

PRESENTATION, EXAMINATION & NOTICE OF REFUSAL

Considerations for Presentation of Documents

Place of Presentation:

- The beneficiary may present documents to the nominated bank, confirming bank, or issuing bank. If documents are presented directly to the issuing bank, bypassing the confirming bank, the beneficiary loses the protection of the confirming bank's undertaking. Although direct presentation to the issuing bank is permissible, documents are usually routed through the nominated or confirming bank.

Period for Presentation:

- Presentation must be made on or before the expiry date of the credit. An instruction in the letter of credit (LC) that documents must be negotiated on or before the expiry date of the credit is understood as a directive to the beneficiary to present the documents within the specified period, rather than a deadline for the bank to complete the negotiation of the documents.
- If the LC requires the presentation of at least one original transport document (as per Articles 19 to 25 of UCP 600) and specifies a period for presentation, documents must be presented within that period or by the expiry date of the credit, whichever is earlier.
- If the LC requires the presentation of at least one original transport document but does not specify a period for presentation, documents must be presented within 21 calendar days from the date of shipment or by the expiry date of the credit, whichever is earlier.
- If the LC requires the presentation of copies of transport documents and specifies a period for presentation, documents must be presented by the expiry date of the credit, with the period for presentation being disregarded. The period for presentation is only relevant when the LC requires at least one original transport document.
- If the LC does not require transport documents as per Articles 19 to 25 but specifies a period for presentation, documents must be presented by the expiry date of the credit, and the period for presentation should be disregarded. However, if LC explicitly states that documents must be presented within certain number of days from the date of a document other than a transport document (covered under Article 19-25), documents must be presented within the stated number of days.
- If the expiry date or last date for presentation falls on a non-banking day (e.g., weekends, holidays), the beneficiary may present documents on the following banking day. The nominated bank must include a statement in the covering letter to the issuing bank, indicating that the presentation was received within the extended time limit permitted under Article 29a of UCP 600. However, under Article

36, the time limit for presentation is not extended if the bank is closed due to force majeure circumstances (e.g., Acts of God, strikes, wars).

Hours of Presentation:

- Banks have no obligation to receive documents outside of banking hours. However, there is no restriction against receiving presentations outside of these hours.

Considerations for Examination of Documents & Notice of Refusal

Presentation of Documents to a Nominated Bank That Does Not Act Upon Nomination:

- If documents are presented to a nominated bank that does not act upon nomination, there is no requirement to examine the documents or send a notice of refusal.
- However, the nominated bank may choose to check the documents and advise the beneficiary of any discrepancies, without taking on the obligation to honour or negotiate. Examining the documents and determining that they are compliant does not impose any obligation on the nominated bank to honour or negotiate.
- If the documents are found to be in order, the nominated bank may forward them to the confirming bank (if any) or the issuing bank.
- In the case of a non-complying presentation, the nominated bank should handle the documents as per the beneficiary's instructions.
- Sometimes, the beneficiary may instruct the nominated bank to forward the documents to the issuing bank without examining them.

Presentation of Documents to a Nominated Bank Acting Upon Nomination or Confirming Bank:

- If documents are presented to a nominated bank acting upon nomination or a confirming bank, they must examine the documents to determine whether a complying presentation has been made.
- In the case of a complying presentation, the nominated or confirming bank must honour or negotiate as per the LC terms and forward the documents to the issuing bank.
- In the case of a non-complying presentation, the nominated or confirming bank must send a notice of refusal to the presenter (beneficiary or their representative) no later than the close of the fifth banking day following the day of presentation (excluding the date of presentation and holidays).

Guidelines for Sending Notice of Refusal by the Nominated Bank Acting Upon Nomination or Confirming Bank

- Notice of refusal must be sent to the presenter by telecommunication or other expeditious means (e.g., phone, fax, telex, or courier) as available to the bank.

- The notice must be a single communication covering the following:
 1. Indicating that the bank is refusing to honour or negotiate.
 2. Listing the discrepancies.
 3. Stating that the bank is:
 - Holding the documents pending further instructions from the presenter; or
 - Returning the documents; or
 - Acting in accordance with instructions previously received from the presenter.

Options Available to the Beneficiary Against Discrepant Documents:

1. Presentation of Rectified Documents:

- The beneficiary may choose to present corrected documents if timely presentation is still possible.

2. Authorisation to Forward Documents with Discrepancies:

- The beneficiary may authorise the nominated or confirming bank to forward the documents to the issuing bank despite the discrepancies.

3. Request for Issuing Bank's Approval to Honour or Negotiate:

- The beneficiary may request the nominated or confirming bank to seek approval from the issuing bank to honour or negotiate the documents despite the stated discrepancies. The SWIFT message type MT 750 is typically used by the nominated or confirming bank to request such authorisation from the issuing bank. Issuing bank may waive the discrepancies, usually after consulting the applicant, and may authorise the nominated or confirming bank to proceed with honouring or negotiating the documents usually through MT 752 of SWIFT

4. Request for LC Amendment:

- If the discrepancies arise from defects in the letter of credit that could cause similar discrepancies in future presentations, the beneficiary may request the applicant to arrange for an amendment to the letter of credit.

Presentation to the Issuing Bank by the beneficiary Or Nominated / Confirming Bank

- The issuing bank must independently examine the documents to determine whether a complying presentation has been made, regardless of any prior examination by the nominated or confirming bank. This applies even if the covering

letter from the nominated or confirming bank states that the documents are in order or identifies discrepancies.

- In the case of a complying presentation, the issuing bank is obligated to honour the presentation in accordance with the LC terms.
- In the Case of Non-Complying Presentation:
 - The issuing bank may waive discrepancies on its own if the discrepancies are insignificant, such as:
 - Invoice presented in one original and two copies instead of one original and three copies.
 - Typographical error in the LC number in bill of exchange.
- The issuing bank may seek a waiver of discrepancies from the applicant. If the applicant waives the discrepancies, the issuing bank may also agree to waive and honour the presentation per LC terms.
- If the issuing bank decides to refuse the presentation, it must send a notice of refusal to the presenter no later than the close of the fifth banking day following the day of presentation (excluding the date of presentation and holidays). The refusal message is usually sent through SWIFT - MT 734 if the presentation is received from the nominated / confirming bank.

Guidelines for Sending Notice of Refusal by the Issuing Bank

- Notice of refusal must be sent to the presenter by telecommunication or other expeditious means (e.g., SWIFT, phone, fax, telex, or courier) as available to the bank.
- The notice must be a single communication covering the following:
 1. Indicating that the bank is refusing to honour.
 2. Listing the discrepancies.
 3. Stating that the bank is:
 - Holding the documents pending further instructions from the presenter; or
 - Holding the documents until it receives a waiver from the applicant and agrees to accept it, or receives further instructions from the presenter prior to agreeing to accept a waiver; or
 - Returning the documents; or
 - Acting in accordance with instructions previously received from the presenter.
- If the notice of refusal is sent through SWIFT - MT 734, the following are abbreviated codes for the above options:
 1. (a) HOLD: Used for further instructions from the presenter.
 2. (b) NOTIFY: Used if the issuing bank seeks a waiver of discrepancies from the applicant.

3. (c) RETURN: Used when the applicant has already instructed the issuing bank to return discrepant documents.
4. (d) PREVINST: Used when the presenter has already provided instructions for handling discrepant documents at the time of presentation.

General Notes:

- If the issuing bank or confirming bank fails to act in accordance with Article 16 of UCP 600, they are precluded from claiming that the documents do not constitute a complying presentation. However, this preclusion does not apply to a nominated bank acting upon its nomination, as UCP 600 does not obligate a nominated bank to provide an undertaking when acting upon a nomination. According to Article 12 of UCP 600, a nominated bank acting upon nomination has the obligation to honour or negotiate, but unlike the issuing and confirming banks, it is not required to provide an undertaking.
- After the issuing bank provides a notice of refusal, the applicant has the option to waive the stated discrepancies and request the issuing bank to honour the presentation. Although the issuing bank is not obligated to accept such a request, it often does so. If the issuing bank agrees to honour the presentation despite the discrepancies, it will release the documents to the applicant.

Handling of Unaccepted Documents by the Issuing Bank:

Following the issuance of a notice of refusal, the issuing bank may return the documents to the presenter. The timing for returning the documents can vary based on the bank's internal policies and procedures. The issuing bank generally waits for instructions from the applicant or presenter regarding the disposal of the documents.

During this period, the documents must be securely stored by the issuing bank. The presenter should be reminded periodically to provide instructions on how to handle or dispose of the documents.

The issuing bank is also entitled to claim custody and messaging charges from the presenter. These charges cover the costs associated with the secure storage of the documents, as well as any communication and administrative efforts involved in managing the return process. The specific amount and basis for these charges are usually determined by the issuing bank's policies and the terms of the letter of credit.