

**§5-1102. Definitions**

(1). As used in this Article, unless the context otherwise indicates, the following terms have the following meanings.

- (a). "Adviser" means a person who, at the request of the issuer, a confirmer or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed or amended. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (b). "Applicant" means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (c). "Beneficiary" means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (d). "Confirmer" means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (e). "Dishonor" of a letter of credit means failure to timely honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (f). "Document" means a written draft or other demand, document of title, investment security, certificate, invoice or other record, statement or representation of fact, law, right or opinion that:
  - (i) Is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in section 5-1108, subsection (5); and
  - (ii) Is capable of being examined for compliance with the terms and conditions of the letter of credit. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (g). "Good faith" means honesty in fact in the conduct or transaction concerned. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (h). "Honor" of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value and unless otherwise provided occurs:
  - (i) Upon payment;
  - (ii) If the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or
  - (iii) If the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (i). "Issuer" means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family or household purposes. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
- (j). "Letter of credit" means a definite undertaking that satisfies the requirements of section 5-1104 by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by

payment or delivery of an item of value. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(k). "Nominated person" means a person whom the issuer:

(i) Designates or authorizes to pay, accept, negotiate or otherwise give value under a letter of credit; and

(ii) Undertakes by agreement or custom and practice to reimburse. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(l). "Presentation" means delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(m). "Presenter" means a person making a presentation as or on behalf of a beneficiary or nominated person. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(n). "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(o). "Successor of a beneficiary" means a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator and receiver. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(2). Definitions in other Articles applying to this Article and the sections in which they appear are:

"Accept" or "Acceptance" section 3-1408

"Value" sections 3-1303, 4-211-A. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(3). Article 1 contains certain additional general definitions and principles of construction and interpretation applicable throughout this Article.

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

## SECTION HISTORY

PL 1997, c. 429, §A2 (NEW). PL 1997, c. 429, §A4 (AFF).

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