

## INSTRUMENTI MEĐUNARODNOG PLATNOG PROMETA - BANKARSKE GARANCIJE

## INSTRUMENTS OF PAYMENT - BANK QUARANTEES

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## REZIME

*U izvršenju spoljnotrgovinskih plaćanja postoje mogućnosti upotrebe širokog spektra instrumenata. Svaki od njih ima svoje specifičnosti na koje ćemo ukazati. Ubjedljivo najviše korišćeni instrument međunarodnih plaćanja je dokumentarni akreditiv. Pored akreditiva i „tradicionalnih“ instrumenata plaćanja – čeka i mjenice, u spoljnotrgovinskom poslu postoji i mogućnost plaćanja bankarskim doznakama, što se uglavnom koristi za avansna plaćanja (plaćanja unaprijed, pre prijema robe), što nosi određene rizike za kupca. Postoji i mogućnosti dokumentarne naplate – tzv. dokumentarni inkaso. Kod tog instrumenta je obnut red poteza od doznačavanja sredstava unaprijed. To nosi rizik za prodavca koji šalje robu unaprijed, a posebno šalje dokumenta na naplatu, a ona se naplate kada se kupac saglasi. Instrumenti platnog prometa su predmet ovog rada.*

**Ključne riječi:** instrumenti međunarodnog platnog prometa, međunarodne banke

## UVOD

Instrumentima međunarodnog platnog prometa moraju se u isto vrijeme zaštititi interesi i prodavaca i kupaca iz različitih zemalja. Uloga međunarodnog bankarstva u međunarodnom platnom prometu je nezaobilazna jer se svi poslovi odvijaju preko ovlaštenih banaka i/ili njihovih inokorespondentnih banaka – kontokorenata kod kojih banke imaju otvorene račune. Nacionalni novac se u platnom prometu javlja u dva oblika: kao valute i kao

## ABSTRACT

*In carrying out foreign trade payments, there are possibilities of using a wide range of instruments.. Every sinlge instrument has its own specificities that we will consider in the paper. By far the most commonly used instrument of international payment is a documentary letter of credit. In addition to letters of credit and “traditional” payment instruments - waiting and bills in foreign trade transactions there is a possibility of payment bank transfer, which is mainly used for advance payments (payments in advance, before receipt of the goods), which carries certain risks for the buyer. There is also the possibility of documentary collection - the so-called documentary collection. When any instrument is the reverse order of strokes of remittances advance. This carries the risk that the seller sends the goods in advance, and in particular sends the document to the collection, and it is charging when the buyer agrees. Payment instruments are the subject of this paper.*

**Keywords:** international payment transactions instruments, international banks

## INTRODUCTION

Interests of the buyers and sellers from different countries, at the same time, must be protected by the instruments of international payment system. The role of international banking in international payments is unavoidable because all transactions happen through authorized banks and/or their foreign correspondent bank – account-currents where banks have opened accounts. National money in the payment system occurs in two forms: as a currency and as the foreign currency.

devize. Tačnije, sredstva kojima se vrše međunarodna plaćanja javljaju se u vidu valuta (stranog efektivnog novca), deviza (kratkoročnih potraživanja u stranoj valuti) i plemenitim metalima (danas najčešće zlatu, mada je u prošlosti srebro bilo najviše korišten plameniti metal kojim su vršena međunarodna plaćanja). Srebro i zlato vršili su funkciju univerzalnih mjera vrijednosti i svjetskog novca sve dok sa razvitkom kapitalističkog načina proizvodnje i razvitkom međunarodne trgovine nije došlo do razvoja mjenica. Izvornik je prilikom međunarodne trgovine robe vukao mjenicu na stranog uvoznika tako što bi je akceptirao, a mogao je da je eskontuje („proda“ prije roka dospijeca) kod banke u svojoj zemlji i tako i prije isteka dođe do likvidnih sredstava u svojoj nacionalnoj valuti. Budući da ponekad taj način plaćanja nije bio u potpunosti siguran, jer banke nisu dovoljno poznavale svoje dužnike, one nisu uvijek eskontovale mjenice po istoj eskontnoj stopi. Tako su pojedine najjače banke počele da se bave akceptnim bankarskim poslovima tako što su akceptirale mjenice umjesto uvoznika, uz naplatu određene provizije. Tako je međunarodni platni promet započeo da se koncentriše u rukama specijalizovanih banaka koje su počele da uvode ekonomičniji način plaćanja koristeći pri tome čekove, akreditive itd. Na taj način su potraživanja domaćih banaka prema inostranstvu (devize) postale glavno sredstvo pri realizovanju međunarodnih plaćanja (Jovanovski, 2007, str. 963-964).

## BANKARSKÉ DOZNAKE

Bankarska doznaka je klasičan – najstariji instrument međunarodnog platnog prometa koji predstavlja preteču svih ostalih instrumenata, a danas se koristi dominantno za nerobne transakcije (iseljeničke doznake, stipendije, alimentacije, robna plaćanja prije uvoza i izvoza robe i slične transakcije), a rjeđe i za robne transakcije (i to samo kod partnera kod kojih postoji puno poverenje) jer se njome, u tom slučaju, faktički izvršava avansno plaćanje.

Specifically, the funds which are the subject of international payments occur in the form of currency (foreign currency cash), foreign exchange (short-dated receivables in foreign currency) and precious metals (gold, most commonly, while in the past silver was used for most of the precious metal which have been carried out international payments). Silver and gold had the function of universal measure of value and world money until the development of the capitalist mode of manufacturing and the development of international trade did not develop the bill of exchange. During the international trade of goods, exporter withdrew the bill on foreign importers by accepting it, and he could discount it (to “sell” it before the maturity date) at a bank in his country and in that way, before the expiry, he could reach the liquid assets in the national currency. Because of that, this method of payment was not, sometimes, completely safe, as banks were not sufficiently familiar with their debtors, they were not discounting bills of exchange at the same discount rate. Thus, the individual most banks have begun to deal with acceptances banking operations such as bill acceptors instead importer, charging for certain commission. Thus, the international payments began to be concentrated under the specialized banks that have begun to introduce more economical way of paying using checks, letters of credit etc. In this way, the receivables of national banks towards international banks (foreign exchange) have become the main tool in realizing international payments (Jovanovski, 2007, p. 963-964).

## BANK REMITTANCES

Bank remittance is a classic - the oldest instrument of international payment system which is the predecessor of all other instruments, and today it is used predominantly for invisibles transactions (emigrant remittances, scholarships, alimony, commodity payments prior to import and export of goods and similar transactions), and less often commodity transaction (and only to the partners where there is a lot of trust) as in this case, advance payment is made by bank remittance.

Bankarska doznaka je danas SWIFT nalog, kojim nalogodavac domaćoj banci daje nalog da u njegovo ime doznači naznačeni iznos u naznačenoj valuti, preko inostrane banke, stranom korisniku. Ona, dakle, nije ništa drugo do bankarski nalog koji se izvršava u korist korisnika u inostranstvu. Bankarska doznaka se zasniva na odobravanju ili zaduživanju žiro ili tekućeg računa i vrlo je slična bezgotovinskom plaćanju u domaćem platnom prometu, sa tom razlikom što se u međunarodnom platnom prometu plaćanje obavlja na teret deviznog računa banaka koji se vodi kod korespondentske banke u inostranstvu ili filijale, predstavništva ili druge organizacione forme multinacionalne banke u inostranstvu. Ista je situacija i u slučaju doznačavanja sredstava iz inostranstva, kada se odobrenje vrši u korist žiro ili tekućeg računa domaće banke.

Učesnici u poslu sa bankarskim doznakama su:

1. nalogodavac, kao učesnik koji se obraćanjem domaćoj poslovnoj banci javlja u ulozi inicijatora međunarodnog plaćanja,
2. domicilna poslovna banka, kao posrednik koji izvršava nalog samostalno ili preko inokorespondenta,
3. banka inokorespondent, takođe kao posrednik koji prosljeđuje nalog domicilne poslovne banke i vrši isplatu korisniku u inostranstvu i
4. korisnik doznake, u čiju korist se ostvaruje iznos u valuti i na dan naznačen u doznaci.

Sama procedura izvršenja bankarske doznake odvija se na sljedeći način: nalogodavac daje nalog domicilnoj banci da izvrši doznaku u inostranstvo. Pri tome, nalog sadrži sljedeće elemente: podatke o korisniku doznake, za čiji račun se dostavlja doznaka, iznos doznake, osnov slanja doznake, oznaku o postojanju pokrića na računu. Posle prijema zahtjeva nalogodavca za izvršenje doznake, banka provjerava da li postoji pokriće na njegovom računu. Zatim banka nalogodavca daje nalog korespondentskoj banci u inostranstvu da isplati naznačeni iznos subjektu. U nalogu koji domaća ban-

Banking remittance is present SWIFT account which is provided by national bank account by the originator, to reallocate the indicated amount in a specified currency through foreign banks to foreign user. Therefore, it is nothing but a banking account that is performed on behalf of customers abroad. Bank remittance is based on approval or borrowing bank or current account and it is very similar to cashless transactions in national payment operations with the difference that in the international payment system, payment is done at the expense of foreign currency bank accounts which are kept by correspondent banks abroad or branches, representative offices or other organizational forms of multinational banks abroad. The same situation exists in the case of remittances from abroad, where the authorization is done in favor of the bank or current accounts of national banks.

Participants in the work with the bank remittances are:

1. Originator, as a participant addressing national commercial bank who is an initiator of international payments,
2. Domicile commercial bank, as the agent carrying the order out independently or through account-currents
3. Account-currents bank, also as an agent sending the order of domicile commercial bank to user and disburses abroad,
4. User remittances, on whose behalf is realized amount of the currency on the day indicated in the remittance.

The very procedure of execution of the bank transfer is carried out in the following: the originator gives the order to domicile bank to transfer money abroad. In addition, the order consists of the following elements: the user date remittance, to whom account of the remittance is delivered, the remittance amount, the basis of sending remittances, an indication of the existence of the account coverage. After receipt of the originator request for the execution of transfers, bank checks whether there is coverage on its account. Then the bank originator gives the order to the correspondent bank abroad, to pay the said amount to the subject. There are origi-

ka dostavlja inokorespodentu nalaze se dispozicije nalogodavca, kao i naznaka da li će se doznaka izvršiti na teret njenih sredstava koja se vode na tekućem računu kod korespodentske banke ili na teret bankarskog kredita koji je sa bankom isplatioa ranije ugovoren i sl.

Da bi se obezbijedila autentičnost naloga, banka nalogodavca mora da stavi potpise ovlašćenih lica na nalogu koji dostavlja korespodentskoj banci. Kada inostrana banka primi nalog za izvršenje bankarske doznake, dužna je da izvrši nalog tako što će naložiti domaćoj banci da izvrši nalog u zemlji. Banka koja izvršava nalog po osnovu inostrane doznake može ga realizovati korišćenjem instrumenta unutrašnjeg platnog prometa, odnosno odobravanjem u korist tekućeg računa domaćeg subjekta, neposrednom isplatom u gotovu ili na neki drugi način (Krstić, 2001, str. 221-222).

Bankarske doznake se dijele:

1. prema pravcu kretanja sredstava na: doznake iz zemlje u inostranstvo (nostro) i doznake iz inostranstva za plaćanje u zemlji (loro)
2. prema tome da li ima nekog dodatnog uslova plaćanja na: bezuslovne (ako nema nikakvih uslova) i uslovne (ako postoje neke prethodne radnje kojima se uslovljava plaćanje).
3. prema tome sa čime je u vezi izvršenje plaćanja na: robne i nerobne.

Pošto se često koristi za avansna plaćanja, bankarska doznaka može biti i rizična jer je neizvjesno kada će robu dobiti i da li će uopšte dobiti robu koju je ugovorio. U slučaju poslovanja sa uglednim i poslovnim spoljnotrgovinskim partnerom rizika gotovo da i nema, ali kada se poslovni partneri ne poznaju dovoljno, to može biti rizično za kupca.

## BANKARSKI ČEKOVI

Bankarski ček je jedan od inostrumenata koji se koristi u međunarodnom platnom prometu. Klasičnim čekom njen izdavalac (trasant) daje nalog drugom licu (trasatu) da

originator's disposition in the order that the national bank submits to the account-currents, as well as an indication of whether the transfers will be carried out at the expense of its funds kept in a current account with the correspondent bank or at the expense of bank credit which is previously agreed with payer bank, etc.

To ensure the authenticity of accounts, originator bank must affix the signatures of authorized parties at the orders delivered by the correspondent bank. When foreign bank receives the order for the enforcement of the bank transfer, it shall enforce the order so as to instruct a local bank to enforce the order in the country. Bank enforcing the order on the basis of foreign remittances can implement it using the instrument of internal payment system, i.e. granting the benefit of the current account of the national entity (subject), direct payment in cash or otherwise (Krstić, 2001, p. 221-222).

Bank remittances are divided according to:

1. Funds movement: transfer from the country abroad (nostro) and remittances from abroad for domestic payments (loro)
2. Whether there are any special conditions of payment: unconditional (if there are no conditions) and conditional (if there are any previous actions which stipulates payment).
3. What is related to the enforcement of payments: commodity and invisibles.

Since it is often used for advance payments, bank remittances can be risky because it is uncertain when it will get the goods and whether it will ever get the goods they contracted. In the case of business with reputable business foreign trade partner, risk is almost nonexistent, but when business partners do not know each other enough, it can be risky for the buyer.

## BANKING CHEQUES

Bank check is one of the instruments that is used in international payment transactions. The issuer of classic check (the drawer) gives order to another person (the drawee) to the account of the



na račun trasantovog pokrića bezuslovno (po viđenju) isplati korisniku čeka (remitentu) iznos naznačen na čeku. Bankarske čekove izdaju inostrane banke i trasiraju iste (vuku) na neke druge inostrane banke. Pošto se u ulozi trasanta i trasata pojavljuju samo banke, ovi čekovi su najsigurniji sa aspekta naplate. Uobičajena je podjela na nostro čekove i loro čekove. Nostro čekovi se izdaju u domicilnoj zemlji, a plativi su u inostranstvu. Elementi koji bliže određuju sadržinu čeka odnose se na: naziv inostrane banke na koju se vuče ček, mjesto i datum izdavanja čeka, serijski broj čeka, oznaka valute i numerički iznos (i slovi-ma) na koji glasi ček, naziv i adresa remitenta, naziv domaće banke i potpis i pečat ovlašćenog lica. Potpisnici čeka treba da su ovlašćena lica čiji su spesimeni potpisa deponovani kod banaka na koje su vučeni (trasirani) čekovi. Nostro čekovi se ne mogu izdati bez pokrića, jer su vučeni na inostrane banke kod kojih domicilne banke imaju svoje kontokorentne račune. Na teret njih se i vrši isplata čekova. Loro bankarske čekove izdaje inostrana banka (trasant). Za razliku od nostro čekova, loro čekovi su plativi ili u inostranstvu ili u domicilnoj zemlji. Plativost loro čekova zavisi od toga da li su vučeni na inostrane ili domicilne banke. Da bi loro čekovi bili vučeni na domicilne banke, neophodno je prije toga zaključiti međubankarske sporazume kojima se bliže određuju odnosi između inostranih i domicilnih banaka. Loro čekove pokrivaju inostrane banke, čiji se računi nalaze kod domicilnih banaka. Isto tako, sa izdavanjem čekova se može vršiti i odobravanje pokrića na računima domicilnih banaka u inostranstvu (Vunjak i Kovačević, 2006, str. 575-576). Osim bankarskih čekova, postoje i privatni čekovi – necertifikovani i sertifikovani. Kod privatnog sertifikovanog čeka banka stavlja klauzulu „certified“ („accepted“, „good“) sa datumom certifikovanja ovlašćenih lica (obično su dva potpisnika) i ovaj ček se može odmah isplatiti. Kod privatnog necertifikovanog čeka isti se prima na inkaso ili se traži potvrda (preko SWIFT-a) od banke trasata da li ček ima pokriće (Kapor, 2007, str. 440).

drawer coverage unconditionally (on demand) pays to check user (payee) the amount indicated on the check. Bank checks are issued by foreign banks and withdraw to other foreign banks. Since only banks have the role of the drawer and drawee, these checks are the safest from the point of charging. It is usually divided to nostro and vostro checks. Nostro checks are issued in the home country and they are payable abroad (drawer is a national bank, the drawee - foreign bank, a payee is individual or legal entity). Elements specifying the content of check relate to: the name of the foreign bank on which the check is drawn, place and date of the check, the serial number, currency code and the numerical amount (and letters) of the check, the name and address of the payee, the name of the local bank and the signature and stamp of the authorized person (entity). Signatories of the checks should be authorized entities whose signatures are deposited at the banks where the checks are drawn (traced). Nostro checks cannot be issued without coverage because they are drawn at foreign banks where local banks have their accounts receivable. Check payments are performed at their cargo. Loro bank checks are issued by a foreign bank (drawer). Unlike nostro checks, loro checks are payable either abroad or in the home country. Payable of loro checks depends on whether they are drawn to foreign or local banks. If loro checks are drawn to local banks, it is necessary to conclude inter-bank agreements previously that detail the relationship between foreign and domicile banks. Loro checks are covered by foreign banks, whose accounts are at domicile banks. Also, the issuance of the checks and the approval of the domicile bank account coverage abroad can be carried out. (Vunjak & Kovačević, 2006, p. 575-576) In addition to bank checks, there are private checks - noncertified and certified. In private certified check bank ranks clause “certified” (“accepted”, “good”) with the date of certification of authorized entities (usually two signatories) and this check can be immediately paid. In private noncertified check, the same is received for debt collection (inkasso) or it is asked for confirmation (via SWIFT) of the drawee bank if the check has coverage (Kapor, 2007, p. 440).

Pored bankarskih čekova u međunarodnom platnom prometu su prisutni putnički čekovi i euro čekovi. Za putničke čekove se može reći da u međunarodnom platnom prometu imaju značajnu primenu, bez obzira na prisustvo debitnih i kreditnih kartica. Njih obično izdaju inostrane banke ili putničke kompanije, a plativi su u inostranstvu. Najveći broj putničkih čekova ima kao trasanta i trasata istu banku ili istu putničku agenciju. Putnički čekovi pružaju mnogostruke pogodnosti, kako za korisnike čeka i agente (banke i turističke agencije), tako i za banke koje ih izdaju, a mogućnost falsifikata je svedena na minimum, jer se potpisuju na dva mjesta. Euro ček se pojavljuje u međunarodnom platnom prometu 1968. godine kada su u Belgiji izdati prvi takvi čekovi koji su bili plativi u 15 evropskih zemalja. Izdavanje euro čekova usledilo je u Evropi da bi se konkurisalo velikoj upotrebi čekova i kreditnih kartica američkih banaka. Primjenom ovih čekova istovremeno je omogućeno imaočima čekova da ih koriste u različitim zemljama i u različitim valutama (Vunjak i Kovačević, 2006, str. 576-577).

### MEĐUNARODNA DOKUMENTARNA NAPLATA – INKASO

U međunarodnom bankarstvu važno mjesto zauzimaju inkaso poslovi. Oni su veoma atraktivni za banku jer se uz njeno posredovanje vrši naplata, a ne iziskuje korištenje njenih sredstava. Do međunarodne dokumentarne naplate (inkaso) u međunarodnom platnom prometu dolazi kada prodavac-izvoznik ima poteškoća u prodaji robe na međunarodnom tržištu. Zato dolazi do bankarskog posla u kojem banka preuzima obavezu da po nalogu i za račun nalogodavca (svog komitenta, prodavca) naplati potraživanje koje nalogodavac ima prema trećem licu (trasatu, kupcu) uz istovremenu predaju robnih dokumenata (koji prate i dokazuju da je roba prodana i izvezena), dok se nalogodavac obavezuje da će za to banci platiti proviziju i troškove nastale prilikom izvršenja naloga, čime se osigura-

In addition to bank checks in international payments there are traveller's checks and euro checks. For traveller's checks it can be said that in international payments they have significant application, regardless the presence of debit and credit cards. They are usually issued by foreign banks or travel company, and they are payable abroad. The greatest number of traveller's checks has the same bank or the same travel agency as a drawer and drawee. Traveller's checks provide multiple benefits for check customers and agents (banks and travel agencies), and for the banks that issue them, and the possibility of forgery is reduced to a minimum since being signed at two places. Euro check have appeared in the international payment system since 1968 when Belgium issued the first checks which were payable in 15 European countries. Issuance of euro checks was started in Europe in order to challenge the extensive use of checks and credit cards of American banks. The application of these checks, at the same time, enables the check holders to use them in different countries and in different currencies (Vunjak & Kovačević, 2006, p. 576-577).

### INTERNATIONAL DOCUMENTARY COLLECTION - DEBT COLLECTION (INKASSO)

In international banking, documentary collection business has the important role. They are very attractive for the bank because, with its intermediation, it does not require the use of its resources. When the seller-exporter has difficulty in selling goods in the international market, it comes to the international documentary collection (inkasso) in international payments. So it comes to the banking business where the bank takes obligation, on behalf and for the account of the customer (its client, seller), to collect claims which the originator has towards the third party (the drawer, customer) with simultaneous submission of goods documents (which monitor and prove that the goods are sold and exported), while the originator takes obligation to the bank to pay the commission and costs incurred in the execution of orders, ensuring the risk to make payment and does not get the goods. Documen-

va od rizika da izvrši plaćanje a ne dobije ugovorenu robu. Dokumentarna naplata, odnosno inkaso posao se obično realizuje tako što prodavac-izvoznik, pošto otpremi robu i dobije odgovarajuća dokumenta, ova dokumenta provjerava svojoj banci (može i direktno inostranoj banci ili kupcu-uvozniku, što je rjeđi slučaj). U pismenom nalogu banci on daje sve relevantne instrukcije u vezi sa naplatom. Banka prodavca-izvoznika dostavlja predata dokumenta za naplatu ili akceptiranje, sa svim potrebnim instrukcijama, jednom od svojih korespondenata koga sama izabere (po pravilu, banci u zemlji u kojoj se vrši naplata ili akceptiranje i u mjestu gde se nalazi poslovno sedište kupca-uvoznika). Banka prodavca-izvoznika nema nikakvu obavezu da ispituje ispravnost ili formu komercijalnih papira ili pratećih dokumenata. Banka naplate u inostranstvu, pošto primi dokumenta od banke prodavca-izvoznika, poziva lice ili organizaciju koji su naznačeni u nalogu da preuzmu dokumenta i istovremeno izvrše isplatu (Kapor, 2007, str. 442-443). Nakon što primi od naplatne banke odgovarajuća dokumenta, kupac-uvoznik ima obavezu da bez odlaganja izvrši uplatu, odnosno stavi akcept na menicu. Kupac-uvoznik ima pravo da od naplatne banke dobije sva potrebna dokumenta za preuzimanje robe. Pošto izvrši uplatu, ili stavi akcept na mjenicu, kupac-uvoznik stiče pravo raspolaganja nad robom. Banka naplate ima obavezu da obavijesti prodavca-izvoznika o ishodu naplate. Ova obaveza postoji i u slučaju pozitivnog i negativnog ishoda, s tim da izvještaji moraju biti praćeni svim relevantnim podacima za prodavca-uvoznika (Krstić, 2001, str. 220-221).

Dokumentarnu naplatu suštinski možemo podijeliti na robnu i nerobnu, a prema tome od koga dolaza i kome se dostavljaju dokumenta – i na nostro i loro dokumentarnu naplatu. Robna dokumentarna naplata odnosi se na naplatu komercijalnih papira, faktura, otpremnica – sem finansijskih dokumenata. Dokumentarna ili inkaso naplata se ne odnosi samo na

tary collection or inkasso job is usually realized by the seller-exporter, after shipping the goods and give the corresponding documents, these documents are entrusted to its bank (or a foreign bank or directly to the customer-importer, which is less common). In a written order to the bank, it gives all the relevant instructions regarding payments (documents which are sent with the billing, the amount charged and the currency which is charged, the bank procedure in the case of the payment refusal or bill acceptance, instructions for payment of bank charges and other specific instructions). Bank seller-exporter shall submit valid documents for payment or acceptance with all the necessary instructions, one of its correspondents who chooses itself (as a rule, a bank in the country where it is charged or accepted and where is the business headquarters of the buyer-importer). Bank seller-exporter has no obligation to examine the correctness or form of commercial papers or supporting documents. Payment bank abroad, after receiving the document from the seller-exporter bank, call the party or organization specified in the order to take the document and, at the same time, make a payment (Kapor, 2007, p. 442-443). After receiving the appropriate documents from payment bank, the buyer importer has the obligation to make the payment without delay, and to put acceptance on the exchange bill. The customer-exporter is entitled to obtain all the necessary documents to the importer from the payment bank. After making the payment or bill acceptance, the customer-importer acquires the right to dispose of the goods. Payment bank has an obligation to inform the seller-exporter about the payment outcome. This obligation exists in the case of positive and negative outcomes, while the reports must be accompanied by all relevant information to the seller-importer (Krstić, 2001, p. 220-221).

Essentially, the documentary collection can be divided into commodity and invisibles, and from whom and to whom to submit the document - and into nostro and loro documentary collection. Commodity Documentary collection refers to the collection of commercial papers, invoices, deliveries - except financial documents. Documentary or inkasso

robu, već se može odnositi i na naplatu hartija od vrijednosti, mjenica, čekova itd. i u tom slučaju govorimo o nerobnoj dokumentarnoj naplati („čistoj“ ili „prostoju“). Kod nostro dokumentarne naplate robna ili finansijska dokumenta se šalju iz zemlje davaoca naloga u inostranstvo putem domaće ili inostrane banke ili direktno – posredstvom samo inostrane banke, a kod loro dokumentarne naplate – domaća banka prima nalog od inostrane banke i onda poziva domaće lice da otkupi dokumenta. U međunarodnoj trgovinskoj praksi dokumentarni inkaso najčešće koriste firme iz Indije, koje žele da se probiju na strana tržišta i plasiraju svoju robu. Pošto je ovaj bankarski instrument međunarodnog plaćanja relativno nepovoljan za prodavca, zbog eventualnih problema u naplati, on se uglavnom i koristi kod preduzeća koja su spremne da se po svaku cijenu i uz veliki rizik „šire“ na nova inostana tržišta.

collection applies not only to goods, but it can also refer to the collection of securities, exchange bills, checks, etc., and in this case we talk about invisible documentary collection (“pure” or “simple”). In nostro documentary collection, goods or financial documents are sent abroad from the donor order country by national or foreign banks, or directly-throughout foreign banks, and in loro documentary collection - national bank receives an order from a foreign bank and then call a local party to redeem the document. In international trade practice, documentary collection is commonly used by Indian companies, which want to break into foreign markets and sell their goods. As this banking instrument of international payments is relatively unfavorable to the seller, due to its possible problems in the collection, it is mainly used by the companies which are ready to, at any cost and at great risk, “spread” to new foreign markets.

## DOKUMENTARNI AKREDITIV

### Opšte odlike dokumentarnog akreditiva

Dokumentarni akreditiv (Letter of Credit) je ubjedljivo najviše korišten bankarski instrument i najkvalitetniji instrument međunarodnih plaćanja. Prema procijenama, dokumentarni akreditiv se primjenjuje u skoro 80% trgovinskih poslova u svijetu. Smisao dokumentarnog akreditiva je što se njime kupac osigurava da robu neće isplatiti prije nego što stekne pravo raspolaganja nad njom, a prodavac se obezbeđuje da se neće odreći raspolaganja nad robom prije nego što je naplati. Tako, iako prostorno možda udaljene i preko pola svijeta, dvije strane u poslu, uz pomoć posrednika (akreditivne, konfirmirajuće ili neke druge banke), vrše prodaju robe i plaćanje za nju istovremeno, kao da je u pitanju ručna prodaja. Dakle, suština akreditiva je da, bez obzira na razdaljinu obezbijedi da kupac dobije robu koju naruči, u količini i kvalitetu koji je ugovorio, a da prodavac zna da će kupac da mu plati robu koju je dobio. Akreditiv štiti i jednu i drugu stranu, koja uključuje i banku, kao treće lice. Dokumentarni akreditiv je uveden u široku upotrebu

## LETTER OF CREDIT

### General features of Letter of Credit

Letter of Credit is the most used banking instrument and the best instrument for international payments. According to the estimation, Letter of Credit is used in almost 80% of the world's trade. The purpose of the Letter of Credit is that it ensures the buyer not to pay for goods before disposing it but it also provides the seller not to renounce the disposal of goods before paying it. Thus, spatially distant, two business sides, through an intermediary (issuing, confirming or some other bank), sell and pay the goods simultaneously, like if it is real sale. Therefore, the gist of Letter of Credit is, regardless to distance, to ensure buyer to get the commissioned goods with contracted quantity and quality, and to ensure the seller to know that buyer will pay the obtained goods. Letter of Credit protects both sides which includes the bank, as the third party. Letter of Credit started to be used seventy



još prije tri četvrt veka, a pojavio se još u drugoj polovini XIX vijeka kao rezultanta autonomnog međunarodnog trgovinskog prava. Pojava i razvoj dokumentarnog akreditiva koincidira sa velikim razvojem međunarodne trgovine i nestabilnom političko-ekonomskom situacijom prije i poslije svjetskih ratova – dakle u uslovima kada se svjetski međunarodni monetarni sistem nalazio u kriznim situacijama. Situacija u posljednjih četrdesetak godina, kada je u postbretonvudskom međunarodnom monetarnom sistemu prestalo zlatno-dolarsko važenje, samo je opštom međusobnom nestabilnošću cijena nacionalnih valuta pogodovalo daljem širem korišćenju dokumentarnog akreditiva. Dokumentarni akreditiv je bankarski posao koji pravni osnov dobija iz kupoprodajnog ugovora ili ugovora o izvođenju investicionih radova, zaključenog između komitenta banke i njegovog stranog partnera. Zaključenjem ovog ugovora precizira se akreditivna klauzula kojom se dužnik-kupac ili naručilac obavezuje da će kod svoje banke otvoriti dokumentarni akreditiv u korist povjerilaca (prodavca ili ozvođača radova). Prema tome, dužnik otvara akreditiv kod banke u korist trećeg lica koje kao povjerilac koristi akreditiv pod određenim uslovima. Akreditivni posao je sa aspekta banke neutralni posao, koji se evidentira u vanbilansnoj evidenciji (Krstić, 2001, str. 204). Posao se odvija tako što kupac daje nalog banci da otvori akreditiv u korist stranog prodavca, odnosno korisnika akreditiva. Zatim se definišu svi uslovi i rokovi za njegovo korišćenje. Prodavac može da se naplati tako što kada ga njegova banka obavesti da mu je otvoren akreditiv, on kreće da ispunjava sve uslove koji se od njega traže. Kada ih ispuni – odlazi u banku i traži svoju naplatu. Sama procedura najjednostavnije opisano se odvija na sljedeći način: kupac (uvoznik) daje nalog akreditivnoj banci da isplati prodavcu (stranom izvozniku) određeni iznos novca pošto joj ovaj isporuči detaljno specifikovana dokumenta. Dokumenta od čije isporuke zavisi izvršenje akreditivnog naloga mogu se podijeliti na tri grupe:

1. na ona koja se odnose na samu robu (faktura o isporučenoj robi, konzularna faktura, uvjerenje o porijeklu robe, veterinarska i fitopatološka potvrda i sl.)

five years ago, and it appeared in the second half of XIX century as a resultant of the autonomous International Trade Law. Phenomenon and development of Letter of Credit coincides with large development of International Trade and unstable political and economic situation before and after world wars – when world international monetary system was in crisis. The situation in the last forty years, when gold dollar significance stopped in post Bretton Woods international monetary system, the prices of national currencies suited only to general mutual instability by further usage of a Letter of Credit. Letter of Credit is a banking business which legal basis is in purchase contract or contract on investment projects signed by customer bank and its foreign partner. By signing this contract, debtor-buyer or purchaser is obliged, by credence clause, to open Letter of Credit in the bank in favor of a creditor (seller or contractor). Thus, debtor opens Letter of Credit account in the bank in favor of a third party which uses it, under determined conditions, as a creditor. From the bank aspect, Letter of Credit business is a neutral business which is recorded in the balance sheet items. Buyer gives the order to bank to open Letter of Credit account in favor of foreign seller, or a Letter of Credit user. When bank informs seller that its Letter of Credit account is opened, seller can be charged, seller starts fulfilling all wanted conditions. When seller fulfills the conditions- seller goes to bank and asks for its payment. The simplest, the procedure is as follows: buyer (importer) gives order to credit bank to pay to seller (foreign exporter) determined amount as one delivers detailed specified data. Delivery data which are important for Letter of Credit account can be divided into three groups:

1. Data related to goods (invoices of the goods delivered, consular invoices, certificate of goods origin, veterinarian and phytopathological certificate etc.)

2. na ona koja se odnose na ukrcaj robe (konosman, tovarni list, špediterska potvrda) i
3. na ona o osiguranju robe (polisa osiguranja, certifikat osiguranja).

Na opisani način se, pored osnovnog odnosa između kupca i prodavca, stvaraju još i pravni odnosi po akreditivnom poslu između nalogodavca i banke i između banke i korisnika, pri čemu su ta tri pravna odnosa međusobno nezavisna. Izvještavajući korisnika o otvaranju (po pravilu neopozivog) dokumentarnog akreditiva, banka stupa neposredno i samostalno u obavezu prema korisniku (prodavcu). Akreditivna banka može izvršiti isplatu preko nekog svog korespondenta u inostranstvu.

U akreditivnom poslu se javljaju najmanje tri (obaveznih) učesnika: (1) nalogodavac (dužnik), (2) akreditivna banka i (3) korisnik akreditiva (povjerilac). Kao korisnik akreditiva javlja se prodavac robe ili izvršilac usluge u čiju korist se otvara akreditiv. Kao korisnik akreditiva javlja se prodavac robe ili izvršilac usluge u čiju korist se otvara akreditiv. Akreditivna banka se javlja kao komisionar koji na osnovu naloga svog komitenta otvara akreditiv u svoje ime, za račun komitenta, a u korist korisnika akreditiva. Otvarajući akreditiv, akreditivna banka stupa u neposredne i pravno potpuno samostalne odnose, s jedne strane, prema kupcu, a sa druge strane prema prodavcu i prema tome za akreditivnu banku proizilaze sljedeće obaveze:

1. prema kupcu, tj. nalogodavcu:
  - da akreditiv otvori blagovremeno tj. odmah po prijemu ispravnog naloga za otvaranje akreditiva,
  - da akreditiv otvori tačno prema pripremljenim instrukcijama koje treba da budu potpune i precizne,
  - prilikom korištenja akreditiva da pažljivo ispita dokumenta da bi utvrdila da li odgovaraju akreditivnim uslovima,
  - da dokumenta dostavi kupcu ili da sa njima postupi prema dobijenim instrukcijama,
2. prema prodavcu, tj. korisniku:
  - da izvrši plaćanja, da akceptira ili negocira mjenice, u zavisnosti od načina

2. Data related to embarking goods ( bill of lading, waybill, freight confirmation) and
3. Data related to cargo insurance (insurance policy, certificate of insurance).

In such way, in addition to the basic relations between buyer and seller, legal relations are created by Letter of Credit business between originator and bank and between bank and users, as those three relations are independent. By informing the user on opening (usually irrevocable) Letter of Credit account, the bank has direct and independent obligation towards the user (seller). Issuing bank can make payments through any of its correspondent abroad.

In Letter of Credit business, there are, at least, three (compulsory) participants: (1) originator (debtor), (2) issuing bank and (3) Letter of Credit user (creditor). A Letter of Credit user is a seller or service provider in whose favor Letter of Credit account is opened. Issuing bank appears as a commission, based on client's order, opens a Letter of Credit account in its name, for the client's account in favor of Letter of Credit user. Opening the Letter of Credit account, bank has direct and legal independent relations, on one hand, with buyer, and on the other hand with seller and therefore, issuing bank has the following obligations:

1. To the purchaser, i.e. Originator:
  - To open Letter of Credit account timely, immediately after receiving correct Letter of Credit order,
  - To open Letter of Credit account using instructions which should be completed and accurate,
  - To examine the documents when using Letter of Credit to determine if it conforms to the terms of Letter of Credit,
  - To deliver the documents to buyer or to treat them according to the received instructions
2. To the seller, i.e. User:
  - To make payments, to accept or negotiate bills of exchange, depending on the mode

realizacije akreditiva samo ukoliko su ispunjeni akreditivni uslovi,

- da se prilikom pregleda dokumenata pridržava samo uslova sadržanih u njenom izvještaju o otvaranju akreditiva.

Pored obaveznih transaktora u akreditivnom poslu mogu se pojaviti i druge (posredničke) banke, čija je uloga nezaobilazna ukoliko se korisnik akreditiva nalazi u nekom drugom mjestu, pri čemu banke mogu biti locirane u zemlji nalagodavca, korisnika ili u trećoj zemlji i to (Krstić, 2001, str. 205-206; Stakić i Barać, 2008):

1. avizirajuća banka, koja obavještava korisnika akreditiva da je akreditiv otvoren u njegovu korist, uz preciziranje uslova, ali bez ikakvih obaveza prema korisniku akreditiva.
2. potvrđujuća (konfirmirajuća) banka je u stvari avizirajuća banka koja prihvata samostalnu obavezu da korisniku akreditiva omogući korištenje akreditivnog iznosa,
3. isplatna banka ima ovlaštenje akreditivne banke da kao njen agent isplati akreditivni iznos, uz prethodni prijem i provjeru pristiglih dokumenata,
4. negocirajuća banka ima ovlaštenja akreditivne banke da otkupi akreditivne mjenice.

Ovlaštenje može biti posebno, kada je samo jedna banka ovlaštena za negociranje, ili može biti opšte, kada se kao negocirajuća banka može javiti bilo koja banka. Regularan način za prestanak međunarodnog dokumentarnog akreditiva je kada se korisniku isplati akreditivni iznos. Zatim, akreditiv prestaje sa protokom ugovorenog roka, što je predviđeno u samom akreditivu. Prijevremeno gašenje akreditiva može biti predviđeno od strane nalagodavca u tačno određenim situacijama.

Plaćanje akreditivom može biti ugovoreno po viđenju, odnosno po isporuci robe ili na odloženo – na 30, 60, 90 i 120 dana. Najčešće se plaćanje odlaže od 30 do 90 dana, a kada prodavac robu želi da po svaku cijenu proda u inostranstvu – on onda nudi duže rokove za plaćanje.

of Letter of Credit implementation, only if it fulfills the accreditation requirements,

- To respect the conditions contained in its report on the opening Letter of Credit account during the documents inspections.

In addition to compulsory transactors in Letter of Credit business, some other (brokerage) banks can appear whose function is indispensable if the Letter of Credit user is in some other location, as banks can be located in the country of originator, user or third country (Krstić, 2001, p. 205-206; Stakić & Barać, 2008):

1. Advising bank, which notifies the Letter of Credit user that account is opened in its favor, by specifying conditions, but with no obligations towards the user,
2. Confirming bank is actually advising bank which accept independent obligation to provide the user to use the credit amount,
3. Reimbursing bank, which is authorized by issuing bank, as its agent, to pay off the credit amount, prior the receipt and verification of the submitted documentation,
4. Negotiating bank, authorized by issuing bank, to buy the bills of exchange.

The authorization can be special when only one bank is authorized to negotiate, or it can be general, when any bank can be negotiating bank. Legal way for International Letter of Credit closure is when user is paid off the credit amount. Then, Letter of Credit stops the flow of agreed period, which is provided by Letter of Credit. Preterm closure can be foreseen in determined situations by the originator.

Paying by Letter of Credit can be contracted by sight or by delivery or it can be postponed – at 30, 60, 90 and 120 days. Most often payments are postponed from 30 to 90 days, and when the seller wants to sell goods abroad, at any cost – seller offers longer payment periods.

## Vrste dokumentarnih akreditiva

Postoji više vrsta dokumentarnih akreditiva, u zavisnosti od odabranog kriterijuma. U teoriji se najčešće susreće sljedeća podela dokumentarnih akreditiva (Vunjak i Kovačević, 2006, str. 568-572; Kapor, 2007, str. 435-437):

1. u zavisnosti od toga ko otvara akreditiv razlikujemo:
  - nostro akreditiv, koji se otvara po nalogu kupca, a u korist inostranog prodavca-izvoznika,
  - loro akreditiv, koji se otvara od strane inostranog kupca- uvoznika, a u korist domaćeg prodavca-izvoznika;
2. u zavisnosti od čvrstine obaveza koje na sebe preuzima akreditivna banka razlikujemo:
  - opozivi akreditiv, koji je takva vrsta dokumentarnog akreditiva koji se može od strane kupca-uvoznika (preko akreditivne banke) u svakom momentu opozvati,
  - neopozivi akreditiv, označava postojanje čvrste obaveze akreditivne banke prema prodavcu-izvozniku, a njegova primjena je posebno izražena kod prodavca čije su poslovne jedinice locirane van njegovog sedišta;
3. u zavisnosti od toga da li se mogu prenijeti razlikujemo:
  - prenosivi akreditiv, koji predstavlja takav dokumentarni akreditiv kod kojeg korisnik raspolaže pravom da banci izda nalog da akreditiv u cijelosti ili dijelimično stavi na raspolaganje jednom ili više korisnika,
  - neprenosivi akreditiv odlikuje se time da prenošenje na drugog korisnika nije moguće
4. u zavisnosti od toga da li se odnosi na jedni ili više transakcija razlikujemo:
  - običan (jednostrani ili jednokratni) akreditiv, koji se odnosi na jednu određenu poslovnu transakciju ugasi se iskorištenjem akreditivnog iznosa,
  - rotativni (revolving) akreditiv je takav dokumentarni akreditiv u kojem kupac-uvoznik daje pravo prodavcu-izvozniku da akreditivni iznos može koristiti

## Types of Letters of Credit

There are several types of Letters of Credit, depending on selected criteria. In theory, the most often Letter of credit classification is following (Vunjak & Kovačević, 2006, p. 568-572; Kapor, 2007, p. 435-437):

1. Who opens the Letter of Credit account
  - Nostro letter of credit, which is opened by customer's order in favor of a foreign seller-exporter,
  - Loro letter of credit, which is opened by a foreign buyer - importers in favor of the national seller-exporter;
2. Strong obligations taken over by issuing bank:
  - Revocable letter of credit, which is a type of letter of credit which can be revoked by the customer-importer (via the issuing bank) at any time,
  - Irrevocable letter of credit, indicating the existence of a strong commitment of the issuing bank to the seller-exporter, and its application is especially expressed at seller whose business units are located outside its seat;
3. whether it can be transferred:
  - Transferable letter of credit, which is a letter of credit where the user has the right to issue an order to a bank to put at the disposal of one or more users letter of credit, in full or partly,
  - Non-transferable letter of credit is characterized that the transfer to another grantee is not possible
4. whether it refers to one or more transactions:
  - Ordinary (single-sided or single) letter of credit, which refers to a particular business transaction and which is closed by utilization of Letter of credit amount,
  - Revolving Letter of credit is a letter of credit where the buyer-importer entitle the seller-exporter that the letter of credit amount can be used until the expiry of



sve do isteka krajnjeg roka akreditiva, na isti iznos kao i prvobitni, uz mogućnost da taj iznos bude i veći od iznosa na koji je akreditiv prvobitno projektovan;

5. u zavisnosti od ostalih karakteristika:

- domicilirani akreditiv je takav dokumentarni akreditiv kojim se određuje mjesto banke u akreditivu da bi se izvršio pregled dokumenata i isplata iznosa u akreditivu,
- akceptirani dokumentarni akreditiv predstavlja takav akreditiv kod kojeg se prodavac-izvoznik, podnoseći odgovarajuća dokumenta banci, ne isplaćuje, već banka akceptira na nju od strane prodavca-izvoznika vučenu mjenicu,
- akreditiv sa crvenom klauzulom pruža mogućnost njegovom korisniku da bez prezentiranja dokumenata može u vidu akontacije koristiti određen iznos novčanih sredstava,
- podakreditiv (back to back credit) je novi dokumentarni akreditiv koji korisnik akreditiva može otvoriti u korist svog podliferanta iz iznosa njemu odobrenog akreditiva,
- stend-baj (standby) akreditiv je takav dokumentarni akreditiv kojim se, po nalogu nalagodavca, akreditivna banka obavezuje da korisniku isplati određeni iznos, pod uslovom da korisnik u određenom periodu podnese banci pismenu izjavu da dužnik-nalogodavac nije izvršio svoju obavezu. Korisnik je dužan da uz izjavu podnese i druga predviđena dokumenta. Isplata po stend-baj akreditivu slijedi u slučajevima neizvršenja dužnikove obaveze iz osnovnog ugovora i onda nastaje obaveza banke da isplati ugovoreni iznos, bez obaveza da se dostavljaju robna i transportna dokumenta.<sup>1</sup>

<sup>1</sup> Međunarodna trgovinska komora je ovaj akreditiv svrstala po Jednoobraznim pravilima za poslovanje u vrstu akreditiva iako je po svojoj suštini kombinacija akreditiva i bankarske garancije jer je i instrument plaćanja i instrument obezbeđenja od eventualno nastalih rizika neispunjenja obaveza preuzetih po osnovnom ugovoru, bilo prodavca, bilo kupca. Kod ove vrste akreditiva uslov njegove naplate ne može biti prezentacija uobičajenih trgovačkih i bankarskih dokumenata. Opširnije videti: Kozomara, 2001, str. 230.

the deadline of letter of credit, in the same amount as the original, with the possibility that this amount is greater than the sum of the letter of credit originally designed;

5. other features:

- Domiciled credit is a letter of credit which determines the bank location of a letter of credit in order to carry out the documents inspection and the amount payment in the letter of credit,
- Accepted letter of credit which represents a letter of credit where the seller-exporter, submitting the relevant documents to the bank, does not pay, but the bank accepts withdrawn bill of exchange by a seller-exporter,
- Red Clause Letter of credit provides the possibility of its user, without presenting documents, to use a certain amount of funds in advance.
- Back to back Letter of credit is a new Letter of credit that the user can open in favor of its supplier from the amount approved from letter of credit account.
- Standby letter of credit is a letter of credit which, by the originator, issuing bank has obligation to pay a certain amount, if the user submits a written statement to bank that the debtor-originator has not fulfilled its obligation. User is obliged to submit the other documents provided except the statement. If a client fails to fulfill a contractual commitment, a bank has obligation to pay off agreed amount, with no obligation to submit trade and transport documents.<sup>1</sup>

<sup>1</sup> The letter of credit, which International Chamber of Commerce ranked by Uniform rules for doing business in the letter of credit, even though, it is combination of letters of credit and bank guarantees, is also an instrument of payment and security risks from non-fulfillment of obligations assumed under agreement, the seller or the buyer. With these types of letters of credit, condition of its payment cannot be the usual presentation of commercial and banking documents. Read more at: Kozomara, 2001, p. 230.

## BANKARSKA GARANCIJA

Iako nije instrument međunarodnog platnog prometa, već instrument osiguranja plaćanja u njemu, iz razloga njene široke upotrebe u njegovom nesmetanom funkcionisanju i činjenice da se bez nje teško može obaviti i jedan ozbiljniji spoljnotrgovinski posao, prikazaćemo karakteristike bankarske garancije – neopozive pismene isprave kojom se minimizira rizik i šteta bančinog komitenta. Njome jedno pravno lice (garant), na zahtjev drugog lica (izdavaoca garancije) ili po njegovoj instrukciji, preuzima samostalnu i neopozivu obavezu da trećem licu (korisniku garancije), ako ispuni uslove navedene u njoj, isplati iznos naveden u bankarskoj garanciji. Drugo lice (izdavalac garancije) je banka i ona se obavezuje da ako garant ne izvrši obavezu – izvršenje obaveze pada na teret banke. Bankarska garancija je pismena obaveza banke da će na način i poslovima predviđenim u samom tekstu garancije, isplatiti određeni iznos o roku. Garancija predstavlja dokument putem kojeg se poslovnom partneru daje konkretno materijalno obezbjeđenje. Daje se na osnovu imovine ili uključujući banku koja garantuje svojim sredstvima. U jednom ili drugom slučaju banka izdaje dokument u visini vrijednosti izdate garancije; banka se interno obezbjeđuje imovinom svog komitenta za čiji račun je izdala garanciju. Garancija se u bankarskoj praksi naziva i garantno pismo (promissory note). U garantnom pismu se najprije navode obaveze nalogodavca prema korisniku garancije. Ne postoji strogo utvrđena forma u kojoj garancija mora da bude izdata. Ovo vjerovatno zbog toga što je sadržina svake garancije uslovljena elementima konkretnog posla za koji se izdaje (Trifunović, 1983, str. 426-427). Bitnim elementima bankarske garancije se smatraju: mjesto i datum izdavanja garancije, pun naziv i adresa korisnika garancije, broj garancije, uvodni dio garancije, garantna obaveza, iznos garancije (sa eventualnim klauzulama o kamatnoj stopi, kliznoj skali, paritetnoj klauzuli i dr.), rok važnosti garancije, klauzula o sudskoj nadležnosti, klauzula o vraćanju garancije. Prije izdavanja garancije banka, kao njen izdavalac provjerava detalje ugovora na osnovu koga se

## BANK GUARANTEE

Although it is not an instrument of international payments, but payment security instrument, its widespread use in smooth functioning and the fact that, without it, any serious foreign trade business cannot be done, we present characteristics of a bank guarantee - irrevocable written document which minimizes risk and damage to the bank's customer. One legal party (the guarantor), at the request of another party (the issuer of the guarantee) or under its instruction has an independent and irrevocable obligation to pay off the amount specified in the bank guarantee to a third party (beneficiary), if the conditions are fulfilled. Another party (guarantee) is a bank. If the guarantor does not fulfill the obligations, the bank is obliged to fulfill them. The bank guarantee is a written obligation of the bank to repay a certain amount timely, in a way provided in the text of the guarantee. The guarantee is a document by which a business partner is given concrete material support. It is given on the basis of an asset or it includes bank which guarantees its funds. In one or another case, the bank issues a document in the value of issued guarantees; bank is secured by assets of its customers on whose behalf the guarantee is issued. In banking practice, the guarantee is called promissory note. Originator's obligations toward the beneficiary are listed in promissory note. There is no strictly defined form the guarantee must be issued. This is probably because of the contents of any guarantee is conditioned by elements of specific job for which it was issued (Trifunović, 1983, p. 426-427). Essential elements of bank guarantees are considered: the place and date of issuance of the guarantee, the full name and address of the guarantees, number of guarantees, the introductory part of the guarantee, the guarantee obligation, the amount of the guarantee (with possible clauses on the interest rate, a sliding scale, parity clause, etc.) term of the guarantee clause on jurisdiction, the clause on the return guarantee. Prior to the issuance of guarantees, bank, as its issuer, checks the details of the contract which require issuance

zahtjeva izdavanje garancije (profitabilnost posla, rok izvršenja, visina tražene garancije). Tom prilikom se sakupljaju i informacije o inostranom partneru kao mogućem korisniku garancije. Da bi se banka osigurala i u odnosu na svog komitentata, ako garantuje samo dobro poznatima komitentima, bilo blanko, bilo na osnovu zaloge u robi ili hartijama od vrijednosti. To znači da se bankarskom garancijom prije svega štiti povjerilac, jer se banka njemu obavezuje da će umesto dužnika-nalogodavca ispuniti obavezu.

Ugovor o bankarskoj garanciji se odlikuje sljedećim karakteristikama (Krstić, 2001, str. 238-239):

1. garantovana činidba osnovnog dužnika ne smije da bude protivpravna niti nemoralna,
2. mora postojati subjektivna neizvesnost da će uslijediti činidba osnovnog dužnika,
3. zbog nedostatka propisa ugovor o garanciji je neformalan,
4. na osnovu sadržine ugovora o garanciji procjenjuje se dospelost garantovane činidbe,
5. da bi ostvario svoja prava, korisnik garancije treba da primi dokaz samo o tome da dužnik nije izvršio svoju osnovnu obavezu.

Bankarska garancija u poslovnom svijetu uživa dobru reputaciju jer ima brojne prednosti u odnosu na ostala sredstva obezbeđenja plaćanja u međunarodnim okvirima. Njenom korisniku je omogućeno da brzo i najčešće bez sudskog spora realizuje svoje potraživanja. Sa druge strane, bankarska garancija je značajna i stoga što iza nje stoji banka kao moćna finansijska institucija. Naime, u poslovnom svijetu se pretpostavlja da je banka stručna i oprezna finansijska organizacija koja njeguje poslovni moral, svoj ugled i koja efikasno izvršava preuzete obaveze. Najbitnije karakteristike koje su dovele do toga da je bankarska garancija prihvatljiva kod povjerilaca su neopozivost, što znači da banka ne može odustati od već date garancije i bezuslovnost, koja podrazumijeva izostajanje pokušaja prinudne naplate od strane glavnog dužnika, jer je povjerilac ovlašćen da se obrati banci koja je izdala garanciju odmah kada

of guarantees (profitability of the business, the date of execution, an amount of requested guarantees). Thus, information about foreign partners as possible guarantee user is gathered. In order to ensure the bank in relation to its customers, if it only guarantees to well known customers, either blank, the goods pledge or securities. This means that the creditor is primarily protected by the bank guarantee because the bank agrees to fulfill the obligation instead of the debtor-originator.

Agreement on bank guarantee is characterized by the following characteristics (Krstić, 2001, p. 238-239):

1. guaranteed commitment of the basic debtor must not be illegal or immoral.
2. there must be a subjective uncertainty that the basic debtor commitment will follow,
3. due to the lack of regulations, guarantee agreement is informal,
4. maturity of guaranteed commitment is estimated on the basis of the contents of the guarantee agreement,
5. in order to be entitled, the guarantee user must receive proof that the debtor has not fulfilled its basic obligation.

Bank guarantee, in the business world, has good reputation because it has many advantages over other security payment at an international level. It's user is able, quickly and usually without litigation, to collect its receivables. On the other hand, the bank guarantee is also significant because it is protected by the bank which is powerful financial institution. Specifically, in the business world, it is assumed that the bank is competent and careful financial organization, which foster business ethics, its reputation and execute their commitments effectively. The most important characteristics that have led to the fact that a bank guarantee is acceptable to creditors are irrevocability, which means that the bank cannot give up the given guarantees and needs, which implies absence of attempts of forcible payment of the main debtor, since the creditor is entitled to apply to the bank which issued the guarantee immediately when warranty case occurs. Although the guar-

nastupi garantni slučaj. Iako su garancije vrlo rasprostranjeni instrument obezbeđenja poslovnih partnera od velikog broja poslovnih rizika kojima su svakodnevno suočeni, treba znati da postoje objektivne prepreke primjeni ovog instrumenta u nekim slučajevima. Ako je, na primjer, prodavac američka firma, ona sigurno neće moći da pribavi garanciju svoje poslovne banke (ukoliko je njena poslovna banka američka banka). Ovo stoga što američki zakon zabranjuje njihovim poslovnim bankama da izdaju bankarske garancije. To znači da američki partner može pribaviti garanciju svake druge inostrane banke, ali ne i američke banke. Kao instrument koji kod američkih poslovnih banaka zamjenjuje bankarsku garanciju javio se poseban oblik akreditiva, tzv. stand-baj akreditiv. Ovaj akreditiv ima i osobine akreditiva ali i osobine garancije (Kozomara, 2001, str. 230) i već je djelimično objašnjen u potpoglavlju o akreditivima.

Bankarske garancije mogu se razvrstati prema različitim kriterijumima, a najčešće prema:

1. vrsti ugovora ili drugog pravnog posla čije izvršenje se obezbijeduje garancijom,
2. uslovima koji moraju biti ispunjeni da bi se platio garantovani iznos i
3. odnosu banke prema bankarskom poslu.

Razlikujemo (Stakić i Barać, 2008, str. 428-431):

1. u zavisnosti od toga da li se garancijom obezbijeduje izvršenje novčane ili nenovčane obaveze, garancije se svrstavaju u:
  - platežne (plative) garancije, kojom se garantuje neko plaćanje i kojima banka čvrsto garantuje da će plaćanje biti izvršeno u garantnom roku i u naznačenom iznosu.
  - činidbene garancije, poznate i kao garancije za dobro izvršenje posla, koje predstavljaju garanciju banke da će neka radnja, činidba biti izvršena kako je ugovoreno. Grupu činidbenih garancija sačinjavaju: konsignaciona garancija, licitaciona garancija (ili garancija za učešće na licitaciji), garancija za avans, garancija za bescarinski uvoz, garancija za tranzit, garancija za garantni period;

antees are very widespread security instrument of business partners, from a large number of business risks to which they are confronted daily, it should be known that there are objective obstacles to the implementation of this instrument in some cases. For instance, if the seller is American company, it certainly will not be able to obtain a guarantee of its commercial bank (if its commercial bank is American bank). This is because of American law which prohibits their commercial banks to issue bank guarantees. This means that the American partner can obtain a guarantee of any other foreign bank, but not the American bank. As an instrument at American commercial banks which replaces the bank guarantee, there is the special form of letters of credit, so-called. standby letter of credit. This letter of credit has characteristics of letters of credit and guarantees (Kozomara, 2001, p. 230) and it is already partially explained in the section on letters of credit.

Bank guarantees can be classified according to different criteria, and most often by:

1. The type of contract or other legal transaction whose execution is ensured by warranty,
2. The conditions which must be met in order to pay the guaranteed amount and
3. Bank compared to the banking business.

We distinguish between (Stakić & Barać, 2008, str. 428-431):

1. Whether the guarantee is provided by the execution of monetary or non-monetary obligations, guarantees can be:
  - Payable guarantee, which guarantees a payment and which the bank firmly guarantees that payment will be made within the warranty period in the indicated amount.
  - Performance guarantees, also known as a guarantee of good performance, which represent the bank guarantee that any action, commitment will be performed as agreed. Group performance guarantees comprises: Consignment Guaranty, Guaranty for Adjudication- Bid - Bond, Guaranty for Advance Payment, Guaranty for Duty-free Import, Guaranty for Transit, Guaranty for Guaranteed period;



2. pored navedenih garancija u grupu garancija za dobro izvršenje posla mogu se u praksi koristiti još neke, manje česte garancije, kao što su:
    - garancija za socijalno osiguranje,
    - garancija sudskog spora,
    - garancija kooperantu;
  3. u zavisnosti od toga da li se garancija izdaje direktno korisniku ili preko posrednika razlikuje:
    - neposredne garancija,
    - posredne garancije;
  4. u zavisnosti od pokrića razlikujemo:
    - pokrivena garancije, koje su garancije kod kojih nalagodavac polaže pokriće kod banke iz koga banka isplaćuje garantni iznos korisniku garancije, te prema tome banka- garant dobija unaprijed pokriće za garanciju koju izdaje i
    - nepokrivena garancije, gdje banka isplaćuje garancije iz sopstvenih sredstava pa prema tome banka- garant ne dobija unapred pokriće za garanciju koju izdaje;
  5. prema tome da li banka u inostranstvu potvrđuje ili ne potvrđuje garancije razlikujemo:
    - konfirmirajuće garancije, gdje je banka-korespondent u inostranstvu zamoljena da konfirmira (potvrdi) garanciju domaće banke u korist inostranog korisnika, čime ona preuzima na sebe obaveze stimulisane u garanciji;
    - nekonfirmirane garancije predstavljaju samo uslugu druge banke u inostranstvu koja, bez svoje obaveze, saopštava korisniku garancije da je domaća banka izdala odgovarajuću garanciju.
2. In addition to the aforementioned guarantees to the group guarantee for good performance, in practice, some more, less frequent guarantees can be used, such as:
    - Guaranty for Social Insurance
    - Under Guaranty Arbitration
    - Cooperative Guaranty;
  3. Whether the guarantee is issued directly or through intermediaries:
    - Direct Guaranty
    - Indirect Guaranty;
  4. Depending on the coverage:
    - Covered Guarantee, which are guarantees where the originator has coverage in a bank from which the bank pays the guarantee amount to the guarantee, and thus the guarantor bank receives advance coverage for the guarantee issued by.
    - Uncovered Guaranty, where the bank pays a guarantee from its own resources and therefore bank guarantor receives no coverage for pre-guarantee issued.
  5. According to whether a bank abroad confirms guarantees or not:
    - Guarantee with Confirmation, where the bank-correspondent abroad is requested to confirm guarantee of national bank in favor of foreign customers, which it undertakes stimulated obligations in the guarantee,
    - Guaranty without Confirmation, are only service of other banks abroad, which, without their obligations, informs the user guarantee that national bank issued corresponding guarantee.

## ZAKLJUČAK

U međunarodnom platnom prometu do danas su učinjeni veliki naponi da bi se poboljšala organizacija poslovanja banaka i kadrovska struktura, razvili informacioni sistemi, uvele tehnološke komponente i elektronski novac. I pored svih ovih poboljšanja samo funkcionisanje međunarodnih plaćanja ima određene slabosti koje su rezultat političkih i ekonom-

## CONCLUSION

So far, great efforts have been made to improve the organization of bank operations and personnel structure, to develop information systems, to introduce technological components and electronic money in international payment transactions. Despite all these improvements, function of international payments has certain weaknesses which are the result of political and economic problems

skih problema (recesija svijetske privrede). Bez sagledavanja svih relevantnih faktora koji imaju uticaj na kvalitet obavljanja međunarodnog platnog sistema nije moguća reforma sistema međunarodnog plaćanja.

Postoji mišljenje da je područje međunarodnog platnog prometa suženo u odnosu na unutrašnji platni promet, što se ogleda u kontroli obavljanja poslova platnog prometa sa inostranstvom. Međunarodni platni promet se odvija u posebnim sistemskim i organizacionim uslovima. Danas platni promet omogućava učesnicima u plaćanju korišćenje savremenih instrumenata plaćanja kao i mogućnost da izaberu način plaćanja.

Da bi se postigla efikasnost, tačnost i ekonomičnost platnog prometa mora postojati uzajamna uskladenost između organizacije procesa plaćanja, instrumenata, oblika i načina plaćanja. Učesnici u platnom prometu moraju da ispune određene zahtjeve: primjenu zakonskih propisa, pravilan izbor oblika načina i instrumenata plaćanja, pravilno ispostavljanje naloga platnog prometa, pravovremeno podnošenje naloga.

(recession of world economy). Despite considering all relevant factors which have an impact on the quality of international payment systems, the reform of the system of international payments is not possible is not possible.

There is an opinion that the area of international payments is narrowed in relation to internal payment system, which is reflected in the control of payment transactions abroad. International payment transactions occur in specific systemic and organizational conditions. Nowadays, participants in the payments are given to use modern payment instruments and to choose the method of payment by payment itself.

In order to achieve the effectiveness, accuracy and efficiency of payment transactions, there should be mutual coherence between the organization's payment processes, instruments, forms and methods of payment. The participants in the payment system must meet certain requirements: application of legislation, the correct choice of the ways and forms of payment instruments, issuing payment orders properly, submission of accounts timely.

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