BILL OF EXCHANGE:

Definition:

According to sec, 5 of Negotiable instrument act.

"A bill of exchange is a document in writing containing an unconditional order, signed by the maker, directing a certain person to paying a certain sum of money only to or to the order of a certain person, or to the bearer of instrument.

Example:

Suppose "A" purchases goods from "B" and instead of making payment in cash, he decides to accept a bill of exchange of "B". So while delivering goods "B" sends a bill to "A" "A" accepts the bill by writing "ACCEPTED" on the face of the bill, signs it and send it back to "B". On due date of the bill "B" will present the bill before "A" and receive the payment.

Specimen:

Rs. 8,000 Date: 30-4-2001

Three months after date pay to "B" or order the sum of the Rs.8, 000 for value received.

ACCEPTED

"A"

To, "B"

Drawee "A"

Drawer "B" or payee "B"

Essentials of bill of exchange:

Essential of bill exchange are similar to the essential of promissory note however the difference is that where a promissory note contains a promise to pay, the bill of exchange contains an order to pay.

Following the essential of bill of exchange.

- It must be in proper writing.
- It contains an order to pay.
- The order to pay must be unconditional.
- It must be signed by the drawer.

- The drawee must be a certain and definite person.
- The payee must be a certain and definite person.
- The amount pay able should be stated clearly.
- The order is to pay money only.(Not any other commodity or any asset)
- It must fulfil other legal requirements such as mentioning of date, signature, stamp etc.

Meaning:

Crossing of a cheque means to draw to parallel slanting lines at the top left corner of the cheque. It is done in order to bind the paying bank to pay money either to any bank or to a particular bank.

Objectives:

Following are the objectives of crossing of cheque.

If by fault, cheque is misplaced than it can't be enchased by any unauthorized person.

Crossed cheque ensures safety and security to the payee.

Crossed cheque cannot be manipulated by dishonest cashiers.

In case of encashment of cross cheques, the recipient can be easily traced.

TYPES OF CROSSING:

Following are different types of crossing:

General Crossing:

In general crossing two parallel transverse lines are drawn on cheque and:

- The words "& Co." Not negotiable "or any abbreviation can be written in between these lines.

& Company   Not Negotiable   AK & Company

Effects:

When chequed has been crossed generally as shown above, the drawee bank will make payment only to a banker.

Special CROSSING:

Meanings:

Under special crossing the name of a particular bank is mentioned on the cheque either with or without the words “Not Negotiable”.

Habib Bank Ltd. United Bank Ltd. United Bank Ltd

Frere Road

Branch

Effect:

In case of special crossing the paying bank shall make payment only to the bank whose name is written cheque.

Differentiate Between Promissory Note and bill of exchange.

Number of Parties

There are 2 parties in promissory note i.e. maker and payee.

There are 3 parties.

Drawer.

Drawee

Payee.

Promise & Order.

It contains a promise to pay.

It contains and orders to pay.

Acceptance.

No acceptance is required here. It is directly presented for payment.

It must be presented for acceptance before being presented for payment.

Relationship.

Here there is immediate relationship between maker and payee.

Here drawer and acceptance in immediate relation but acceptance and payee has no immediate relation.

Payable to maker.

A promissory note can’t be made payable to maker.

A bill of exchange can be made payable to drawee.

Nature of Liability.

Liabilities of makers of pro-note are of primary and absolute nature.

Liabilities of a drawer of a bill are of secondary nature.

Protest.

In case of foreign pronote, there is no need to be protested for dishonor.

Foreign bills must be protested for dishonors.

Notice of Dishonor.

In case of pro-note there is no need to give notice of dishonor.

In case of bill of exchange, it is necessary to give notice of dishonor to the drawer by the holder.

Sets.

A Promissory note is not drawn is sets.

A bill of exchange is drawn is sets.

Debtor or Creditor.

The person who makes the bill is a debtor and he himself partner obligation to pay.

Here drawer of a bill is a creditor who order debtor to pay.

DISHONOURED OF A CHEQUE:

When Cheque is dishonored:

Although is a banker's duly to honor the customer's cheque yet there are certain reasons on the basis of which the banker can dishonor or refuse payment on cheque.

Following are the reasons on the basis of which it becomes obligatory to refuse payment:

- Defective Title of Holder:

  In case the banker comes to know by any means that title of the holding party is defective, he must refuse payment.

- Notice of Assignment:

  In case the banker has received notice of Assignment any cheque presented afterwards will be dishonored.

- Garnishee Orders:

  On the receipt of the Garnishee orders the banker will close the account and any cheque presented will be dishonored.

- Insolvency of Customer:

  When a banker receives the notice of insolvency, he will dishonor all subsequent cheques presented for payments.

- Death, Insanity of Customer:

  When banker receives, that customer has gone insolvent or mad; he must refuse payment on cheques.

- Counter Manding payment:

  When a customer directs a bank not to honor a particular cheque the banker is bound to refuse payment on that cheque.

- Closing of Account:

  When a customer has given a notice to close the account, the banker must refuse payment on any cheque presented afterward.

- Loss of Cheques:

  When a customer has informed the banker about the numbers of cheques that have been misplaced, banker must refuse payment on any such cheques if presented.

- Material Alteration:

  When on the face it appears that any unauthorized material alteration has been made in cheque, banker is bound to refuse payment.

  Apart from these there are certain other cases where banker is not bound to refuse payment but he may refuse if he deems it safe. Such cases are as follows:

  - Post Date Cheques:

    If a cheque in post dated i.e. if cheque is presented for payment before the date mentioned on it the banker can refuse payment.

  - Stale Cheques:

    If the cheque I not presented within six months of the date written on it, it become state and banker can refuse payment on such cheques.

  - Insufficient Funds:

    When there are insufficient funds in the account to *honor cheque, the banker can refused payment*.

  - Doubtful Appearance:

If there are cuttings on cheque, rendering it doubtful, the banker may refuse payment.