Uniform Rules for Forfaiting (URF 800)  
Including Model Agreements

Forfaiting is a technique used for financing international trade of great flexibility and capable of creative application. It can be used with an almost unlimited number of instruments such as traditional letters of credit, promissory notes and bills of exchange as well as with newer forms and structures.

The URF sets out for the first time a set of rules to govern and assist this important sector of trade finance. The URF covers both the primary market, in which deals are originated from exporters and other sellers, and the secondary market in which these transactions can be traded between banks and other suppliers of finance thus supplying a deep source of liquidity. Important issues covered include: how sales are concluded, the nature of satisfactory documentation and recourse to sellers.

To assist practitioners in applying the URF a non-binding set of model forms is included.
UNIFORM RULES FOR FORFAITING (URF)
INCLUDING MODEL AGREEMENTS

Implementation Date
1 January 2013
FOREWORDS

We are pleased to present the first-ever drafted Uniform Rules for Forfaiting (URF). They were developed as a joint project by the Banking Commission of the International Chamber of Commerce (ICC) and the International Forfaiting Association (IFA), therefore taking into account the legitimate expectations of all relevant sectors.

This first drafting of the rules was meticulously prepared over a period of three and a half years, and is the result of a collective effort by a number of ICC constituent groups. In particular, I would like to express my gratitude to the members of the ICC Banking Commission with its more than 500 members and the officers of the IFA who together led this project, making pertinent suggestions for changes in the text. ICC national committees also contributed substantially to the final product: 92 national committees submitted several hundred pages of valuable suggestions on successive drafts, a large number of which were incorporated into the final text.

The ICC URF Consultative Group reviewed the various drafts and added their own suggestions. The URF Drafting Group, ably chaired by Don Smith, met on a number of occasions, carefully reviewed all comments submitted by national committees and the Consultative Group and developed the final draft.

This collective effort has borne fruit; it has produced rules that reflect a broad consensus among bankers, users and all members of the forfaiting community. The present drafting is the result of an ambitious project to create a new set of rules for the forfaiting market estimated at more than USD300 billion annually. As such, URF is destined to become the standard text for forfaiting markets worldwide.

Jean Guy Carrier
Secretary General
International Chamber of Commerce
It has long been a cherished ambition of the International Forfaiting Association to produce a single set of standardized terms and conditions for the two components of the forfaiting market – the primary market in which transactions are originated from exporters and other sellers of goods and services and the secondary market where those transactions are traded between banks and other financial institutions.

The Uniform Rules for Forfaiting have achieved that objective and I am immensely proud of the final product. On the part of the IFA, they reflect a mass of accumulated experience and good practice which have now been set down in writing for the benefit not just of our current – and future – members but for the wider trade finance market as a whole. Forfaiting is no longer an arcane art the province of a limited number of practitioners but is a technique of great flexibility and application. The URF will bring those benefits to the attention of the widest possible community. They are not just designed to interact with all of the trade finance and payment instruments currently used internationally but will meet the challenge of likely future developments and new instruments. By marrying both origination and trading the rules give access to a deep and liquid market which can provide much needed funding to producers and manufacturers and assist banks in managing their portfolios and credit exposures.

The URF are a practical set of rules and model agreements have been included to assist users in employing them. I have no doubt that the market will develop new forms and find uses for the rules which have not yet even been contemplated.

I again thank the members of the Drafting Group who put in so much work over a long period.

Paolo Provera
Chairman
International Forfaiting Association
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INTRODUCTION

Although forfaiting has traditionally been defined as the without recourse discounting of trade-related receivables, over the last 20 years it has evolved considerably. Modern forfaiting now encompasses many more instruments, structures and concepts than has ever previously been the case. As a versatile and flexible approach to raising finance for international trade it has great benefits for both providers and recipients of finance.

Forfaiting facilitates the provision of finance to the international trade community. It has the ability to make instruments that evidence payment claims liquid. By making payment claims easier to transfer, forfaiting enables them to be used as more than just a means of obtaining payment for goods or services delivered: they can be used to provide finance. The critical role forfaiting plays in securing financing for exporters and importers motivated ICC to involve itself in this area. The result is the ICC Uniform Rules for Forfaiting (URF), the first standard set of rules for forfaiting transactions. They have been produced in cooperation with the International Forfaiting Association (IFA).

The IFA had already produced a set of rules for the secondary market, the IFA Guidelines launched in 2004, and an Introduction to the Primary Forfaiting Market in 2008. The URF cover both markets. They can govern the initial sale of an instrument in the primary market and any secondary market sales of that instrument, if both or either of those sales is made subject to the URF.

The URF provides a set of rules for the sale of instruments used for financing trade and is designed to facilitate the sale of those instruments. The URF deal only with the transfer of a payment claim without changing it. This versatility means the URF can be used alongside the full and ever expanding range of instruments used to finance trade such as bills of exchange, promissory notes, documentary credits and invoice purchases.
The URF do not deal with the validity and enforceability of any payment claim transferred subject to them. They do, however, deal with the extent to which the selling party is responsible for the validity of the payment claim and its transfer. The parties will also need to select the method of transfer, e.g. endorsement, assignment or novation, suitable for the instrument evidencing the payment claim, to ensure the transfer is effective.

The URF have been structured so as to also permit the creation of debt undertakings. The precise nature and scope of these undertakings will be for the market to develop.

The IFA and ICC were able to draw on a deep pool of technical knowledge and practical experience when selecting the members of the drafting group for the URF. Drafts of the URF were presented to the full membership and constituency of the IFA and the ICC Banking Commission for comment and the drafting group considered the many comments it received in arriving at the final version of the URF. The drafting group and both organizations are confident that this combination has resulted in a set of robust and functional set of rules that reflect market practice.

Model agreements have been provided to assist parties in using the rules. They are not part of the rules and therefore not mandatory, nor should they be relied upon without first carefully considering the requirements of the particular transaction and the legal system governing it.

I had the good fortune to chair the drafting group. The other members of the drafting group are listed below in alphabetical order.

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Geoffrey Wynne – Vice Chair of the Drafting Group – partner, SNR Denton UK LLP

I am grateful to them for their strenuous efforts and perseverance throughout the drafting process.

Donald R. Smith, Chair of the ICC Drafting Group
November 2012