Eight Requirements for Negotiable Instruments

The concept of negotiability is one of the most important features of commercial paper, a contract for the payment of money. A negotiable instrument is a written document, signed by the maker or drawer that contains an unconditional promise to pay a certain sum of money on delivery or at a definite time to the bearer. It is essentially a piece of paper that can be transferred multiple times from one person or entity to another without the use of actual cash. A check that can be endorsed multiple times by different parties is an example of a negotiable instrument. Each time the check is endorsed and given to another, it represents payment to that party. Because of this feature, negotiable instruments are highly trusted and are used daily by millions of people.

When dealing with negotiable instruments, below are eight requirements to keep in mind:

1. **Must be in writing.**
    - The writing can be on anything that is readily transferable and that has a degree of permanence.

2. **Must be signed by the maker or drawer.**
    - The signature can be anyplace on the instrument.
    - It can be in any form (such as word, mark or rubber stamp) that purports to be a signature and authenticates the writing.
    - It can be signed in a representative capacity.

3. **Must be a definite order or promise to pay.**
    - A promise must be more than a mere acknowledgement of a debt.
    - The words "I/We Promise" or "Pay" meet this criterion.

4. **Must be unconditional.**
    - Payment cannot be expressly conditional upon the occurrence of an event.
    - Payment cannot be made subject to or governed by another agreement.
    - Payment cannot be paid out of a particular fund (except for a government issued instrument).

5. **Must be an order or promise to pay a sum certain.**
    - An instrument may state a sum certain even if payable in installments, with interest, at a stated discount or at an exchange rate.
    - Inclusion of cost of collection and attorney's fees does not disqualify the statement of a sum certain.

6. **Must be payable in money.**
    - Any medium of exchange recognized as the currency of a government is money.

- The maker or drawer cannot retain the option to pay the instrument in money or something else.

7. **Must be payable on demand or at a definite time.**
    - Any instrument payable on sight, presentation or issue is a demand instrument.
    - An instrument is payable at a definite time even though it is payable on a stated date, or within a fixed period after sight, or the drawer or maker has an option to extend time for a definite period.
    - Acceleration clauses, even if unenforceable, do not affect the negotiability of the instrument.

8. **Must be payable to order or bearer.**
    - An order instrument must name the payee with reasonable certainty.
    - An instrument whose terms intend payment to no particular person is payable to bearer.

Source: NACM's *Principles of Business Credit*