

NEGOTIABLE INSTRUMENTS

- *Negotiable instruments* - a written contract for the payment of money which complies with the requirements of Sec 1 which by its form and on its face is intended as a substitute for money and passes from hand to hand as money so as to give the holder in due course the right to hold the instrument free from defenses available to prior parties
- Functions
 - To supplement the currency of the government
 - To substitute for money and increase the purchasing power
 - Legal tender- that kind of money which law compels the creditor to accept in payment of his debt when tendered by the debtor in the right amount
- Features:
 - *Negotiability* - where a bill or note or check may pass from hand to hand similar to money
 - *Accumulation* of secondary contracts- secondary contracts are accumulated because indorsers become secondarily liable

KINDS OF NI:

- *Promissory note* - an unconditional promise in writing by one person to another signed by the maker engaging to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer
- *Bill of exchange*- an unconditional order in writing addressed by one person to another signed by the person giving it requiring the person to whom it is addressed to pay on demand or at a fixed determinable future time a sum certain in money to order or to bearer
- *Check* - a bill of exchange drawn on a bank payable on demand

Other forms of NI

- Certificate of deposit
- Trade acceptance
- Bonds
- Drafts
- Debenture
- When BE treated as PN
 - Drawer and drawee are the same person
 - Drawer is fictitious person
 - Drawee does not have the capacity to contract
 - Where the bill is drawn on a person who is legally absent

- Where the bill is ambiguous
- Parties to promissory note
 - Maker -one who makes a promise and signs the instrument
 - Payee - party to whom the promise is made or the instrument is payable
- Parties to bill of exchange
 - Drawer - one who gives the order to pay money to a third party
 - Drawee - person to whom the bill is addressed and who is ordered to pay
 - Payee - party in whose favor the bill is drawn or is payable
- Other parties to NI
 - Indorser
 - Indorsee
 - Persons negotiating by mere delivery
 - Persons to whom the instrument is negotiated by mere delivery

Distinctions:

<i>Negotiable instruments</i>	<i>Non-negotiable instruments</i>
Only NI is governed by the NIL	Application of the NIL is only by analogy
Transferable by negotiation or by assignment	Transferable only by assignment
A transferee can be a HDC if all the requirements are complied with	A transferee remains to be assignee and can never be a HDC
A holder in due course take the NI free from personal defenses	All defenses available to prior parties may be raised against the last transferee
Requires clean title, one that is free from any infirmities in the instrument and defects of title of prior transferors	Transferee acquires a derivative title only
Solvency of debtor is in the sense guaranteed by the indorsers because they engage that the instrument will be accepted, paid or both and that they pay if the instrument is dishonored	Solvency of debtor is not guaranteed under art 1628 of the NCC unless expressly stipulated

<i>Promissory note</i>	<i>Bill of exchange</i>
Unconditional promise	Unconditional order
Involves 2 parties	Involves 3 parties
Maker is primarily liable	Drawer is only secondarily liable
Only one presentment for payment	Two presentments: for acceptance and for payment
<i>Assignment</i>	<i>Negotiation</i>
Pertains to contracts in general	Pertains to NI
Assignee takes the instruments subject to the defenses obtaining among the original parties	Holder in due course takes it free from personal defenses available among the parties
Governed by the civil code	Governed by NIL

<i>Negotiable instrument</i>	<i>Negotiable document of title</i>
Subject is money	Subject is goods
Is itself the property with value	The document is mere evidence of title - the things of value being the goods mentioned in the document
Has all the requisites of sec 1 NIL	Does not have these requisites
A holder of NI may run after the secondary parties for payment if dishonored by the party primarily liable	Intermediate parties are not secondarily liable if the document is dishonored
A holder, if a holder in due course, may acquire rights over the instruments over the instruments better than his predecessors	A holder can never acquire rights to the document better than his predecessors

<i>Bill of exchange</i>	<i>Check</i>
May or may not be drawn on the bank	Is always drawn on a bank or banker
May be payable on demand or at a fixed or determinable future time	Always payable on demand
Must be presented for acceptance	Not necessary to be presented for acceptance, however, if the holder requests and the banker desires, he may accept
Need not be drawn on a	Is drawn on a deposit,

deposit, hence it is not necessary that the drawer of a bill of exchange should have funds in the hands of the drawee	otherwise, if it is not drawn on deposit there would be fraud
Death of the drawer of a BOE, with the knowledge of the bank, does not revoke the authority of the drawer to pay	Death of the drawer of a check with the knowledge of the bank, revokes the authority of the banker to pay
May be presented for payment within reasonable time after its last negotiation	Must be presented for payment within a reasonable time after its issue
If accepted drawer/ indorser remains liable	If certified drawer/ indorser are discharged

<i>Negotiable instrument</i>	<i>Negotiable warehouse receipt</i>
If originally payable to bearer, it will always remain so payable regardless of manner of indorsement	If payable to bearer, it will be converted into a receipt deliverable to order if indorsed specially
A holder in due course may obtain title better than that of the one who negotiated the instrument to him	The indorsee, even if holder in due course, obtains only such title as the person who caused the deposit had over the goods

- Form of NI
 - Must be in writing and signed by the maker or drawer
 - Must contain an unconditional promise or order to pay a sum certain in money
 - Must be payable on demand or at a fixed or determinable future time
 - Must be payable to order to bearer
 - When the instrument is addressed to a drawee, he must be named otherwise indicated therein with reasonable certainty
- Payable to order -The instrument may be made payable to order of:
 - A payee who is not the maker, drawer or drawee
 - The drawer or maker
 - The drawee
 - 2 or more payees jointly
 - One or some of several payees
 - The holder of an office for a time being

- Factors that affect the determination of negotiability of instrument:
 - Whole instrument
 - What appears on the face of the instrument
 - Requisites enumerated in sec 1 of the NIL
 - Should contain words or terms of negotiability
 - In determining the negotiability of an instrument, the instrument in its entirety and by what appears on its face must be considered. It must comply with the requirements of sec 1 of NIL.
 - The acceptance of a bill of exchange is not important in the determination of its negotiability. The nature of acceptance is important only on the determination of the kind of liabilities of the parties involved.

- Fund for reimbursement:
 - Drawee pays the payee from his own funds, afterwards, the drawee pays himself from the particular fund indicated
 - Particular indicated is not the direct source of payment but only the source of reimbursement
- Particular fund for payment:
 - There is only one act...the drawee pays directly from the particular fund indicated. Payment is subject to the condition that the fund is sufficient.
 - Particular fund indicated is the direct source of payment
- Payable on demand:
 - Where expressed to be payable on demand, at sight or on presentation
 - Where no period of payment is stated
- Payable at a fixed or determinable future time:
 - At a fixed period after date or sight
 - On or before a fixed or determinable future time specified therein; or
 - On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening is uncertain.
- Payable to order – the instrument is made payable to the order of:
 - A payee who is not the maker, drawer, or drawee, or
 - The drawer or maker, or
 - The drawee, or
 - 2 or more payees jointly, or

- One or some of several payees, or
- The holder of an office for a time being
- Payable to bearer - The instrument is payable to bearer:
 - When it is expressed to be so payable
 - When it is payable to a person named therein or bearer
 - When it is payable to the order of fictitious or non existing persons and such was known to the person making it so payable
 - When the name of payee does not purport to be the name of any persons
 - When the only or last indorsement is an indorsement in blank
- Omissions and provisions that do not affect negotiability:
 - It is not dated
 - It does not specify the value given or that any value has been given
 - It does not specify the place where it is drawn or where it is payable
 - It bears a seal
 - It designated a particular kind of current money in which payment is to be made
- Additional provisions affecting negotiability:
 - General rule: If some other act required other than to payment of money, the instrument is not negotiable
 - Exceptions:
 - Authorizes the sale of collateral securities on default
 - Authorizes confession of judgement on default
 - Waives the benefit of law intended to protect the debtor, or
 - Allows the creditor the option to require something in lieu of money
- Interpretations of NI
 - Discrepancy between the amount in figures and in words... the words prevail, but if the words are ambiguous, reference will be made to the figures to fix the amount
 - Payment for interest is provided for – interest runs from the date of the instrument if undated from issue thereof
 - Instrument undated – consider date of issue
 - Conflict between written and printed provisions – written provisions prevail
 - When the instrument is so ambiguous that there is doubt whether it is a bill or a note, the holder may treat it as either at his election

- If one signs without indicating in what capacity he has affixed his signature, he is considered an indorser
- If two or more persons sign “we promise to pay” their liability is joint but if they sign “I promise to pay”, the liability is solidary
- Incidents in the life of a NI
 - Issue
 - Negotiation
 - Presentment for acceptance
 - Acceptance
 - Dishonor by non acceptance
 - Presentment for payment
 - Dishonor by non payment
 - Notice of dishonor
 - Discharge
- Mode of transfer
 - *Negotiation*- the transfer of the instrument from one person to another so as to constitute the transferee as holder thereof
 - *Assignment*- a method of transferring a non-negotiable instrument whereby the assignee is merely placed in the position of the assignor and acquires the instrument subject to all defenses that might have been set up against the original payee
 - *By operation of law* - the full title to a bill may pass without assignment, indorsement, or delivery
 - By death of holder
 - By bankruptcy
- How negotiation takes place
 - *Issuance*- the first delivery of the instrument complete in form to a person who takes it as a holder
 - Subsequent negotiation
 - If bearer, by mere *delivery*
 - If order, by *indorsement* completed by *delivery*
 - Incomplete negotiation of order instrument
 - Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferor had therein and the transferee acquires in addition, the right to have the indorsement of the transferor.
 - Indorsement
 - Must be written on the instrument itself or upon a paper attached (*allonge*)

- General rule: Indorsement must be of the entire instrument
- Exception: Where the instrument has been paid in part, it may be indorsed as to the residue
- An indorsement which purports to transfer to the indorsee a part only of the amount payable does not operate as a negotiation of the instrument, it operates merely as an assignment
- An indorsement which purports to transfer the instrument to two or more indorsees severally does not operate as a negotiation of the instrument
- Kinds of indorsement
 - Special - specifies a person
 - Blank- specifies no person
 - Absolute - by which indorser binds himself to pay
 - Conditional- depend on the happening of a contingent event
 - Restrictive
 - Prohibits further indorsement
 - Constitutes the indorsee the agent of the indorser
 - Vests the title in the indorsee in trust for or the use of some other persons
 - Effects
 - Receive payment of the instrument
 - Bring action thereon that the indorser could bring
 - Transfer his rights as such indorsee where the form of the indorsement authorizes him to do so
 - Qualified- constitutes the indorser a mere assignor
 - *Without recourse, sans recourse*, at the indorser's own risk
 - Joint- payable to 2 or more persons, all must indorse
 - Except: where payees or indorsees has to authority, or where payees or indorsees are partners
 - Irregular- not otherwise party to an instrument places his signature in blank before delivery
- Other rules on indorsement
 - Negotiation is deemed to have been effected before the instrument is over due
 - Except if the indorsement bears a date after maturity
 - Presumed to have been made at the place where is dated except when the place is specified
 - Where 2 or more payees, all must indorse unless authority is given to one

- In representative capacity, must indorse as such to negate personal liability
- As cashier or other fiscal officer, deemed payable to corporation or bank
- Renegotiation
 - Where instrument is negotiated back to a prior party, such party may reissue and further negotiate the same
 - But he is not entitled to enforce payment against any intervening party to whom he was personally liable
 - To avoid circuitousness of suits
- Striking out instrument
 - The holder may strike out any indorsement any time which is not necessary to his title
 - The indorser whose indorsement is struck out, and all subsequent to him, are relieved from liability
- Continuation of negotiable character
 - General rule: An instrument which is negotiable continue to such until it has been...
 - Restrictively indorsed
 - Paid at or after maturity
- *Value* - any consideration sufficient to support a simple contract
 - An antecedent or pre-existing debt
 - Value previously given
 - Lien arising from contract
- *Holder*- a payee or indorsee of a bill or note who is in possession of it or the bearer entitled to receive the sum for which it calls
- Classes of holders
 - Simple holders
 - Holders for value
 - Holders in due course
- Rights of holders in general
 - To sue in his own name
 - Payment to him in due course discharges the instrument
- *Holder in due course*- who has taken the instrument under the ff conditions:
 - That is *complete* and regular upon its face
 - That he became a holder before it was *overdue* and without notice that it had previously dishonored
 - That he took it in good *faith* and for value

- That at the time he took it, he had no notice of any *infirmity* in the instrument or defect in the title of the person negotiating it
- Rights of a holder in due course
 - May *sue* on the instrument in his own name
 - May *receive* payment and if payment is in due course, the instrument is discharged
 - *Holds* the instrument free from any defect of title of prior parties and free from personal defenses available to parties among themselves
 - May *enforce* payment of the instrument for the full amount against all parties liable thereon
- Rights of holder NOT in due course
 - *Enforce* the instrument and *sue* under it in his own name
 - May *receive* payment and if the payment is in due course, the instrument is discharged
 - Entitled to the instrument but *holds* it subject to the same defenses as if it were non-negotiable
 - Has all the rights of HIDC from whom he derives his title in respect of all parties prior to such holder, provided he is not himself a party to any fraud or illegality affecting the instrument
 - He is subject to the same defenses as if it were non-negotiable...to both real and personal defenses available to parties primarily or secondarily liable
 - Exception:
 - *Shelter rule* - a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all prior parties to the latter
 - Exception to the exception:
 - The rule under Sec 58 does not apply if the holder was previous holder NOT in due course who had subsequently repurchase the instrument either personally or through an agent
 - *Reason*: a holder who is not a holder in due course cannot improve his situation by reacquiring the instrument
- *Accommodation*- a legal arrangement under which a person lends his name and credit to another without any consideration
 - Accommodation party
 - He must be a *party* to the instrument, signing as maker, drawer, acceptor or indorser

- He must *not receive* value therefore
- He must *sign* for the purpose of lending his name or credit
- AP is regarded as a *surety* for the accommodated party
- Specific rights of accommodation party
 - Right to *revoke* accommodation
 - Right to *reimbursement* from accommodated party
 - Right to *contribution* from other solidary accommodation parties
- Liability
 - Liable on the instrument to a holder for value
- 1st: Liabilities of *maker*
 - *Engages* to pay according to the tenor of the instrument
 - *Admits* the existence of the payee and his capacity to indorse
- 1st: Liabilities of the *acceptor*
 - *Engages* to pay according to the tenor of his acceptance
 - *Admits* the existence of the *drawer*, the *genuineness* of his signature and his *capacity* and *authority* to draw
 - *Admits* the existence of the *payee* and his *capacity* to indorse
- 2nd: liabilities of drawer
 - *Admits* the existence of the *payee* and his *capacity* to indorse
 - *Engages* that the instrument will be *accepted* or *paid*
 - *Engages* that if the instrument is dishonored and proper proceedings are brought, he will *pay*
- Liabilities of *general indorser*
 - Warrants to all subsequent HDC
 - That the instrument is *genuine* and in all respect what it purports to be
 - He has *good title* to it
 - All prior parties had *capacity* to contract
 - The instrument is *valid and subsisting*
 - *Engages* that the instrument will be *accepted* or *paid*
 - If the instrument is dishonored and necessary proceedings taken, he will *pay*

- Liabilities of *irregular indorser*
 - If payable to order of a 3rd person, he is *liable* to the *payee* and *subsequent parties*

- If payable to order of maker/drawer or to bearer, he is *liable* to all *parties subsequent* to maker/drawer
- If he signs for accommodation of the payee, he is *liable* to all parties subsequent to the payee
- Real defenses
 - Material *alteration*
 - *Want* of delivery of incomplete instrument
 - Duress amounting to *forgery*
 - *Fraud* in factum or fraud in esse contractus
 - *Minority* (available to minor only)
 - *Marriage*, i.e. wife
 - *Insanity*
 - *Ultra vires* acts of corporation
 - *Want* of authority of agent
 - Execution of instrument b/n *enemies*
 - *Illegality*
- Personal defenses
 - *Absence* of failure of consideration
 - *Want* of delivery of complete instrument
 - Insertion of *wrong* date
 - *Filling* up a blank contrary to authority given or not within reasonable time
 - *Fraud* in inducement
 - Acquisition by *force, duress* or *fear*
 - Acquisition by *unlawful* means
 - Acquisition for an *illegal* consideration
 - *Breach* of faith
 - Circumstances amounting to *fraud*
 - *Mistake*
 - *Intoxication*
 - *Ultra vires* acts of corporation (w/ power to issue)
 - *Want* of authority of agent (w/ authority)
 - *Insanity*
 - *Illegality* of contract
- *Material alteration*- any change in the instrument which changes or affects the liability of the parties in any way
 - Date
 - Sum payable
 - Time or place of payment
 - Number or relations of parties
 - Medium or currency
 - That which add place (no place of payment)
 - Any other change or addition that alters effect
- *Forgery*

- Signing of another's name with intent to defraud
- Alteration of an instrument in name, amount, with intent to defraud
- General rule: wholly *inoperative*
- Effects:
 - *No right to retain* the instrument
 - *Not discharge*
 - Except:
 - Precluded from setting up forgery or want of authority
 - ◆ Estoppel thru acts, silence, negligence
 - ◆ Warrant or admit the genuineness of signature
- *Presentment* - production of a BE to the drawee for his acceptance or to the drawee or acceptor for his payment, or the production of PN to the party liable for payment
 - Consists of:
 - Personal demand for payment
 - Readiness to exhibit
 - Requisites
 - Made by the *holder* or any person authorize
 - At a reasonable *hour* on a business day
 - At a proper *place*
 - To the *person* primarily liable, or if absent, any person found in the place of presentment
 - When made
 - PN on demand...within reasonable time after its issue
 - BE on demand...within reasonable time after its last negotiation
 - Proper place of presentment
 - *Specified* place
 - *Address* of person
 - *Usual* place of business or residence
 - *Last* known address
 - When required
 - When payable after sight, in order to fix the maturity
 - Where the bill expressly stipulates that it be presented for acceptance
 - Where the bill is drawn payable elsewhere than at the residence or place of business of drawee
- *Acceptance*- signification by the drawee of his assent to the order of the drawee
 - Kinds

- General- without qualification to the order of the drawee
- Qualified -
 - Partial
 - Conditional
- Form
 - Made by or on behalf of the holder
 - At a reasonable hour on a business day
 - Before the bill is overdue
 - To the drawee or some person authorized to accept
- *Dishonor*- where a bill is duly presented for acceptance and is not accepted within the prescribed time
 - Person presenting must treat it as dishonored or he loses the right to recourse against the drawer and indorsers
 - Proper notice of dishonor should be given to the drawer and indorsers
- *Notice of dishonor*- notice given by the holder or his agent to party secondarily liable that the instrument is dishonored by non acceptance by the drawee or by non payment by the acceptor or by non payment of the maker of a note
 - Requisites
 - Given by holder or his agent
 - Given to secondary party or his agent
 - Given within the period provided
 - Given at the proper place
 - When dispensed
 - Party notified knows about the dishonor
 - If waived
 - When after due diligence, cannot be given
 - Dishonor by non payment
 - Payment is refused
 - Overdue and unpaid
 - Dishonor by non acceptance
 - Acceptance is refused and cannot be obtained
 - Bill is not accepted
 - To whose benefit inure
 - When given by or on behalf of a holder
 - All parties prior to the holder
 - All holders subsequent to the holder
- When given by or on behalf of a party entitled to give notice

- The holder
 - All parties subsequent to the party to whom notice is given
- Dishonor in the hands of an agent
 - Directly give notice to person secondarily liable
 - Give notice to his principal
- Waiver of notice of dishonor
 - Either before the time of giving notice, or after the omission to give due notice
 - Express or implied
 - By an express waiver
 - If it appears in the body or on the face of the instrument, it binds all parties
 - If it is written above the signature of an indorser, it binds him only
- When notice of dishonor *not required* to be given to
 - *Drawer*
 - Drawer and drawee are the *same*
 - Drawee is a *fictitious* person
 - Drawer is the *person* to whom the instrument is presented
 - Drawer has *no right* to expect that drawee will honor the instrument
 - Drawer has *countermanded* payment
 - Indorser
 - Drawee is a fictitious person
 - Indorser is the person to whom the instrument is presented
 - Instrument was made for his accommodation
 - Notes:
 - If an instrument is not accepted by the drawee, there is no sense presenting it again for payment, and notice of dishonor must at once be given. If there was acceptance, presentment for payment is still required and if payment is refused, there is need for notice of dishonor.
 - An omission to give notice of dishonor by non-acceptance does not prejudice the rights of a holder in due course subsequent to the omission

Payment:

Nature of instrument	<ul style="list-style-type: none"> * Promissory notes * Bills of exchange * Checks
By whom	Holder/ agent
To whom	<p>Sec 76, 77, 78</p> <p>Person primarily liable:</p> <ul style="list-style-type: none"> • Maker/drawee • If debtor is dead, to his personal representative • If liable as partners, presentment may be made to any one of them • If joint debtor, presentment must be made to all of them <p>Any person found at the place of presentment = substituted presentment</p>
How made	Sec 74: by exhibiting the instrument
When made	<p>Sec 72 & 85:</p> <ul style="list-style-type: none"> • If instrument is payable on a future determinable time, must be presented on due date, except when it falls due on a Saturday, Sunday or a holiday, in which case presentment must be made on the next business day <p>Sec 85/ 194:</p> <ul style="list-style-type: none"> • If instrument is payable on demand, it must be made within reasonable time <p>Note - after issue Bill- from last negotiation Checks - 6 months after issue including Saturday up to 12 noon</p>
Where made	<p>Sec 73</p> <ul style="list-style-type: none"> • Place designated by the parties • If none, at the address of the maker/acceptor as stated in NI • If none, at his residence or office • If none, anywhere he is found
How excused	<p>Sec 79- 81:</p> <ul style="list-style-type: none"> • When drawer has no right to expect or require that the drawee or acceptor will pay the instrument • Where the instrument was made or accepted for his accommodation and he has no reason to expect that the instrument will be paid if presented • When the delay s caused by circumstances beyond the control of the holder and not

	<p>imputable to his default, misconduct or negligence</p> <ul style="list-style-type: none"> • Even after the exercise of due diligence, presentment cannot be made • Drawee is fictitious person • Waiver, express or implied
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Acceptance:

Nature of instrument	<p>Sec 143:</p> <ul style="list-style-type: none"> • Bill is payable after sight or when it is necessary in order to fix the maturity of the instrument • Bill is expressly stipulates • Bill is drawn payable elsewhere than at the residence or place of business of the drawee
By whom	<ul style="list-style-type: none"> • Holder/ agent
To whom	<p>Sec 145</p> <p>Drawee/ agent without authority to accept or reject (because acceptance gives rise to a liability on the part of the drawee)</p> <ul style="list-style-type: none"> • If there are two or more drawees who are not partners, presentment must be made to all of them unless one has authority to accept or refuse for all • If drawee is dead, presentment must be made to his personal representative • If adjudged bankrupt or insolvent or has made an assignment, presentment must be made to him, his trustee or assignee
How made	<p>By producing the bill (because the bill will be stamped accepted)</p>
When made	<ul style="list-style-type: none"> • If payable on a future determinable time, it must be presented before it is overdue or at maturity • If payable on demand, the bill must be presented within a reasonable time from last negotiation including Saturdays up 12 noon
Where made	<p>No requirement because it is immaterial; what is important is that the bill was accepted</p>
How	<p>Sec 148:</p>

excused	<ul style="list-style-type: none"> • Drawee is dead, absconded, a fictitious person or a person not having the capacity to contract by bill • After the exercise due diligence. Presentment cannot be made • Although presentment was irregular, acceptance has been refused on some other ground
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Notice of Dishonor

Nature of instrument	<ul style="list-style-type: none"> • Promissory notes • Bills of exchange • Checks
By whom	<p>Sec 90 & 91:</p> <ul style="list-style-type: none"> • Holder/agent • By or on behalf of any party who might be compelled to pay it to the holder and who have a right of reimbursement from the party to whom the notice is given
To whom	<p>Sec 89 & 97: Drawer/ indorser or any person secondarily liable or his agent</p> <p>Sec 98-101:</p> <ul style="list-style-type: none"> • If dead, to his personal representative • If partners, notice to any one partner is sufficient • If jointly liable, notice must be given to each of them unless one has authority to receive notice for the others • If adjudged bankrupt or insolvent or an assignment was made, notice must be given to him, his trustee or assignee
How made	Either verbally or in writing must described the instrument and state the fact of presentment and the fact of dishonor
When made	<ul style="list-style-type: none"> • If living in the same area, notice must be given within 24 hours from dishonor • If living in different area, the dropping of letter in mailbox is sufficient compliance
Where made	<ul style="list-style-type: none"> • Address of party indicated/added in his instrument • If none, at his residence or office • If none, where he is sojourning
How excused	<p>Sec 112- 114 (drawer)</p> <ul style="list-style-type: none"> • After the exercise of due diligence, it cannot be given to or does not reach the parties sought to be charged

	<ul style="list-style-type: none"> • Delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence • Drawer and drawee is the same person • Drawee is a fictitious person or a person not having the capacity to contract • Drawer is the person to whom the instrument is presented for payment • Drawer has no right to expect or require that the drawee or acceptor will honor the instrument • Drawer has countermanded payment <p>Sec 115 (indorser)</p> <ul style="list-style-type: none"> • When the drawee is a fictitious person or a person not having the capacity to contract and the indorser was aware of the fact at the time he indorsed the instrument • Indorser is the person to whom the instrument was presented for payment • When the instrument was made or accepted for his accommodation
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FOREIGN BILL OF EXCHANGE

- Drawn in the Philippines but payable outside the Philippines
- Payable in the Philippines but drawn outside the Philippines
- Inland bill of exchange:
 - A bill which or on its face purports to be both drawn and payable within the Philippines
- Foreign bill of exchange:
 - One which is or on its face purports to be drawn or payable outside the Philippines
- Notice of dishonor
 - Required in inland bill
 - May be oral or written
 - May be made by a party or agent
 - Made in residence of parties
- PROTEST
 - Required in foreign bill
 - Always written
 - Made by a notary public or a respectable resident in the presence of witness
 - Made in the place of dishonor
- *Protest* is the formal instrument executed usually by a notary public certifying that the legal steps necessary to fix the liability of the drawee and the indorsers have been taken
- Who makes:
 - A notary public, or

- Any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses
- Protest for better security – one made by the holder of a bill after it has been accepted but before it matures, against the drawer and indorsers, where the acceptor has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of the creditors
- Protest is necessary only in case of foreign bills of exchange, which have been dishonored by non-acceptance or non-payment, as the case may be. If it is not so protested, the drawer and indorsers are discharged.
- Protest is absolutely required:
 - Upon dishonor by non-acceptance of a foreign bill appearing on its face to be such
 - Upon dishonor by non-payment of a foreign bill appearing on its face to be such, if not having been previously dishonored by non-acceptance
 - Before a bill can be accepted for honor, it must be protested for dishonor by non-acceptance or protested for better security
 - Before a bill can be presented for payment to the acceptor for honor or the referee in case of need, it must be protested by the holder for non-payment to any party liable thereon
 - Upon dishonor of the bill by the acceptor for honor for non-payment by the acceptor for honor
 - Before a bill can be paid for honor, it must be protested by the holder for non-payment by any party liable thereon.
- The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it, and must specify:
 - The time and place presentment
 - The fact that presentment was made and the manner thereof
 - The cause or reason for protesting the bill
 - The demand and the answer given, if any or the fact that the drawee or acceptor could not be found

ACCEPTANCE FOR HONOR

- An undertaking by a stranger to a bill after a protest for the benefit of any party liable thereon or for the honor of the person for whose account the bill is drawn which acceptance inures also to the benefit of all parties

subsequent to the person for whose honor it is accepted, and conditioned to pay the bill when it becomes due if the original drawee does not pay it

- Requisites:
 - The bill must have been *protested* for dishonor by non-acceptance or for better security
 - The acceptor for honor must be a *stranger* and not a party already liable on the instrument
 - Bill must *not* be *overdue*
 - Acceptance for honor must be with the *consent* of the holder of the instrument
- Formal requisites:
 - Must be in *writing*
 - Must *indicate* that it is an acceptance for honor
 - *Signed* by the acceptor for honor
 - Must contain an express or implied *promise* to pay money
 - The accepted bill for honor must be *delivered* to the holder
- *Ordinary acceptance*
 - *No previous* protest is required
 - *Consent* of holder is *implied*
 - Drawee is *acceptor*
 - Acceptor is *primarily* liable
- Acceptance for honor
 - Previous protest is required
 - Consent of holder is required
 - Acceptor must be stranger to the bill
 - Acceptor is secondarily liable

PAYMENT OF HONOR

- Payment made by a person, whether a party to the bill or not, after it has been protested for non-payment, for the benefit of any party liable thereon or for the benefit of the person for whose account it was drawn
- Requisites:
 - The bill has been *dishonored* by non-payment
 - It has been *protested* for non-payment
 - Payment *supra* protest (another term for payment for honor because prior protest for non-payment is required) is made by any person, even by a party thereto
 - The payment is attested by a *notarial* act of honor which must be appended to the protest or form an extension of it
 - The notarial act must be based on the *declaration* made by the payor for honor or his agent of his intention to pay the bill for honor and for whose honor he pays.

- Note: If the above formalities are not complied with, payment will operate as a mere voluntary payment and the payor will acquire no right to full reimbursement against the party for whose honor he pays
 - In payment for honor, the payee cannot refuse payment. If he refuses, he cannot recover from the parties who would have been discharged had he accepted the same. In acceptance for honor, the holder's consent is necessary
 - The payor for honor is given the right to receive both the bill and the protest obviously to enable him to enforce his rights against the parties who are liable to him

BILL IN SET

- One composed of several parts, each part being numbered and containing a reference to the other parts, the whole of the parts constituting but one bill
 - *Purpose*: It is usually availed of in cases where a bill had to be sent to a distant place through some conveyance. If each part is sent by different means of conveyance, the chance that at least one part of the set could reach its destination would be greater
- Rights of holders where parts are negotiated separately
 - If both are HDC, the holder whose title first accrues is considered the true owner of the bill
 - But the person who accepts or pays in due course shall not be prejudiced
 - Obligations of holder who indorses two or more parts of the bill in set
 - The person shall be liable on every such part
 - Every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills

DISCHARGE OF NI

- A release of all parties, whether primary or secondary, from the obligations arising thereunder. It renders the instrument without force and effect and, consequently, it can no longer be negotiated.
- Instances:
 - By payment in due course by or on behalf of the principal debtor
 - Payment by accommodated party
 - Intentional cancellation by the holder

- By any act which will discharge a simple contract for the payment of money
- When the principal debtor becomes the holder of the instrument at or after maturity in his own right

PAYMENT IN DUE COURSE:

- Requisites:
 - Payment must be made at or after maturity
 - Payment must be made to the holder
 - Payment must be made in good faith and without notice that the holder's title is defective
- By whom made:
 - By maker or acceptor; or (selected to accommodation party)
 - Surety, if a primary party; or
 - By an agent on behalf of the principal
- By any other acts which discharges the instrument:
 - The Law on Obligations and Contracts will apply. Article 1231 provides how obligations are extinguished (by payment or performance, loss of thing due, condonation or remission of debts, confusion or merger of the rights of the creditor and debtor, compensation, novation, annulment, rescission, fulfillment of resolutive conditions and prescription). However, although such ways discharges the instrument as between immediate parties, they will not do so in the hands of a holder in due course.

RENUNCIATION

- The act of surrendering a right of claim without recompense, but it can be applied with equal propriety to the relinquishing of a demand upon an agreement supported by a consideration.
- Must be with written declaration to that effect and if oral, must be accompanied by surrender of the instrument to the person primarily liable thereon
- Effects:
 - A renunciation in favor of a secondary party may be made by the holder before, at or after maturity of the instrument. The effect is to discharge only such secondary party and all parties subsequent to him but the instrument itself remains in force
 - A renunciation in favor of the principal debtor may be effected at or after maturity. The effect is to discharge the

instrument and all parties thereto provided the renunciation is made unconditionally and absolutely.

- Note:
 - In either case, renunciation does not affect the rights of a holder in due course without notice.

CANCELLATION

- It includes the act of tearing, erasing, obliterating, of burning. It is not limited to writing of the word 'canceled' or 'paid' or drawing of criss-cross lines across the instrument. It may be made by any other means by which the intention to cancel the instrument may be evident.
- Intentional cancellation
 - Requisites:
 - Intentionally done
 - By the holder thereof
 - By writing the word cancelled or paid on the face of the instrument; or if the instrument is torn up, burned, mutilated or destroyed

DISCHARGE OF PERSONS SECONDARILY LIABLE

- By any *acts* which discharges the instrument
- By the *intentional* cancellation of his signature by the holder
- By the *discharge* of a prior party
 - The release of the principal debtor must be by the act of the holder and not by operation of law
- By a valid tender or payment made by a prior party
 - '*Tender of payment*' means the act by which one produces and offers to a person holding a claim against or demand against him the amount of money which he considered and admits to be due, in satisfaction of such claim or demand without any stipulation or condition
- By the release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved
- By any agreement binding upon the holder to extend the time of payment or to postpone the holder's right to enforce the instrument
 - In the following cases, the agreement to extend the time payment does not discharge a party secondarily liable
 - Where the extension of time is consented to by such party
 - Where the holder expressly reserves his right of recourse against such party

- Payment at or after maturity by a party secondarily liable does not discharge the instrument. It only cancels his own liability and that of the parties subsequent to him.

CHECKS

- A bill of exchange drawn on a bank payable on demand
- Concepts:
 - Certification of checks
 - An agreement whereby the bank against whom a check is drawn, undertakes to pay it at any future time when presented for payment.
 - Effects:
 - Equivalent to acceptance and is the operative act that makes banks liable
 - Assignment of the funds of the drawer in the hands of the drawee
 - If obtained by the holder, discharges the persons secondarily liable thereon
 - A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank. The bank is not liable to the holder, unless and until it accepts or certifies the check.
 - A check must be presented for payment within reasonable time after its issue or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.
 - Reasonable time:
 - Nature of the instrument
 - Usage of business or trade
 - The facts of the particular case
 - Where the holder of the check, procures it to be accepted or certified, the drawer and all indorsers are discharged from liability thereon
 - Refusal of drawee bank to certify
 - The holder has no action against the bank for lack of privity but he has a right of action against the drawer. The drawer in turn has right of action against the bank based on the original contract of deposit between them.
 - Checks are not mere contracts but
 - A representation of funds on deposit
 - Representation of credit stated in monetary value
 - Substitute for cash
 - As payment for an obligation

- Crossed check
 - A check in addition to the usual contents of an ordinary check contains also the name of a certain banker or business entity through whom it must be presented for payment
- Two kinds
 - Crossed specially – the name of a particular bank or company is written or appears between the parallel lines in which case the drawee bank must pay the check only upon presentment by such bank or company on penalty of being made to pay again by the rightful owner should the first payment prove to have been erroneous
 - Crossed generally- only the words “and Co.” are written between the parallel lines or when none at all is written at all between said lines.
- Effects:
 - That the check may not be encashed, it may only be deposited with the bank
 - That the check may be negotiated only once to a person who has an account with the bank; and
 - That it serves as a warning to the holder that the check has been issued for a definite purpose
- The NIL is silent with respect to crossed checks, although the code of commerce makes reference to such reference. Nonetheless, this court has taken judicial cognizance of the practice that a check with 2 parallel lines in the upper left hand corner means that it could only be deposited and not converted into cash. *The effect of crossing a check thus relates to the mode of payment*, meaning that the drawer has intended the check for deposit only by the rightful person, i.e. the payee named therein.

IRON CLAD RULE

- Prohibits the countermanding of payment of certified checks
- Note: The holder must be a holder in due course before the stop payment order may not successfully invoked against him.

TYPES OF CHECKS

- Cashier's check - one drawn by the cashier of a bank itself payable to a third person. It is primary obligation of the issuing bank and accepted in advance upon issuance.
 - Manager's check - a check drawn by the manager of a bank in the name of the bank itself payable to a third person. It is similar to the cashier's check as to the effect and use.
 - Memorandum check - a check given by a borrower to a lender for the amount of a short loan, with the understanding that it is not to be presented at the bank, but will be redeemed by the maker himself when the loan falls due and which understanding is evidenced by writing the word "memorandum", "memo", or "mem" on the check.
 - Certified check - an agreement whereby the bank against whom a check is drawn undertakes to pay it at any future time when presented for payment
 - Traveler's check - it is one upon which the holder's signature must appear twice, one to be affixed by him at the time it is issued and the second for counter-signature, to be affixed by him in the presence of the payee, before it is paid, otherwise it is incomplete.
- Case when bank may refuse payment:
 - The bank is insolvent
 - The drawer's deposit is insufficient or he has no account with the bank or said account had been closed or garnished
 - The drawer is insolvent and proper notice is received by the bank
 - The drawer dies and proper notice is received by the bank
 - The drawer has countermanded payment
 - The holder refuses to identify himself
 - The bank has reason to believe that the check is forgery
 - A bank is under no obligation to make part payment on a check up to the amount of the drawer's funds as where the check is drawn for an amount larger than what the drawer has on deposit. In case of partial payment, the check holder could not be called upon to surrender the check not be called upon to surrender the check and the bank would be without a voucher affording a certain means of showing payment.