

国际贸易实务(双语版)

Chapter Eleven Payment of Goods



Learning Objectives of this Chapter

- Understand the functions of negotiable instruments
- Master what bills of exchange, promissory notes and checks are
- Understand how remittance operates
- Distinguish between collection, letter of credit,
- Understand the procedure and the contents of a letter of credit
- Distinguish the different types of letters of credit



Teaching Plan 1

Teaching Contents

Section 1 Negotiable instruments

I Bills of exchange

1. Definition of bills of exchange
2. Parties to a bill of exchange
3. Contents of a bill of exchange
4. Types of bills of exchange

Teaching time: Two-class hour (90 minutes)

Learning Objectives

1. Master the definition of bills of exchange
2. Master the parties to a bill of exchange
3. Master the contents of a bill of exchange
4. Master the types of bills of exchange

Important Points:

1. Definition of bills of exchange
2. Parties to a bill of exchange
3. Contents of a bill of exchange
4. Types of bills of exchange

Difficult Points:

1. Contents of a bill of exchange
2. Types of bills of exchange

Teaching Methodology:

Questions and Answers; Presentation; Group discussion; Case analysis

Teaching Aids:

PPT, blackboard, multimedia classroom

Payment of Goods

It is well-known that international payment is most important in international trade because the seller's most interest is to get the money. However international settlement is complicated and difficult due to the physical distances, customs and trade practices. A good understanding of the payment methods can help us overcome many of the difficulties commonly encountered in international trade. This chapter discusses the instruments of payment involved in international payment, and the basic terms of payment.

Generally, in every contract for the sale of goods abroad, the clause dealing with the payment in a business contract includes five elements:

1. Mode (term) of payment

2. Instruments of payment

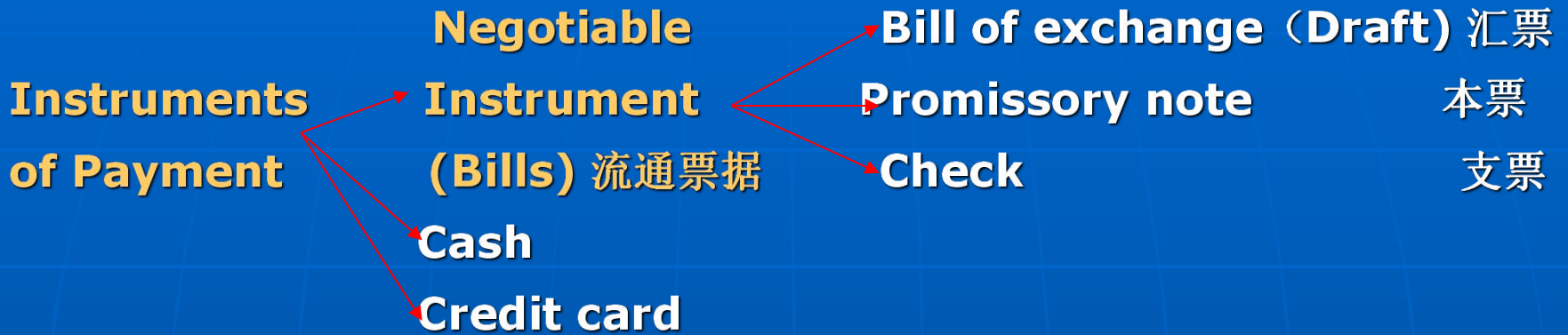
3. Time of payment

4. Place of payment

5. Currency of payment

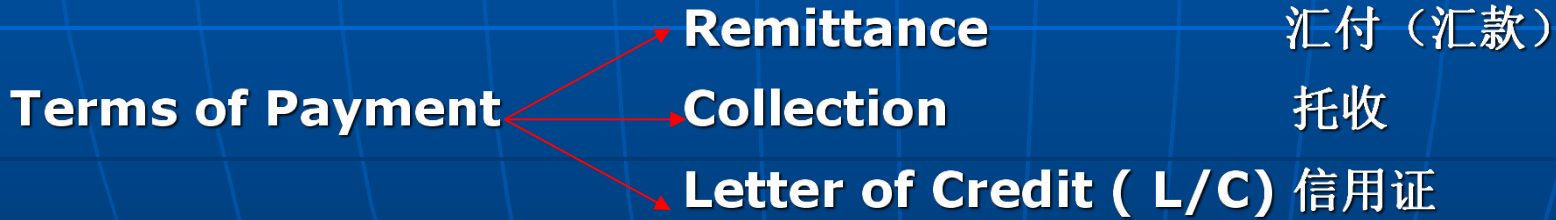
The main instruments of payment and terms of payment are as follows:

Instruments of Payment or Means of Payment 支付工具



Terms of Payment 支付方式

(also called Modes of Payment or Methods of Payment)



In international trade, payment can be made by negotiable instruments. A negotiable instrument is a specialized type of contract for the payment of money which is unconditional and capable of transfer by negotiation . The negotiable instruments as referred in this chapter include bills of exchange, promissory notes and checks.



I. Bills of exchange

1. Definition of Bill of Exchange

Bills of exchange, or drafts, which are key forms of negotiable instruments, enjoy a wide range of uses in commercial, financial and banking transactions. Generally speaking, a bill of exchange or a draft is actually a piece of paper with words and sum of money on it. It is used to transfer money from one person to another instead of the actual money itself.

I. Bills of exchange

According to Bills of Exchange Act (1882-the United Kingdom), the formal definition of bill of exchange is: a bill of exchange is an unconditional order **of payment** in writing, addressed by one person (drawer 出票人) to another (drawee 受票人), signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person, or to bearer (payee 收款人).



I. Bills of exchange

According to Law of the People's Republic of China on Negotiable Instruments (hereinafter referred to as LPRCNI), a bill of exchange is a negotiable instrument, signed and issued by the drawer, who authorizes the drawee to pay unconditionally a sum certain in money to the payee or the holder at sight or on a specified date.



Section 1

I. Bills of exchange

凭
Draw under _____
信用证 第 _____ 号
L/C No. _____
日期 年 月 日
dated _____

按 息 付 款
Payable with interest @ _____ % per annum
号码 汇票金额 中国 广州 年 月 日
No. _____ Exchange for _____ Guangzhou, China _____ 20 ____
见票 _____ 日后 (本汇票之副本未付) 付
At _____ sight of this **FIRST** of Exchange (Second of exchange being unpaid) ..
pay to the order of _____ 或其指定人
金 额
the sum of .. _____

此致
To _____

1



BILL OF EXCHANGE

Drawn Under NEW SOUTH WALES Irrevocable L/C No. DC FN 66042

Dated AUGUST 17, 2013

Payable with interest @ % per annum

No. CKM45812 Exchange for USD 300,000.00 SHENZHEN OCT. 5, 2013

At ***** sight of this FIRST of Exchange (Second of Exchange Being unpaid)

pay to the order of THE INDUSTRIAL AND COMMERCIAL BANK OF CHINA SHENZHEN
BRANCH

The sum of : SAY U.S. DOLLARS THREE HUNDRED THOUSAND ONLY

To NEW SOUTH WALES

#129 DENNING STREET, MELBOURNE

AUSTRALIA

HAICHUAN CERAMIC TRADING CO., LTD

李强

2.The Parties to a Bill of Exchange

1)The drawer (出票人)

The drawer is the one who issues the bill of exchange, and through which he invites the drawee to pay the sum of money specified. The drawer is the first party of the draft. In certain transaction, the drawer is normally the supplier, the seller or the exporter.

2)The payee (受款人)

The payee is the person to whom the drawee has to pay on the due date. The payee can be the drawer himself or a third party to whom he might owe money.

3)The drawee/payer (受票人/付款人)

The drawee/payer is the person whom is drawn upon, or in other words, he is the person who has to pay the sum of money at the due date. And he must have a liability towards the drawer. It is quite usual that the drawee is the buyer or the importer in a transaction.

If the drawee accepts the time bill of exchange by writing his name or the word "accepted" together with his name and the date on the bill, he now becomes the acceptor. By accepting the bill, the acceptor accepts the obligation to pay it when the bill matures.



I. Bills of exchange

4) **The holder** (持票人)

The holder is the payee or endorsee of a draft who is in possession of it or the bearer of it. The holder is normally the person who is legally entitled to the bill of exchange.

5) **The endorser** (背书人)

The endorser is the person who endorses a bill of exchange. He writes such words as "Pay Bank of China" on the back of a bill of exchange and signs his name to transfer the bill. Usually, the seller is the first endorser.

Section 1

I. Bills of exchange

The endorsee (被背书人)

The endorsee is the person whom a bill of exchange is endorsed to by the endorser. If the endorsee endorses the bill of exchange to another person, the endorsee will become a subsequent endorser.

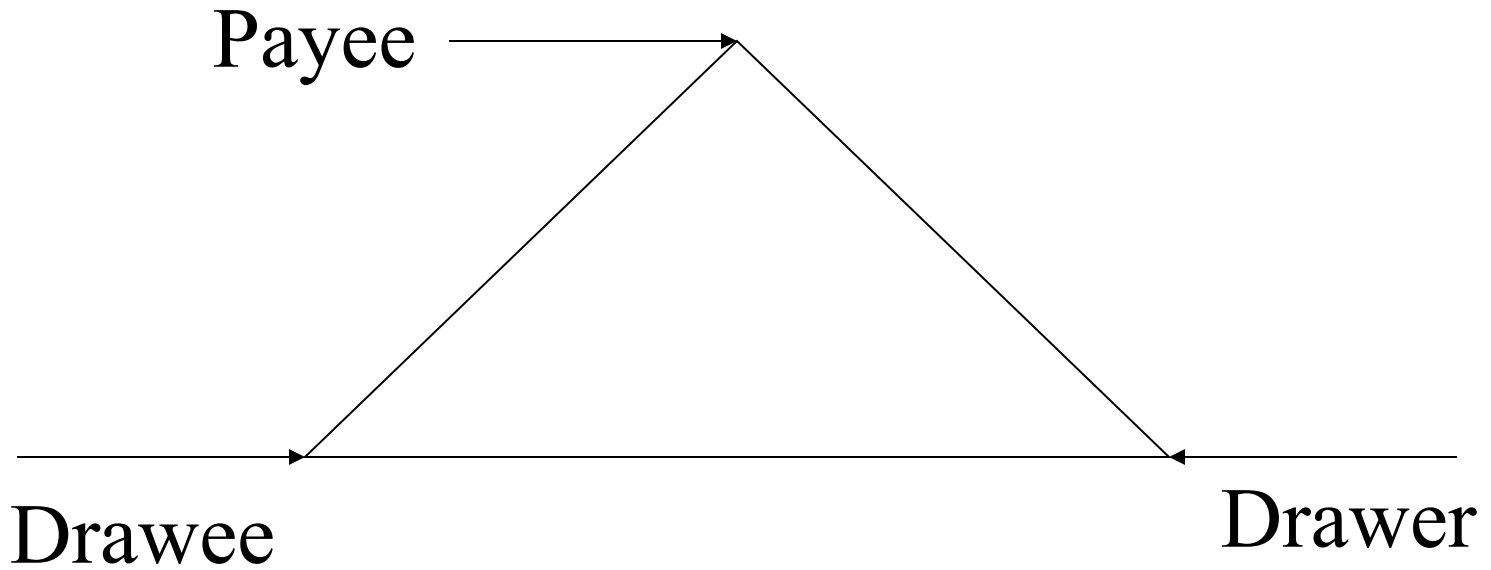


Brainstorm: Discuss the relationship between the parties of a bill of exchange, for example, the payee may be the drawer, the seller and the exporter.



Parties to a bill of exchange

- 1. Drawer**
- 2. Drawee/payer**
- 3. Payee**
- 4. Holder**
- 5. Endorser**
- 6. Endorsee**



The relationship among these parties in a bill of exchange may be described as a triangle as above



I. Bills of exchange

3. Contents of a bill of exchange

The forms of bills of exchange might be different, but a bill of exchange should cover the following elements: the word “exchange”; an unconditional order to pay; place and date drawn; tenor ; a sum certain in money; name and address of the drawee; the name of the payee; drawer’s name and signature. The following is a sample of a bill of exchange:

Section 1

I. Bills of exchange

凭
Draw under _____
信用证 第 _____ 号
L/C No. _____
日期 年 月 日
dated _____

按 息 付 款
Payable with interest @ _____ % per annum
号码 汇票金额 中国 广州 年 月 日
No. _____ Exchange for _____ Guangzhou, China _____ 20
见票 _____ 日后 (本汇票之副本未付) 付
At _____ sight of this **FIRST** of Exchange (Second of exchange being unpaid)
pay to the order of _____ 或其指定人
金 额
the sum of _____

此致
To _____

1

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Section 1

I. Bills of exchange

(1) State the word “exchange” on bills of exchange

The word “exchange” on a bill of exchange can make it differentiate from other instruments, such as promissory notes and checks.

(2) An unconditional order to pay

“Unconditional order” means the order which should be carried out without any conditions. An example of an invalid bill of exchange is: “Pay to G&D Company provided that the goods they supply are complied with the Sales Confirmation the sum of SIX THOUSAND US dollars”. “provided that the goods they supply are complied with the Sales Confirmation” is a condition, therefore it is an invalid bill. The valid bill should be like that: “Pay to G&D Company the sum of SIX THOUSAND US dollars”



Section 1

I. Bills of exchange

(3) Place drawn and date

The drawn place should be the same as the drawer's address. According to LPRCNI, if the place of issue is not specified on a bill of exchange, the business premises, domicile or habitual residence of the drawer is the place of issue. So a bill of exchange without the drawn place is valid.

The issuing date is important because the drafts presentation validity and the tenor lie on the issuing date.



I. Bills of exchange

(4) Tenor

A bill of exchange can be payable at sight or at a fixed or determinable future date. If a bill of exchange does not stipulate a date for payment, it should be treated as payable at once.

(5) A sum certain in money

A certain amount of money must be stated on a bill of exchange both in numbers and words, and the two must be exactly the same.

(6) Name and address of the drawee

State clearly the name and address of the drawee or the payer.



I. Bills of exchange

(7) The name of the payee

A bill of exchange must specify who is entitled to the money which the drawer authorizes to be paid. There are three ways of writing the addressee.

The first one is indicative order, for example, “pay to the order of G&D company” (means paying the money to anybody whom G&D Company tells you to pay) or “pay G&D company or order” (means paying G&D company or the person whom G&D Company tells you to pay). This kind of bill can be negotiated by endorsement of the holder. In other words, it can be transferred to the third party by endorsement.

I. Bills of exchange

The second one is restrictive order, for example, “pay John Smith only” (means paying the money only to John Smith), or “pay John Smith, not transferable”. This kind of bill is not transferable.

The third one is payable to the bearer. “pay to the bearer” or “pay to the holder” (means paying the money to the person who is in possession of the bill of exchange).

(8)Drawer’s name and signature

Only the bills signed by the drawer or the person who is authorized by the drawer are valid.



I. Bills of exchange

4. Classification of Bills of exchange

Bills of exchange can be divided into several types according to different criteria.

(1) According to the tenor, bills of exchange can be divided into sight bills of exchange and time bills of exchange.

A sight bill of exchange is a draft that is payable when presented. A sight bill of exchange is used in the case where the exporter wants to sell goods to the importer for immediate payment.

I. Bills of exchange

A time or usance bill of exchange is a draft payable at a future fixed (specific) date or determinable date. The date of payment may be specified in the following ways: payable at a fixed date; payable at a fixed period after the date of issue; payable at a fixed period after sight; payable at a fixed period after the date of transport document, for example, “payable at 30 days after sight”, “payable at 60 days after 2 December, 2008”.



I. Bills of exchange

(2) According to whether commercial documents are accompanied or not, bills of exchange can be classified into clean bills of exchange and documentary bills of exchange.

A clean bill of exchange is one that is paid without the presentation of any other documents attached. It is seldom used in international business. It is usually adopted to collect commission, interest, sample fee and cash in advance. A banker's bill of exchange is usually clean.

A documentary bill of exchange is one that should be paid only when certain documents have been attached to and presented together with the bill of exchange. The accompanied documents are commercial invoice, bill of lading, insurance policy and so on. A documentary bill of exchange is often used in international settlement.



I. Bills of exchange

(3) According to different drawers, bills of exchange can be divided into commercial bills of exchange and banker's bills of exchange.

A commercial bill of exchange is drawn by a commercial firm on another commercial firm or bank. A commercial bill of exchange is often used in international trade.

A banker's bill of exchange is drawn by one bank on another bank. It is used in settling payment obligations between banks.

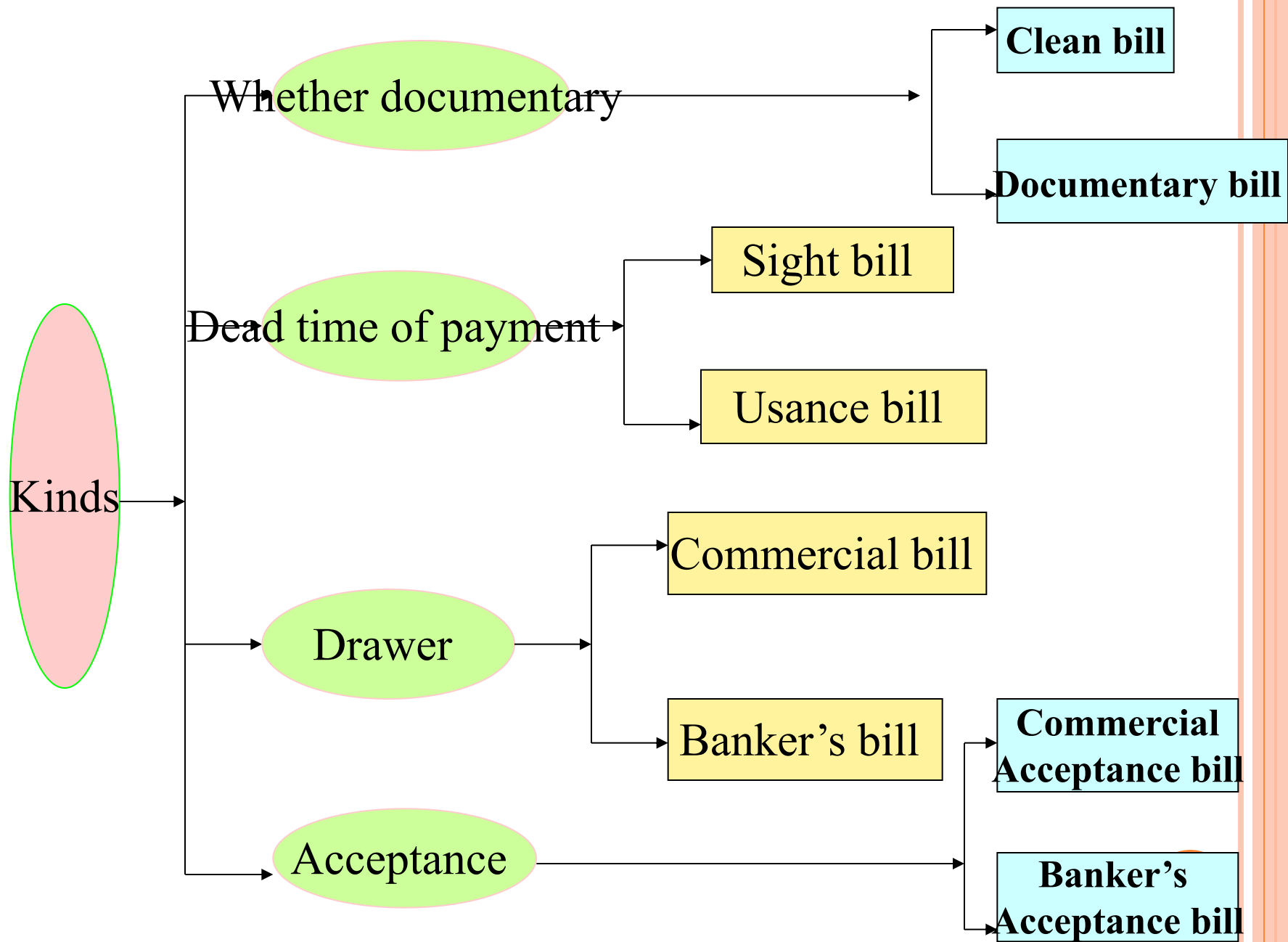


(4) According to different acceptors, bills of exchange can be classified into commercial acceptance bills of exchange and banker's acceptance bills of exchange.

A commercial acceptance bill of exchange is a commercial time draft that is accepted by commercial firms. Both the drawer and the acceptor are commercial firms, so a commercial acceptance bill of exchange bases on commercial credit.

A banker's acceptance bill of exchange is a time draft drawn by a business firm that is accepted by a bank. A bank, once it has accepted a draft, can either hold the paper until maturity or sell it in the money market. The accepting bank assumes some risk, although in most cases the credit risk is minimal as banks generally deal only with tolerated companies.







Thank You!