Checks

• Special type of draft by maker (drawer) drawn on a bank (drawee) ordering bank to pay third party (payee).
  – Cashier’s Check—bank is both drawer and drawee.
  – Traveler’s Check—payable on demand, payable by a financial institution, designated as a traveler’s check.
  – Certified Check—accepted in writing by drawee bank.

Bank-Customer Relationship

• Creditor-Debtor: Bank owes money to customer and must honor customer’s checks.
  • Agency created: Bank must pay customer’s checks and collect for customer if she deposits checks.

Bank’s Duty to Honor Checks

• Banks that wrongfully dishonor customer’s checks are liable for actual damages only.
• Overdrafts: bank’s choice to honor or not, then hold customer liable for amount.
• On a Joint account, customer is only liable if signed overdraft or benefited from it.

Bank’s Duty to Honor Checks

• Postdated Checks: Bank can pay unless notified in time to act on it.
• Stale Checks: after 6 months, it is bank’s choice whether to honor or not.
• Stop-Payment Orders:
  – Customer can’t stop certified checks and must give bank enough time to act.
  – Oral S.P.—14 days. Written = 6 months.
  – Customer’s liability for wrongful stop-payment order = must have a real or personal defense as needed.
Bank’s Duty to Honor Checks

• Death or Incompetence of a Customer:
  – Bank can pay until it knows and can pay checks
drawn before death or incompetence 10 days
after it knows - unless notified by a family
member or executor.

Payment on a Forged Signature
of the Drawer

• Bank must re-credit customer’s account - unless
customer is negligent before or after the forgery.
  – Before: leaves big spaces, leaves check-cashing
machine unlocked, rubber stamp unlocked, sloppily
written.
  – After: fails to examine statement and notify bank
within one year.

Bank’s Duty to Accept
Deposits

• Availability Schedule for Deposited
Checks.
• Interest-Bearing Accounts.
• The Collection Process.

Availability Schedule for
Deposited Checks

• Expedited Funds Availability Act of 1987
and Federal Reserve Board’s Regulation
CC.
  – Require that checks deposited into banks
must be available for withdrawal by check
or cash within a certain number of days
from the date of deposit.

The Collection Process

• Players:
  – Depository Bank.
  – Payor Bank.
  – Intermediary Banks.
  – Collecting Banks.
The Collection Process

- Bank must present check to be paid on or before midnight of the next day following receipt.
- "Deferred posting" bank can set e.g., 2:00 pm as cutoff hour.
- Bank can dishonor the check by the opening of the second banking day following its receipt or check is considered paid.

How the Federal Reserve System Clears Checks

- Electronic Check Presentment.
  - Much faster in contrast to manual check processing.
  - Check may not be physically moved, but encoded information sent by computer.
  - Those parties who encode and notify make the same warranties as if the check were sent physically.

Electronic Fund Transfers

- Types of EFT Systems.
- Commercial Fund Transfers: governed by Article 4A of the UCC.

E-Money and Online Banking

- Digital Cash (e-money) in smart cards.
- Online Banking Services.
  - Online contract between bank and customer governs terms.
  - Regulatory Compliance.
- Privacy Protection.
  - Electronic Communications Privacy Act (1986).

Uniform Money Services Act (UMSA)

- Recommended by NCCSL covers:
  - Traditional Money Services.
  - Internet-based Money Services.
  - UMSBA online.
- UMSA may also apply to:
  - E-money.
  - Internet scrip.
  - Stored-value products (pre-paid cards).