

Corporate Banking

## top@doc Newsletter

Advising and second advising bank – which of the two is the nominated bank?



**Documentary credits are often available with the “advising bank”: that is to say, the bank that advises the credit to the beneficiary. But what if, according to the terms of the credit, the services of a second bank are used to advise the credit? Must the documents be presented to the advising or second advising bank?**

This question can be of crucial importance with regard to compliance with presentation periods for documents or the mailing risk. The “Uniform Customs and Practice for Documentary Credits UCP 600” do in fact distinguish in Article 9 c between an advising and a second advising bank – “An advising bank may utilize the services of another bank (“second advising bank”) to advise the credit and any amendment to the beneficiary ...”. Here, however, the question of availability is not dealt with. Moreover, the aforementioned article refers to a case where the bank that was requested to advise the credit and makes use of the services of another bank for this purpose at its sole discretion. However, we wish to deal with a scenario in which the issuing bank has already stipulated that a second advising bank must be involved.

### **A case study to illustrate the situation:**

Careful Bank receives a credit in favour of Proper and Prompt Ltd. via SWIFT MT 700 that includes, inter alia, the following instructions:

- Field 41D (Available with... By...):  
Advising bank by negotiation
- Field 57D (“Advise through” bank):  
Free and Easy Bank

Moreover, the credit specifies that the documents must be presented to the nominated bank until 15 December 2015.

On 15 December 2015, Proper and Prompt Ltd. presents a set of documents to its principal banker, Free and Easy Bank, with the instruction to negotiate these documents.

### **The following questions now arise:**

- Have the documents been submitted in time by presenting them to the second advising bank within the presentation period? Or should the documents have been presented to Careful Bank on 15 December 2015 at the latest?
- Is Free and Easy Bank authorized to negotiate the documents? Or must the negotiation be effected by Careful Bank as the advising bank?

It must be clarified as to which of the two “advising banks” is acting as the nominated bank.

As mentioned before, the UCP 600 do not provide an answer and top@doc cannot offer a general solution either. It appears to make sense to regard the second advising Free and Easy Bank as nominated bank. After all, this bank is the beneficiary’s principal banker. But it is not safe to say that this position meets the intentions of the issuing bank or those of the applicant.

To avoid misinterpretations and any related difficulties, we urgently recommend to clarify the matter with the issuing bank. The bank should be requested to define which of the two “advising banks” is entitled to negotiate as the nominated bank and/or at which bank the credit is available.

### Do you have any questions or suggestions regarding top@doc?

- Your comments, opinions or queries are of utmost interest. Feel free to contact us any time. Please click [here](#) to access our contact form where you can address any issues you may have.
- In addition to this edition you will find all newsletters of this information service in the [top@doc archive](#) in pdf format for downloading.
- Our specialists for Cash Management and International Business will be pleased to answer any questions you may have on this issue or other documentary business topics.
- For more information on our foreign business services and products please visit our website <http://www.commerzbank.com/documentarybusiness>.

**“The same again this year...”**

Since top@doc's recipes for traditional German Christmas biscuits have been so well received for the last two years, we are pleased to include a recipe for another delicious treat this year as well. This time, we have chosen an absolute classic from our range of Christmas goodies.

## *Recipe for Cinnamon Stars*

*Ingredients:*

3 egg whites  
250 g icing sugar  
1 packet of vanilla sugar  
5 drops of bitter almond oil  
1 tsp cinnamon powder

Approx. 300 g ground almonds  
(quantity depends on the size of  
eggs used) plus a little extra for  
rolling out the dough

*Whip the egg whites until stiff, then gradually stir in the sifted icing sugar. Put two well-heaped tablespoons of the beaten egg whites aside – they will be needed to decorate the biscuits later on.*

*Gently stir the vanilla sugar, bitter almond oil, cinnamon and half of the almonds into the remaining beaten egg whites, then add and knead in as much of the remaining almonds as needed to remove the stickiness from the dough.*

*Roll out the dough on a worktop covered with ground almonds to a thickness of approx. 5 mm, cut out star shapes and place them on a baking tray lined with baking parchment.*

*Brush the biscuits with the beaten egg whites that you have put aside (brushing is easier if you gently stir in a few drops of water). If desired, the biscuits can also be decorated with finely sliced almonds.*

*Put the baking tray into a preheated oven (fan oven 150 °C, conventional oven 130 to 150 °C, gas level 1 to 2) and bake for approx. 20 to 30 minutes.*

*When removing the biscuits from the oven, they should still be a little bit soft.*

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*All staff members of Commerzbank Transaction Services and Financial Institutions, as well as in the specialist documentary business units, would like to wish you a wonderful festive season and all the best for the New Year!*