Introduction to and Comments on Bank Payment Obligation (BPO)

T. O. Lee Consultants Ltd.

10 Westbury Court

Richmond Hill, Ontario

L4S 2L1 Canada

www.tolee.com

Email: experts@tolee.com

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The Objectives of Bank Payment Obligation (BPO)

1   To provide an electronic payment assurance tool to facilitate **open account operations** and **supply chain finance.**

2   To **save time and papers i**n trading procedures.

3   To **target at SME** that forms about 80% of the incorporations in each developed or underdeveloped country.

4   To **standardize product definitions** in supply chain finance.

5   To **link up banks** representing and chosen by the manufacturer, the supplier, the middleman, and the ultimate buyer to **reduce Know Your Customers (KYC) costs.**

6   To provide **end-to-end automation** to limit processing time and costs by **eliminating propriety formats.**

7   eUCP version 1.1 is the electronic version of UCP 600. Hence **BPO is NOT an electronic letter of credit** as some LC practitioners think.

8   Following slides are extracted from SWIFT BPO webinars. [3]
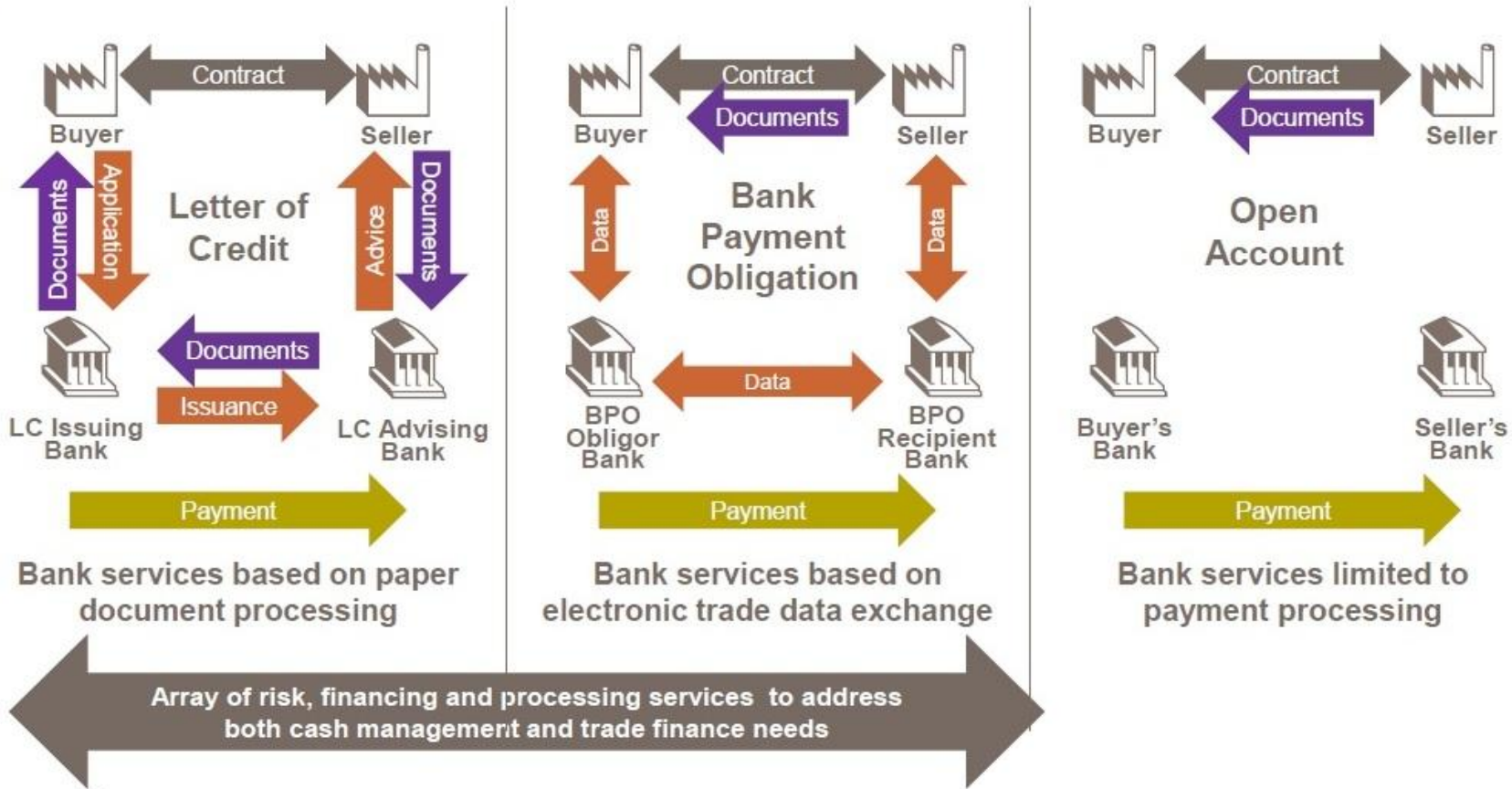
Introduction to BPO Operations

1. BPO is governed by ICC Uniform Rules for Bank Payment Obligations **(URBPO) ICC Publication No. 750** effective from **1 July 2013.**

2. Buyer and seller exchange their **key trading data** derived from the **Purchase/Sales Order** electronically through their own banks for **data matching** purpose.

3. The buyer's bank (**Obligator Bank**) sends the BPO to seller's bank (**Recipient Bank**) who is also the Beneficiary.

4. Seller ships the goods and submits the electronic data through the seller's bank to the buyer's bank, claiming payment.

5. Buyer's bank checks the data and pays the seller's bank if the **data is matching** its own record.

6. In data mismatch, the buyer's bank may contact buyer for a **waiver** or **may refuse the waiver from buyer** and send **notice of refusal of payment.**
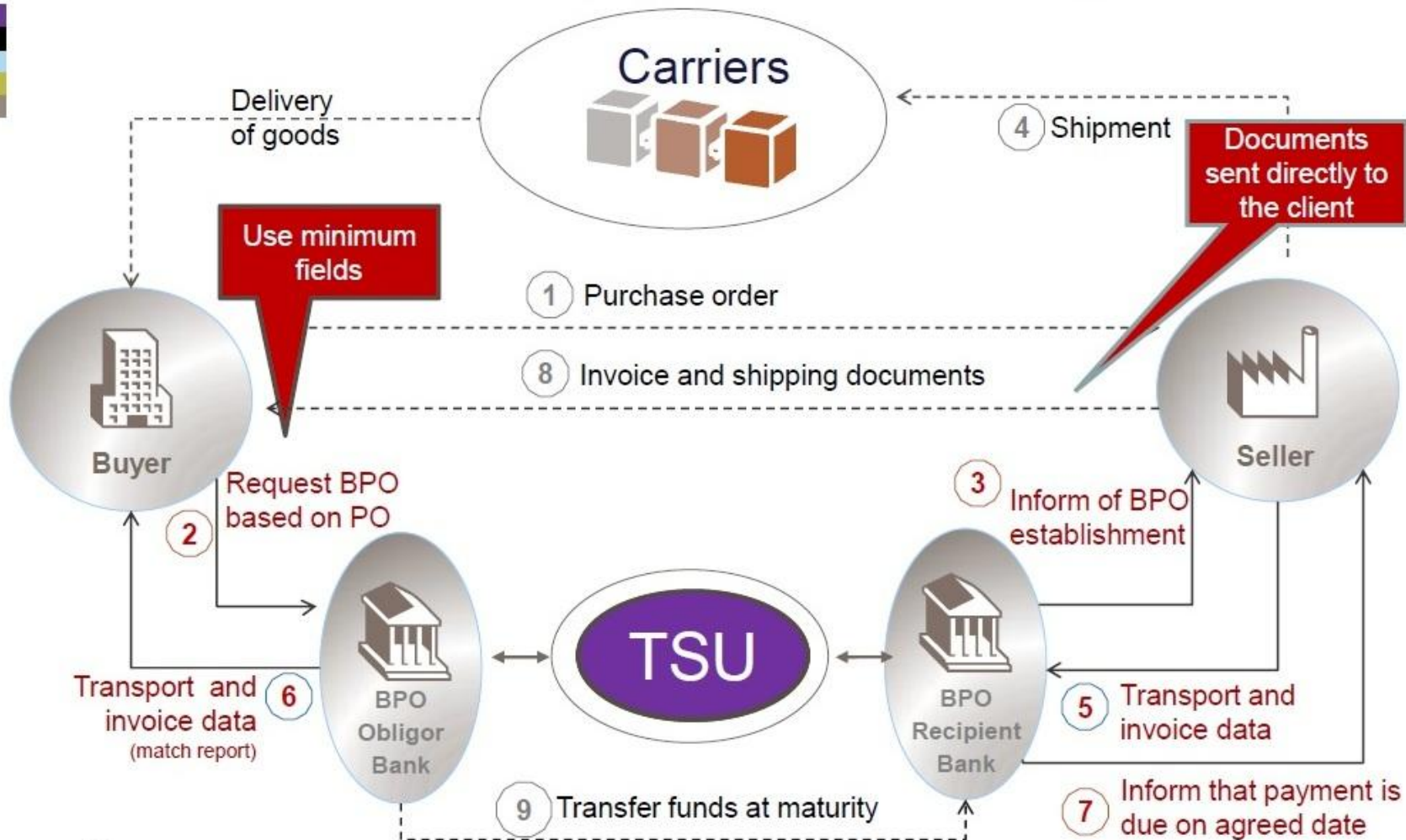
7   BPO uses **ISO 20022 Trade Services Management** messages for all parties and **SWIFT TSU** between banks.

8   **Universal Time Coordinated (UTC)** is used, a technical equivalent of **Greenwich Mean Time (GMT).**

9   URBPO 750 is similar to UCP 600 in:

    a   **Separate and independent** from underlying contracts;

    b   **Dealing with electronic data only,** and not with paper documents, goods, services or performances;

    c   Providing **definitions** of terms used;

    d   Duty to send notice **without delay;**

    e   **Amendments;**

    f   **Force Majeure** disclaimers (including computer software defects) for banks; and

    g   **Assignment of proceeds.**

10 URBPO 750 mirrors ISP98 in **extending data submission period** due to **closing of bank** before expiry and in **applicable law**.

11 Other banks are **Submission Bank** & **Involved Banks.** 5

A new payment risk mitigation and financing instrument

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BPO flows for data, documents and goods

Carriers

Delivery of goods

(4) Shipment

Documents sent directly to the client

Use minimum fields

(1) Purchase order

(8) Invoice and shipping documents

Buyer

Seller

(2) Request BPO based on PO

(3) Inform of BPO establishment

(6) Transport and invoice data (match report)

BPO Obligor Bank

TSU

BPO Recipient Bank

(5) Transport and invoice data

(9) Transfer funds at maturity

(7) Inform that payment is due on agreed date

SWIFT

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The BPO builds upon electronic data matching
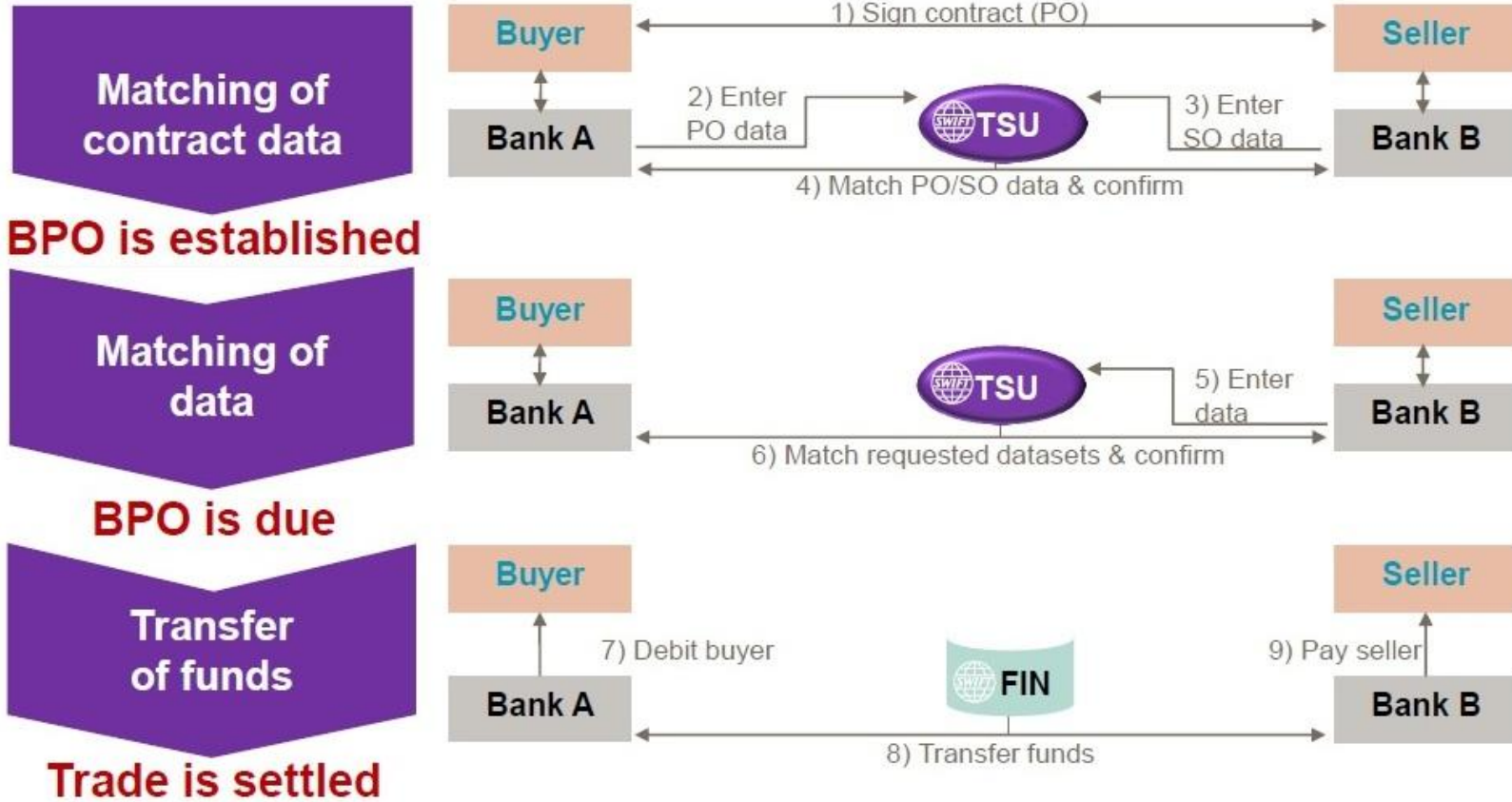
PO= Purchase Order; SO= Sales Order

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Contracts

Buyer ⟷ Purchase order: BPO is one option of payment conditions ⟷ **Seller**

BPO-based services terms and conditions

BPO-based services terms and conditions

See SWIFT's TSU Service Description for C2B contractual guidelines

Buyer's bank ⟷ **SWIFT TSU** ⟷ **Seller's bank**

Rulebook in the TSU Service Description

Correspondent banking contract
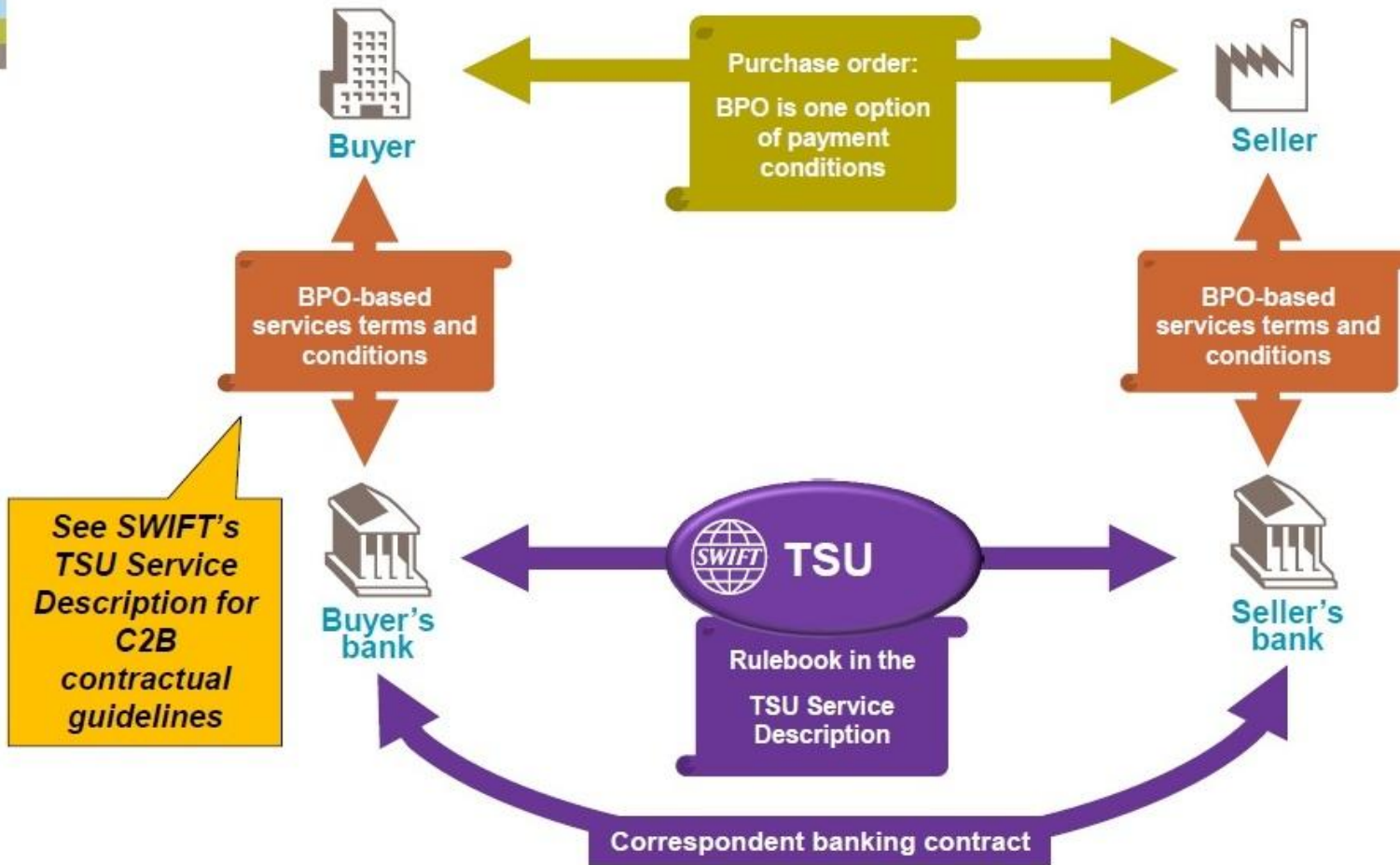
Industry Standards for BPO

Comments on BPO

1. The **Obligator Bank** pays only to the **Recipient Bank**, the seller's bank, as the Beneficiary, **not the seller** as in UCP 600.

2. Hence the seller cannot sue the Obligator Bank for **negligence, defaults and other obligations.** Hence the seller must make a separate contract with the Recipient Bank to **assign the right to sue the Obligator Bank.**

3. **Electronic Data Interface (EDI**) introduced more than twenty years ago was a **total failure** due to SMEs do not have **technical skills** in electronic trade. They have to recruit **new staff** and bear costs for **on-going training.** The same remark may apply to BPO.

4. BPO has to compete with a similar product from ICC, the **eUCP 1.1** that the LC practitioners are more familiar with and easier to grasp the essential features. In fact eUCP 1.1 is getting more popular in 2013 in some countries, giving BPO a threat in its infant stage.

5   The URBPO 750 introduces many new jargons unheard of in the LC community, such as **Established Baseline, Transaction Matching Application (TMA), Trade Services Management (TSMT) Message, Full Push Through Report, Role & Baseline Acceptance/Rejection.** SME may not be able to familiarize with them in a short period.

6   BPO is completely new and **never tested by time** before. There may be **unpleasant surprises** and **loopholes** for the parties to overcome.

7   There is **no precedent case** on BPO to refer to in litigation whereas there are plenty of legal cases in each country for UCP 600. Litigants cannot estimate their chance in wining the case.

8   BPO has **no ICC Banking Commission official opinions** as in UCP 600 for parties to determine compliance.

9   BPO has **no interpretation tool** such as **ISBP 745** for UCP 600 to end disputes by explaining the **underlying intent** and **clarification on grey areas**, if any.

10 In DOCDEX, mediation and arbitration, the adjudicators have to deal with the applicable law as specified in the BPO. This will narrow the scope of available adjudicators.

11 The **judges** and panel of **jurors** are not familiar with URBPO 750. This may create **unpleasant surprises** for the parties. Also litigation will be **more time consuming** and **more costly.**

12 It needs time for **DOCDEX experts** to learn the skills in understanding URBPO 750 in depth in order to resolve the BPO disputes from parties.

13 In **open account trade,** the buyer is usually the **dominating party** and it may not wish to lose the **benefits in paper based trading** (e.g. **delays in payment, simple documentation and lower costs**) now taken away by the BPO.

14 Hence the BPO has the best opportunity to succeed in the **supply chain trading** where it has **no competition.**

Conclusions

1   In **open account trading** and **supply chain management,** the BPO has a **good window of opportunity** for success as there is no tool in the market place available to compete with BPO.

2   In letter of credit operations, the **eUCP 1.1** will win over URBPO 750 for reasons already elaborated above.

3   Unless **extensive free seminars** and training are provided by SWIFT and ICC, and **heavy promotions by banks** worldwide, the success of BPO is not easy.

4   The **adjudicators** in DOCDEX, mediation, arbitration have to be trained for URBPO 750 to **give faith to the parties** to use BPO.

5   The **bad practice** of some banks to **fabricate discrepancies** in UCP 600 in order to increase revenue must not be carried to URBPO 750. Otherwise the BPO will be **killed by them prematurely.**

Q & A