



ITFA RELEASES 2023 ADDENDUM TO THE DIGITAL NEGOTIABLE INSTRUMENTS HANDBOOK

Written by Brian Canup and published by Trade Finance Global on 10th November 2023

Today, the International Trade and Forfaiting Association (ITFA) has released an addendum to its Digital Negotiable Instruments (DNI) Handbook.

This update follows the enactment of the [UK Electronic Trade Documents Act 2023](#), a crucial legislation enabling the creation of electronic trade documents, including bills of lading, Bills of Exchange (BOEs), and promissory notes under English law.

The Addendum provides essential guidance for adapting traditional forms of [BOEs and Promissory Notes](#) to meet the requirements of the Act, reflecting ITFA's commitment to supporting the finance industry in navigating the evolving digital landscape of trade documentation.

Sean Edwards, Chairman of ITFA, told TFG, "There is no doubt that the Electronic Trade Documents Act has the ability to lay a strong foundation for the [digitalisation](#) of trade but with that gift comes a few questions and some adaptation. By publishing this addendum we are trying to answer the first – especially on what constitutes reliability – and give practical advice on the, really quite minor, changes that need to be made."

Key updates include:

- 1. Incorporation of English Law:** The addendum underscores the importance of embedding an English governing law clause and, where necessary, a jurisdiction clause. This is vital for ensuring that the digital negotiable instruments are governed by and compliant with the UK Electronic Trade Documents Act. These clauses provide a legal framework within which the instruments will operate, ensuring they are recognised and enforceable under English law.
- 2. Conversion Clauses:** The updated handbook provides detailed guidance on including clauses that facilitate the transition from paper to digital formats. This is critical in maintaining the legal integrity and enforceability of the instruments in their digital form, ensuring they retain their traditional legal characteristics and functions in a digital environment.
- 3. Payment Undertakings:** The addendum introduces clear instructions for incorporating undertakings to pay the holder of the note. These undertakings are crucial for maintaining the essence of BOEs and Promissory Notes in their digital versions, thereby ensuring they are legally binding and enforceable under the new Act.
- 4. Reliable System Agreement:** An essential addition is the agreement between parties that the system used for creating and registering the digital asset is considered reliable under the standards of the Act. This interim requirement provides much-needed clarity and legal certainty in the current untested legal landscape.



5. **Updated dDOC Standards:** The dDOC standards, crucial for systems and vendors handling digital negotiable instruments, have been revised to demand evidence of the system's reliability in a legally satisfactory manner. This includes the ability to effectively present and transfer the instruments, ensuring they are operationally efficient and legally robust.
6. **Global Recognition:** The dDOC standards have been recognised by the World Trade Organization and ICCDSI as the global standard for BOEs and Promissory Notes. This recognition is a testament to the standards' robustness and their alignment with global best practices in digital trade finance.
7. **Clarification of "Reliable System":** The ITFA continues its efforts to define what constitutes a "[reliable system](#)" under the Act. While a certification system is being considered, the addendum highlights that certification isn't the only way to demonstrate a system's reliability. Legal opinions, supported by technical evidence, are also viewed as a practical and legitimate way to meet the Act's requirements.

This comprehensive update from ITFA is a vital contribution to the [digitisation](#) of [trade finance](#) instruments, ensuring that they remain relevant and effective in the modern digital economy while adhering to new legal standards.

Read the updated Handbook [here](#).