation Deal of the Year 2011" *Infrastructure Journal's* "Infrastructure Acquisition Deal of the Year 2011".

# 5 CRITICAL TRENDS

## IN LETTERS OF CREDIT PRACTICE

**Over the last 20 years, the letter of credit (LC) landscape has changed dramatically. From a staid device where the most serious controversies focused on how many days constituted a reasonable time, the LC has developed into a highly complex and rapidly evolving device. A banker can no longer assume that LCs will operate without considerable supervision. This article identifies five trends affecting continued profitability and suggests responses.**

**1 Complex commercial LCs**  
Twenty years ago, a banker would study UCP 400 (1983 revision), might consider an ICC Banking Commission opinion, and would rarely consult a lawyer. Not today. Today's banker must be armed with UCP 600 (2007 revision), the International Standard Banking Practice (2007 revision), detailed opinions by the ICC Banking Commission and decisions by the ICC's Documentary Credit Dispute Resolution Expertise (DOCDEX) – not to mention court decisions and probably a treatise to explain everything. Despite an exponential increase in rules, interpretations and decisions, there has been no appreciable decrease in the number of discrepancies – see article on page 16. Indeed, the reputation of the commercial LC has apparently suffered as seen by the increase in open account transactions.

At a time when transport is increasingly multimodal, the conceptual framework of the rules, bankers and business people remains fixated on the paradigm of an on-board order maritime transport document.

**2 Demand guarantee difficulties**  
Some demand guarantees are due to the name “guarantee” which by its nature refers to a promise that is dependent and not independent. Careful drafting can overcome this difficulty, but the forms and terminology commonly used often cause litigation. These terms are drawn from dependent (suretyship/accessory) guarantee practice and not from letter of credit practice. In multiple cases annually, courts try to decide whether an undertaking is dependent or independent. Often, they might as well flip a coin.

Other problems remain unresolved, such as whether the guarantor's liability ends with the termination of the undertaking by its expiration or if the original operative instrument must be retrieved.

The 2009 revision of the Uniform Rules for Demand Guarantees (URDG) has left banks with three or four very different options for demand guarantees and standbys: URDG 458 (1992 version), URDG 758 (2009 revision), UCP 600 and ISP 98. The differences relate to issuance, examination, presentation, honour or dishonour, and transfer and assignment of proceeds. Since most major banks cannot refuse to use any of these rules, they have to be prepared to work with the differences, running the serious risk of staff confusion between them.

The release of the ISP 98 Model Forms has addressed many of these problems due to lack of uniformity. These forms contain standardised terminology and annexed demand for all situations in which a standby can be used (and not just traditional performance situations), automatic extension and reduction clauses, demands for transfer, counter undertakings and local undertakings, and confirmations.





**3 Commercial standbys**  
Some commercial LC beneficiaries have moved to commercial standbys to avoid difficulties with commercial LCs. A commercial standby can enable the beneficiary/seller to ship goods without worrying about the intricate UCP 600 rules and bill the applicant. In the event of non-payment within an agreed time (for example, 30 days) the standby is available.

Making commercial standbys subject to UCP 600, however, can cause refusals since the documents were not prepared in light of its rules. ISP 98, however, was drafted to accommodate commercial standbys.

**4 The sanctions challenge**  
Various countries have increasingly used the global payments and banking system to wage war, restrain rogue nations, prevent the proliferation of nuclear and chemical weapons, track drug money and achieve various other goals.

The impact on LCs, standbys and demand guarantees has been significant. The United States has taken the lead in pressing for bank compliance on an extra-territorial basis, imposing heavy fines on banks engaging in off-border US dollar transactions in violation of its increasingly intrusive regulations.

No bank, however restricted its current business model, can afford to take these sanctions lightly. Some use sanctions clauses in LCs and the Institute of International Banking Law & Practice has a model clause but takes no position on whether to use it.

**5 Increasing significance of law**  
Twenty years ago, most LC litigation related to injunctions sought by unhappy applicants. Banks controlled this litigation by settling, intimidating customers or selecting favourable forums or law. Most LC bankers could spend their entire career without thinking about court decisions except for amusement. Today, courts regularly interpret practice rules and impose legal rules on LC practice.



### The bottom line

As a result, the modern LC banker must be a “super banker”, lawyer, compliance officer and fortune teller. While no one banker can fulfil all of these functions, many banks can. The challenge for modern banks is to evolve coordinated systems, forms, and personnel able to avoid the consequences of more intrusive courts and conflicting rules. In addition, a bank can no longer regard training as a luxury. Today’s LC bankers can lose a bank millions by simple mistakes resulting from lack of training, forms, or systems that were devised to reduce or eliminate risk.

What is needed is a comprehensive risk avoidance plan that is designed around model forms that harmonise the applicable rules, impose practice systems aligned with this harmonisation, restrict the ability of account officers to alter these harmonised rules and impose costs for doing so, and provide regular ongoing training for senior personnel, lawyers and compliance officers. ●

**The Institute of International Banking Law & Practice ([www.iiblp.org](http://www.iiblp.org)), a non-profit educational organisation, assists banks in navigating the shoals of modern letter of credit practice. Its upcoming event – 2012 Europe Annual LC Survey Conference – will take place in Istanbul, Turkey on 11-12 October 2012. This event provides the ultimate forum for the exchange of practical information and views on LCs. The TFP’s issuing banks can enjoy a 50 per cent discount on the conference attendance fee. Contact Maria Difato at [maria@iiblp.org](mailto:maria@iiblp.org) for more information.**



*James E. Byrne, Director, Institute of International Banking Law & Practice*

# THE *DIRTY DOZEN*

## HOW TO AVOID THE 12 MOST COMMON DISCREPANCIES IN LETTERS OF CREDIT

Basic mistakes still account for the top 12 discrepancies that regularly arise out of a presentation under a letter of credit (LC). **Robert Parson** and **Geraldine Butac** from Reed Smith LLP take a look at the problem areas and how to deal with them.

### 1 COMMERCIAL INVOICE

**CAUSE** – Restating entirety of LC information including the LC quantity instead of the actual quantity shipped.

**CURE** – For invoices, “less is more”. UCP 600 has minimum requirements for information contained in a commercial invoice (in the absence of express provisions in the LC). Only the shipped quantity should appear on the invoice.

**TOP TIP** – Always make the invoice out to the named applicant even if an affiliate or third party has performed and/or paid for the contract goods on its behalf.



### 2 BILL OF LADING

**CAUSE** – The bill of lading is either not properly endorsed, is not signed or the signature is unexplained/unidentified contrary to Articles 20/22 UCP 600.

**CURE** – The UCP 600 requires that a bill of lading should indicate the name of the carrier and be signed by the carrier, master and identified as such. This check should be done immediately on issuance and before presentation.

**TOP TIP** – Another common problem is failure of the bill of lading to show an onboard notation indicating the port of loading, shipment date and name of the vessel where the presented bill of lading does not indicate the actual port of loading as stated in the LC. New rules have been set up for introduction in the next version of the ISBP to clarify the position.

### 3 INCOMPLETE PRESENTATION

**CAUSE** – An incomplete set of bills of lading is presented (that is, two out of a full set of three) possibly because the commercial arrangements have required one of the set to travel with the vessel, or one of the set to be sent directly to the discharge port, or other requirement documents are not presented.

**CURE** – Amend the LC if you know there is an operational inconsistency with the requirement in the LC or a document will be difficult/time-consuming to obtain.

**TOP TIP** – Create a checklist and keep a record of how long third party service providers take to produce additional documents so that sufficient time can be allocated to collate and present them.



### 4 LATE PRESENTATION – “21 DAY RULE”

**CAUSE** – Presentation of an original transport document is made more than 21 days after the date of shipment contrary to Article 14 UCP 600.

**CURE** – If 21 days is likely to be a challenge for operational reasons, exclude the requirement by negotiating an express LC amendment before shipment and make sure that the documents are presented as soon as possible after the goods have been shipped.

**TOP TIP** – Never agree to provide an original transport document with a standby credit demand but only a copy if required at all. The claim is very unlikely to be made within 21 days of shipment.

### 5 PART SHIPMENT WHERE PROHIBITED

**CAUSE** – A partial shipment has been made when it is not permitted under the terms of the LC, for example, where the LC terms expressly override Article 31 UCP 600 which permits partial drawings and shipments.

**CURE** – If there is likely to be a partial shipment, negotiate an amendment to the LC.





**TOP TIP** – More than one set of transport documents will not mean partial shipment has occurred where these documents evidence shipment starting on the same means of conveyance provided that they indicate the same destination (Article 31b UCP 600).

## 6 LATE SHIPMENT

**CAUSE** – The goods are shipped after the last date for shipment as specified in the LC.

**CURE** – If the seller is unable to meet the deadline or if the deadline changes due to contractual amendment then request an amendment to the LC before shipment in order to extend the last date for shipment as well as seeking extension of any related dates such as the expiry date of the LC which will in turn be affected.

**TOP TIP** – Check whether the contractual terms include a right for a CIF seller or a FOB buyer to extend the contractual shipment/delivery period so that the LC departments of the buyer/seller are primed to action in the event that an extension is claimed.

## 7 LATE PRESENTATION – EXPIRY OF CREDIT

**CAUSE** – Documents are presented after the LC has expired contrary to Article 6e UCP 600.

**CURE** – Ensure that documents are presented as soon as possible after the goods have been shipped. Each time documents are presented, the bank inspecting the documents has five banking days to consider them before accepting or rejecting them. If you present within the last five banking days, you may not learn of any discrepancy until after expiry.

**TOP TIP** – Try to ensure that the LC does not expire within 30 days of the last day of the shipment period. Note that Article 29 UCP 600 gives a day's grace where expiry falls on a non-banking day at the bank where presentation is to be made but no such grace period is added by the Force Majeure provision at Article 36 UCP 600.

## 8 DISCREPANT BENEFICIARY'S NAME

**CAUSE** – Beneficiary's name in document(s) presented conflicts with its name as stated in the LC. This can arise in an invoice, a beneficiary's certificate or other documents.

**CURE** – Simple spelling mistakes apart, these errors are often caused by which group affiliate is the named beneficiary. If the other affiliate has to invoice for administrative reasons, you will need to negotiate an amendment to accommodate this.

**TOP TIP** – If an affiliate is to be involved in execution of the contract, ensure that this is reflected in the LC. Review the draft and make sure that the beneficiary's name is identical to the beneficiary's name in the LC. If you have misspelt the name in the LC, repeat the mistake in any document where it appears to save trouble later.

## 9 DISCREPANT ANALYSIS/QUALITY/WEIGHT CERTIFICATE

**CAUSE** – A certificate contains information that is inconsistent with information in other documents presented or the credit itself.

**CURE** – Providing the superintendent with a template to direct him to the correct layout and check the resulting certificate carefully before presentation.

**TOP TIP** – Present a "combined" certificate (for example, certifying both weight and packing) covering more than one aspect as this automatically reduces the percentage chances for careless mismatches of detail between documents. If the credit lists the certificates separately, produce two or more originals of the same document up to the required number.

## 10 DISCREPANT LANGUAGE

**CAUSE** – The invoice describes goods in a language different from the language used to describe the goods in the LC.

**CURE** – If the presentation of a different language document is unavoidable, negotiate an amendment to the LC to permit different languages to be used.

**TOP TIP** – Make this amendment the rule in your template.

## 11 DISCREPANT LETTER OF CREDIT NUMBER ON DOCUMENT

**CAUSE** – A document presented shows an incorrect LC reference number.

**CURE** – Check it! Particularly where, in a long-term contract, the original standby LC opened has been replaced with a new standby LC with a new reference number.

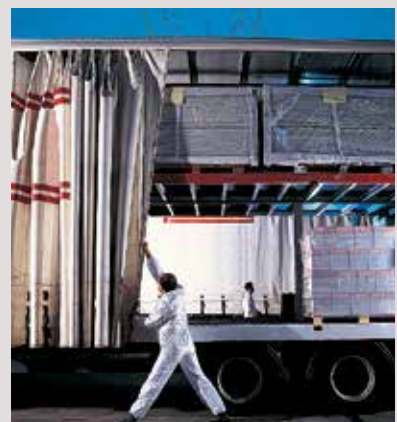
**TOP TIP** – Exclude the requirement entirely unless there is a good reason for it being there, for example, where it has to be mentioned in a beneficiary statement in a standby LC claim or it is required by the authorities.

## 12 OVER-SHIPMENT

**CAUSE** – The quantity of goods stated on the bill of lading conflicts with the quantity of goods specified in the LC.

**CURE** – Request an amendment to the LC to reflect the quantity that is to be shipped to the buyer or introduce a tolerance percentage figure to cover any potential increase/decrease in shipped quantity.

**TOP TIP** – Arrange for a separate bill of lading to be issued if free or sample goods are being delivered or if there is an additional quantity (one and above any tolerance) which can be paid for outside the LC.●





# EXPORTING EXCELLENCE

**International trade has been the engine of the phenomenal economic growth of the Taiwanese economy**

**W**ith an export-oriented economy, the Taiwanese are exploring more trade opportunities in the EBRD's countries of operations. Due to its rapid industrialisation and economic growth the country is one of the first newly industrialised economies in eastern Asia and is referred to as the Taiwanese "Economic Miracle". In the last

three decades Taiwanese exports have substantially grown due to industrial development and Taiwanese companies having cooperated actively with their trade partners from all over the world to keep the momentum.

The Taiwanese were the 17th largest trading nation in terms of merchandise trade value in 2011. The export structure has become much more diversified and the share of high-added-value products has increased. Being famous for its hi-tech industry, the Taiwanese are one of the world's largest producers of information and communications technology (ICT) goods. There are now many world-famous Taiwanese household brands. HTC, a leading producer of smartphones, is one of its

success stories in the global market. The world's top technology brands, such as Acer, ASUS and GIGABYTE are also Taiwanese products. Besides the ICT goods, the main export products are basic metals, plastics and rubber, optical and photographic instruments and chemicals.

According to *The Global Competitiveness Report 2011-2012*, the Taiwanese have maintained 13th position out of more than 140 economies in terms of competitiveness for the third year in a row. Highly efficient markets and a sophisticated business sector have helped the competitiveness profile to remain consistently strong. The economy runs a large trade surplus, and its accumulation of foreign reserves is the fourth largest in the world. The outlook for the Taiwanese banking system is stable and well developed to meet the financing needs of industries.

## EXPORT PARTNERS

The largest share of Taiwanese trade is with mainland China and Hong Kong and currently constitutes 42 per cent. This is followed by ASEAN (Association of Southeast Asian Nations) countries with a share of 15 per cent, the United States with 12 per cent, Europe with 11 per cent and Japan with 7 per cent.

Besides the markets above, Taiwanese industries and banks are eager to explore more business opportunities in the EBRD's countries of operations. Top export destinations for Taiwanese goods in the region by volume include Russia, Turkey, Poland, Hungary and Azerbaijan. Trade has been expanding particularly well since 2000, and has been driven by higher economic growth which in turn has boosted domestic demand in the importing countries. It can also be partly attributed to the







Taipei 101, the world's second tallest building

participation of Taiwanese banks in the EBRD's TFP since 2002 (see case study). So far the TFP has financed 84 export and import transactions of Taiwanese companies totalling €20.5 million. Business has been growing rapidly in terms of the number of transactions and trade volume.

The Taiwanese have been working closely with the EBRD since its establishment in 1991. Through donations to co-financing and technical cooperation projects, they strive to provide assistance to the EBRD's countries of operations on their way to further development and prosperity.●



#### CASE STUDY: BANK OF TAIWAN

Bank of Taiwan was established in 1946 as the first government-owned bank.

Throughout the history of Taiwanese economic development, from post-war reconstruction and currency reform to the implementation of successive economic and strategic industry development, we have been able to build up its efficiency and an outstanding reputation and thus contribute to Taiwanese economic development.

Bank of Taiwan joined the TFP as a confirming bank in 2008. We are delighted to participate in the Programme and have successfully conducted several transactions with the EBRD's countries of operations.

For example, earlier this year we confirmed a letter of credit issued by Belaruskyy Narodny Bank to facilitate the import of coated steel sheets to Belarus. In this instance, the Taiwanese exporter was keen to use documentary credit as a payment instrument.

"We are pleased to continue developing business with our client, a Belarusian importer, who purchased steel sheets from us," commented the exporter. "This is a long-term client and in February we initiated our first deal which was covered by the EBRD's guarantee. With the backing of the EBRD we are free from commercial as well as country risk, which is an important security for us," they added.

We at Bank of Taiwan look forward to enhancing close relationships with other issuing banks in the CIS, central and eastern Europe and other EBRD countries of operations.

*Department of International Banking, Bank of Taiwan*

"Our client, Izomat-Stroi, requested us to issue a confirmed letter of credit to conduct a transaction with a Taiwanese exporter. We had considered several banks as a confirming bank, but our choice was in favour of Bank of Taiwan who was one of the first to agree to participate in this deal, with all formal and pricing details being agreed on promptly and efficiently.

The key factor for the success of this deal was the involvement of the EBRD, who assisted us in engaging with Bank of Taiwan in this transaction."

*Siarhei Sabuk, Deputy CEO, Belaruskyy Narodny Bank*

# TRAINING DIGEST

## ONWARDS AND UPWARDS

**Michael Gutsa's hard work paid off when he was awarded best graduate of 2012 and offered a place on a Euromoney Training course.**

“I don't need a year for this course.” That was my first thought when I received my passwords for the EBRD Trade Finance e-Learning Programme modules. I was pleased to get them, though, and I rather considered them as Christmas presents, mainly because I received them close to Christmas Eve and, secondly, because I was lucky enough to receive them through the EBRD scholarship scheme. If you actively work with the EBRD, they will never leave you high and dry in trade finance and documentary operations.

The year, however, proved to be almost too little time to complete the Programme. Certain courses were easy and I flew through them. Others were so challenging that I had to study the information provided twice or even three

times, and still I found the exams difficult. But I specifically liked the fact that I could complete the exams at my own pace. I had an interesting journey into the land of pure knowledge, cool thinking and calculated choices.

I enjoyed the experience, but for me the story ended even better – I received an award as the best graduate of 2012, courtesy of Euromoney Training, and have completed a four-day training course which enabled me to increase my knowledge of risk management, commodity financing and trade finance. Thanks to this opportunity I shall continue my professional growth.●

*Michael Gutsa,  
Trade and Export Finance Manager, Sberbank*

## A lot to talk about



At Euromoney Training we are dedicated to providing the highest levels of financial training to help professionals progress their careers, so working with the EBRD was a great fit. Our large training portfolio covers all areas of finance but we have been working with the EBRD specifically to promote the progression of trade finance across eastern and central Europe. We sponsored the EBRD Trade Finance e-Learning Programme as it offers real value, tackling some of the latest challenges faced. By way of sponsorship we offered Michael Gutsa a complimentary place on the Euromoney Training Structured Trade & Commodity Finance course in London – this was the perfect follow-on to the knowledge gained from the initial e-Learning Programme.

*Carlos Doughty, Euromoney  
Training*





# LEARNING ON THE JOB



## Some good results meant that **Zaure Salimbayeva** landed a dream internship.

A bit of hard graft on the EBRD's Trade Finance e-Learning Programme was certainly worth it. My results meant that I was awarded an amazing training opportunity at Commerzbank's Bielefeld branch for 10 days in March 2012.

After being met warmly by my mentors Dirk Vahle and Günther Kurschus from the Cash Management and International Banking (CMIB) team I was told the plan for my training. I was able to see all the documentary credit transactions processed with this branch, all the files. My colleagues took me through their day-to-day activities, showing me some interesting cases. The knowledge I gained from the EBRD e-Learning Programme was very useful, I must say!

I was able to see how Commerzbank processed documentary instruments and I have taken away some useful tips for our own system at Bank CenterCredit – especially since our bank has recently been implementing documentary operations software. And being in charge

of sales of trade finance products I was interested in how sales were arranged at Commerzbank. It also contributed to my general understanding of how a banking system operates.

One of the huge advantages of my time at Commerzbank was the close working relationships I formed with my colleagues. When you know people personally it is always easy to ask them for advice in the future.

But it wasn't all work. I had time to enjoy a bit of sightseeing around Frankfurt and Bielefeld, and visit some museums. I was taken to see some great places, such as Sparrenberg Castle and Bielefeld Zoo.

To sum up, I benefited from this training in all aspects. And I can only encourage all of the current students on the EBRD Trade Finance e-Learning Programme to study hard so that they may also get such an opportunity as I did.●

*Zaure Salimbayeva, Head of Structured and Trade Finance Sector, Bank CenterCredit*

## Partnership meets expertise

Commerzbank invited Zaure Salimbayeva of Bank CenterCredit to undertake an internship due to her great success in the EBRD's Trade Finance e-Learning Programme.

Zaure spent her internship at our head office in Frankfurt Main and the Bielefeld branch primarily to deal with trade finance issues.

As always we consider these internships as a "partnership meets expertise" exchange at eye level. During our discussions with Zaure we exchanged ideas and suggestions to enhance trade finance business.

We very much appreciate the efforts of the EBRD and the people involved in the e-Learning Programme as an efficient and worthwhile training instrument for bankers in the EBRD's countries of operations. The feedback that we have received from bankers about the e-Learning Programme has always been very positive.

*Per Fischer and Axel Nikolaus  
Bommersheim, Commerzbank*

## COULD IT BE YOU?

Commerzbank will offer a two-week internship to the best graduate of 2013, while two of the top graduates will become the owners of an iPad, courtesy of Landesbank Baden-Württemberg (LLBW) and China Systems.

The ICC Banking Commission will be inviting one of next year's top graduates to attend its meeting in Portugal in spring 2013, with travel and accommodation expenses paid, while two of the top graduates will receive subscriptions to DC-Pro, courtesy of Coastline Solutions.

A further five selected top graduates will receive complimentary subscriptions to Exporta's *GTR (Global Trade Review)*, the world's leading international trade finance and export finance magazine.

# OUR TRADE FINANCE COMMUNITY

**Sergiy Kostogryz explains how the e-Learning Programme is still part of his life, one year after graduating.**



One evening, when I was working late in the office, I went to my manager's office to ask some work-related question. As I stood at the door I could hear the voice of Garry Collyer talking about documentary letters of credit in one of the Trade Finance e-Learning Programme's video lectures. My manager was silently staring at his monitor, listening to Garry Collyer's presentation. But why my manager was still in the office an hour after the end of the working day listening to this puzzled me.

Afterwards I started recalling different occasions and piecing them together in my mind. It occurred to me that while others had completed or were studying on the e-Learning Programme, he didn't want to be left out of the trade finance community that the EBRD creates through this Programme.

For example, I remember that once, early in the morning, my manager asked a colleague of mine, Vitaliy, about his achievements with the EBRD's e-Learning Programme and whether the assessment was difficult. Moreover, he asked about the exam scores and whether Vitaliy had copies of documents from case studies.

Then there was the time he wanted me to remind him of my conversation with Garry Collyer himself about the DC Master module. My manager wanted to know how an inspection certificate could be issued after a bill of lading despite this not being mentioned as a discrepancy in the list of options.

He also remembered that the TFP team were launching three new modules – URDG Master, Incoterms® 2010 and



Environmental and Social Issues in Trade – and he asked me to find out whether we could have these modules for my colleagues who were already studying in the Programme.

I eventually realised what a great thing it is that the e-Learning Programme is open to all – junior and senior trade finance specialists alike.

And the EBRD's Trade Finance e-Learning Programme has given me much more than just knowledge and certificates. It has given me access to open discussions of "hot topics" in trade finance with colleagues from within my own bank and others (mostly competitors in normal life). It has given me the opportunity to grow further professionally, open my horizons and – last but not least – make new friends.

Thank you EBRD for bringing this project to life!●

*Sergiy Kostogryz, Head of Documentary Business Department, Raiffeisen Bank Aval*

*Sergiy Kostogryz and Ivan Varenitsa, Priorbank discussing the EBRD's e-Learning Programme*



## SOLUTION

*(From June 2012 issue)*

### **"Confirmed or not confirmed"**

When your bank issued the irrevocable transferable letter of credit requesting confirmation and authorising transfer then it is clear that the confirmation is to be added for the full amount available under the credit as issued.

According to UCP 600, sub-article 8 (d) "If a bank is authorized or requested by the issuing bank to confirm a credit but is not prepared to do so, it must inform the issuing bank without delay and may advise the credit without confirmation".

Consequently, if that bank has not advised the issuing banks that it is not prepared to add its confirmation as requested, then the letter of credit is confirmed for the full amount available as stated in the credit.

Then, once transferred, the confirmation also attaches to the transferred portion in favour of the second beneficiary which you have indicated is the actual shipper of the goods, which reflects typical practice.

Further guidance is found in UCP 600, sub-article 38 (g): "The transferred credit must accurately reflect the terms and conditions of the credit, including confirmation".



# PIT YOUR WITS AGAINST THE EXPERTS!

Every issue of *Trade Exchange* will include a brain-teaser, drawn from the real-life trials of a trade finance expert. Here is your chance to demonstrate your ability to disentangle the most involved, contentious or just plain weird combinations of documents and to solve a puzzle in the field of documentary collections.

## Reject the rejection

Our customer purchased equipment from a European supplier of heavy engineering equipment and an irrevocable confirmed letter of credit available by deferred payment at 360 days from date of shipment was issued by our bank to cover the payment obligation. Documents have been presented and we have advised the maturity date for our settlement to the confirming bank, which we believe has been discounted for the beneficiary.

As part of the arrangement our customer received a warranty guarantee from the seller's bank issued subject to URDG 758 to cover the proper functioning of the underlying goods.

As it happened the machinery did not work properly or meet the expectations of our importing customer.

Consequently, our customer made a claim under the guarantee which we, acting in the capacity of advising bank, forwarded on to the guarantor bank.

The problem has arisen that the guarantor bank rejected the demand citing two discrepancies in the presentation.

We believe that the two claimed discrepancies were somewhat subjective and

not valid. However, to avoid any delay the beneficiary made a representation with the two claimed discrepancies mended within the expiry date of the guarantee.

However, the guarantor once again rejected the presentation citing a "new discrepancy" which, on review of URDG 758, this time appears to be valid. The beneficiary has presented all specified documents by this time but the beneficiary has not provided a statement indicating in what respect the applicant is in breach of its obligations under the contract.

Furthermore, the guarantor has claimed that the presentation is not "legally effective" as we did not state that the signatures on the documents in the presentation were authenticated.

As payment is now outstanding for more than two months can you advise whether the guarantor is correct in its actions and in doing so clarify the obligations of the guarantor.



**What do  
you think?**  
**Provide us  
with your  
expert view**

## WINNERS

Having received an overwhelming number of responses to our brain-teaser in the June 2012 issue of *Trade Exchange*, there is not enough space to mention all 59 winners, who come from the following countries: Armenia, Belarus, Egypt, FYR Macedonia, Georgia, Jordan, Kazakhstan, Kosovo, Kyrgyz Republic, Latvia, Moldova, Mongolia, Russia, Serbia, Turkmenistan and Ukraine.

For full details of all 59 winners, please visit <http://ebrd.coastlinesolutions.com/winners>.



\*download a free QR reader app from the App Store,  
Google Play Store or Blackberry App World

## **CONTACT US**

### **Join the Trade Facilitation Programme**

[www.ebrd.com/pages/workingwithus/trade/join.shtml](http://www.ebrd.com/pages/workingwithus/trade/join.shtml)

### **TFP e-Learning Programme**

<http://ebrd.coastlinesolutions.com>

### **TFP web site**

[www.ebrd.com/tfp](http://www.ebrd.com/tfp)

### **TFP photo gallery**

[www.ebrd.com/pages/news/media/photo/trade\\_facilitation\\_programme.shtml](http://www.ebrd.com/pages/news/media/photo/trade_facilitation_programme.shtml)