

## Requirements of Bills of Exchange

Requirements of bills of exchange are regulated by eight paragraphs of Article I, Section 1, BECA. The following elements can never be omitted: the term “bill of exchange” inserted in the text of the instrument (Article I, Section 1, Paragraph 1), an unconditional order to pay a certain sum of money (Article I, Section 1, Paragraph 2), the name of the person who is to pay (Article I, Section 1, Paragraph 3), the name of the person to whom or to whose order payment is to be made (Article I, Section 1, Paragraph 6), the date of the drawing of the bill of exchange (Article I, Section 1, Paragraph 7) and the signature of the drawer (Article I, Section 1, Paragraph 8). On the other hand, maturity need not be stated at all in the bill of exchange (Article I, Section 1, Paragraph 4). The place of payment (Article I, Section 1, Paragraph 5) and the place of the drawing of the bill of exchange (Article I, Section 1, Paragraph 7) need not result from the bill directly but they may be indirectly deduced from other pieces of information in the bill.

Notes on individual essential elements of the bill of exchange following the order of Article I, Paragraph 1, BECA:

### a) Stipulation relating to bills of exchange

A bill of exchange must primarily include a designation that it is a bill of exchange, the so-called stipulation relating to bills of exchange. The stipulation must meet two cumulative preconditions: first, it must be part of the text of the bill of exchange. Therefore it is not enough to insert the term of “bill of exchange” only in the heading or as a decorative printed form on the margin of the form or in watermark. It is always necessary for the designation to be inserted directly in the text of the bill.

The second precondition is that the designation of bill of exchange must be written in the language in which the whole document is written. The bill should be drawn only in one language. The bill may be written in any of the existing languages and the participants are not restricted in any way as far as this is concerned. It does not matter who has drawn the bill and where it has been drawn, or when the bill is payable.

### b) Unconditional payment order

The essence of the bill of exchange is a payment order of the drawer addressed to the drawee. The use of a certain form for this order is not prescribed but it must be clear from the text of the bill. In practice, we usually come across the mere imperative "Pay".

Pursuant to Article I, Section 1, Paragraph 2, BECA, this order must be unconditional and must be expressed in a certain sum of money. The amount requirement is important to the negotiability of draft and notes because they usually are sold at a discount, or less than face value.

The money relating to bills of exchange must be expressed in words or figures, or in both ways (it is actually required by all bill forms for security reasons). If the sum of money relating to bills of exchange is expressed differently in figures and words (for example, 100,000 and "one hundred and ten thousand") the bill of exchange is not invalid for the reason of contradicting pieces of information. In such cases the law reasonably states that if there are divergent data concerning the sum, it is the one expressed in words that holds. In case of the sum of money expressed several times in words or several times in figures, it is the sum that is the lowest one that holds and in no case the amounts may be added up.

The certainty of the sum of money relating to bills of exchange is also required by the statement of currency. It is not possible to pay interest on the sum of money relating to bills of exchange except for sight bills. When a bill of exchange is payable at sight, or at a fixed period after sight, the drawer may stipulate the sum payable shall bear interest. In the case of any other bill of exchange, this stipulation is deemed not to be written. The rate of interest must be specified in the bill of exchange; in default of such specification, the stipulation shall be deemed no to be written. Interest runs from the date of the bill of exchange, unless some other date is specified.

#### c) Name of the drawee

As already mentioned above, the drawee is a mere addressee of the payment order of the drawer. An obligation arises for him only by his acceptance (comp. Article I, Sections 21 – 29, BECA). The drawer may designate himself as the drawee (the so-called disguised bill of exchange). It is quite enough to state the name (designation, trade name) of the drawer. Other complementary data (birth identification number, residence, com-

pany registration number, seat, etc.) are only desirable from the practical point of view but the law does not require them for validity of the bill of exchange.

#### d) Indication of maturity

Maturity need not be indicated in the bill of exchange as such a bill is payable at sight pursuant to Article I, Section 2, BECA.

Pursuant to Article I, Section 33, Paragraph 1, the bill of exchange may be payable at sight, at a fixed period after sight, at a fixed period after the date of drawing and on a fixed day. Bills of exchange with another type of maturity are invalid. Bills of exchange payable by instalments are also null and void.

#### **Bills of exchange payable at sight (sight drafts)**

Maturity at sight is formally based on expressly using words “at sight”, “at presentation”, “after sight”, etc. Another option consists in not stating the day of maturity as mentioned above. With bills of exchange at sight the due day is not determined clearly in advance. The due day is the day when the bill of exchange is presented to the respective person for payment.

#### **Bills of exchange payable at a fixed period after sight (time drafts)**

An example of time draft is a bill of exchange which is due “one month after sight”. The time stated in the bill runs from the day of acceptance of the bill or the protest. Therefore acceptance must bear a date. If the bill was not accepted, or the date of acceptance was not stated the bill must be protested.

#### **Bills of exchange payable at a fixed period after the date of drawing (time drafts)**

These are bills in which maturity is stated at a fixed period after the day of drawing, for example, “pay in a month after drawing”.

#### **Bills of exchange payable on a fixed day (fixed time drafts)**

It is the usual determination of maturity date, for example, “on 21<sup>st</sup> August 2001”.

Maturity of the bill of exchange may only be determined by the four methods mentioned above. Bills of exchange with a different maturity date are inadmissible. Now a few notes on various cases of invalid bills of exchange because of a defective determination of their maturity. The law expressly declares as invalid bills of exchange with successive maturity (installment bills of exchange).

The maturity date must be existing, otherwise the bill is invalid (for example, “on 31<sup>st</sup> November 2001). A year must be unconditionally stated. Also, there must be only one maturity date clear from the bill. Therefore it is inadmissible to state the maturity date so that it will be more days, for example, “pay in August 2005”, as such a bill would have 31 days of maturity in total. Also, bills of exchange with maturity “until 22<sup>nd</sup> August 2005” or “during ten days since the day of drawing” will be invalid. These data are defective because of the prepositions “until” and “during” as it is not clear on which concrete day from the remaining time such a bill would be mature. Inadmissible are also alternative determinations of maturity (“pay on 2/7/2001 or 5/11/2001”, pay at sight or in two weeks after sight”) and also bills of exchange in which the maturity is determined not only by a concrete day but also by an hour (“pay on 4<sup>th</sup> January 2005 at 13.00”).

Table: Indication of Maturity

<b>Maturity (Draft of Promissory Note payable)</b>	<b>Legal Regulation in Article I BECA</b>	<b>Model Clause</b>
At sight	Section 34	“at sight”, “at presentation”, “after sight”, “on demand”
At a fixed period after sight	Section 35	“one month after sight”
At a fixed period after the date of drawing	Section 33	“pay in a month after drawing”
On a fixed day	Section 33	on 4 <sup>th</sup> January 2005

#### e) Place of payment

The place of payment may be stated in the bill of exchange in two manners. Firstly, the drawer may determine it expressly. However, if the drawer omits to state the place in the bill it does not follow that the bill is invalid. In such a case the legal place of payment pursuant to Article I, Section 2, Paragraph 3, BECA, is the place stated with the name of the drawer. This second possibility of determining the place of payment presupposes, of course, that there is a certain place stated with his name (and not more different places). Otherwise, it is an invalid bill of exchange.

The place of payment may be stated in the bill also through the domicile, for example, "Payable at the Deutsche Bank, Brno branch".

#### f) Designation of the payee

As mentioned above, the bill of exchange cannot be issued as a security on bearer. The bill must always include the name of its first acquirer (payee).

The drawer and the payee may be identical (draft to one's own order).

#### g) Day and place of drawing

The bill of exchange must include the day and the place of drawing. As for the day of drawing, the same rules as mentioned about the maturity date apply, especially the rule that the day must be existing and must be clear enough (day, month, year). The date of drawing must always precede the date of payment. If the place of drawing is not stated in the bill, it is considered to be drawn in the place stated with the name of the drawer (comp. Article I, Section 2, Paragraph 4, BECA). If no certain place is stated there, the bill is invalid.

#### h) Signature of the drawer

The last essential element of bill of exchange stated by the law is the signature of the drawer. It is the only element of bill of exchange stated in Article I, Section 1, BECA, for which it holds that the signature of the drawer must be made in one's own hand.

Examples of bills of exchange:

<b>Bill of exchange</b>	
In Prague, January 1, 2005	
For this bill of exchange pay to the order of Franck Payee the sum of One hundred 100 USD.	
Drawee: Karel Nowak Brno, Úvoz 1 602 00	
At: Brno, Úvoz 1, 602 00	
Jan Pleva Brno, Joštova 8 Signature of the drawer <i>Jan Pleva</i>	

Bill of exchange, not accepted, payable on a fixed day (fixed time draft)

<b>Jana Nováková (signature)</b>	Brno, 1 January 2005
	31 January 2005 <b>pay for this bill of exchange</b> <span style="border: 1px solid black; padding: 2px;">500,-</span>
	CZK not to order of Jan Novák, Joštova 8, Brno
	Five hundred Czech crowns
	Jana Nováková, Stará 8, Brno
	without protest Petr Slabý, Brno ( <i>signature</i> )

Bill of exchange upon name, accepted, with negative protest stipulation, payable at fixed date.