Strategies Adopted by Romanian Banks to Reduce the Payment Incidents

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1. Introduction

On the background of an unfavorable global economic climate and of the prolonged effects of the financial crisis, during 2009 – 2012 there has inevitably occurred the limitation of the liquidity available to the Romanian companies, causing the aggravation of the process of recovering the claims from the partners and, implicitly, the increase of the number of payment incidents. This has had a negative impact on business, even on the activity of the medium and large companies with a turnover of over 10 million euro, in 2012 they being affected by liquidity problems in a much greater extent than the previous year.

However, the phenomenon of insolvency and bankruptcy resumed its upward trend in the first half of 2012 (growing with 21% compared to the same period of the previous year), while in 2011 decreased by 11% compared to 2010, being, however, over the level registered in 2009 (about 32% higher than in 2009). Consequently, the increasing number of new entrant companies in the insolvency or bankruptcy process required a careful monitoring of the phenomenon, generating a series of financial stability challenges [1], through a high volume of:

- **Bank credits.** In the first six months of 2012, the value of the loans granted by banks to such firms was 17.2 billion lei, over 58% of this amount being represented by foreign currency loans (10.1 billion lei). The companies in insolvency generated 66% of the loans of non-financial firms with arrears of over 90 days.

- **Major payment incidents.** In the first half of 2012, the total value of the major payment incidents caused by firms in insolvency or bankruptcy was approximately 1 billion lei, representing 41% of the total value of these incidents caused by the non-financial companies in the first 3 months of 2012 (decreasing with 19 percentage points compared to the same period of 2011, when the weighting was 60%).

- **Debts to the trading partners.** At the end of 2011, the arrears to suppliers of the insolvent companies amounted 28.3 billion lei, representing 28% of total debts to suppliers caused by the non-financial companies in December 2011. This was due, on the one hand, the high volume of claims (about 11 billion lei in December 2011), and on the other hand, the extension of the annualized term of recovering the claims from 100 days, the average economic value, at 295 days.

The Coface Company, a global leader in credit insurance, which publishes quarterly the assessments of country risk for 156 countries, issued a report [2], at the end of last year, on the basis of data on new cases registered in the Romanian Insolvency Bulletin (IB) for the first nine months of the years 2010, 2011 and 2012, showing an overall increase in the number of insolvencies, with the exception of September, when, in 2012 there were initiated fewer insolvencies than in 2010 (table 1.)

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Table 1. The number of insolvencies during 2010 – 2012

<table>
<thead>
<tr>
<th>Month</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The first 9 months</td>
<td>The first 9 months</td>
<td>The first 9 months</td>
</tr>
<tr>
<td>January</td>
<td>2,021</td>
<td>1,709</td>
<td>1,897</td>
</tr>
<tr>
<td>February</td>
<td>2,289</td>
<td>1,849</td>
<td>1,903</td>
</tr>
<tr>
<td>March</td>
<td>2,384</td>
<td>2,160</td>
<td>1,887</td>
</tr>
<tr>
<td>April</td>
<td>2,207</td>
<td>1,847</td>
<td>1,506</td>
</tr>
<tr>
<td>May</td>
<td>2,269</td>
<td>2,097</td>
<td>1,544</td>
</tr>
<tr>
<td>June</td>
<td>2,133</td>
<td>2,127</td>
<td>1,880</td>
</tr>
<tr>
<td>July</td>
<td>1,219</td>
<td>811</td>
<td>852</td>
</tr>
<tr>
<td>August</td>
<td>824</td>
<td>658</td>
<td>575</td>
</tr>
<tr>
<td>September</td>
<td>1,135</td>
<td>2,061</td>
<td>2,021</td>
</tr>
<tr>
<td>Total</td>
<td>16,481</td>
<td>15,319</td>
<td>14,065</td>
</tr>
<tr>
<td>Deviation</td>
<td>-</td>
<td>8.92%</td>
<td>7.59%</td>
</tr>
</tbody>
</table>


The analysis of the insolvency cases from the period 2010 – 2012, highlights insignificant changes of maximum 1-2 positions in the top 10 sectors that registered the highest number of companies that went into insolvency. Thus, the first position is occupied by the retail, with 2,184 newly opened insolvencies in the first 3 quarters of 2012, followed by the wholesale trade, distribution and the constructions sector, each with 1,545 new cases.

The negative effects of the insolvency or bankruptcy phenomenon on the payment discipline in the economy, coupled with the depreciation of assets and the impairment of the ability of financing of the medium and large companies by reducing the profits and the additional capital contributions provided by shareholders, have generated significant financial imbalances and, implicitly, the increase of Romanian companies’ vulnerability to the external shocks. Consequently, these facts determined the necessity of studying and regularly monitoring the companies’ payment behavior, and also the need of identifying the solutions with which banks are trying to protect their customers and their own businesses.

In this context, during January-February 2013, there was conducted a qualitative marketing research that had as main objective the identification and analysis of the main measures taken by banks to reduce the number and the amount of the payment incidents, generated by the use of debt instruments. The methodology and the results of this study are detailed in Sections 4 and 5 of this paper, Section 2 meeting the need for conceptual delimitation of payment incidents and Section 3 including an analysis of the evolution of the payment incidents in Romania.

2. Conceptual delimitation of payment incidents

The growth and the diversification of the international trade, and also the impossibility of coping with a growing volume of payments made through traditional payment means have imposed the use of the payment and credit instruments to liquidate the debts.

The payment and the credit instruments represent, in fact, the generic name used to describe a specific type of securities used in international payment relationships. These are written documents whose content and format are established through internationally accepted regulations and represent an obligation for repayment or payment of a sum of money within a set period of time. In this category belong the bill of exchange, the promissory note and the check. They are short-term debt securities, the amount being paid in a period which generally not exceeds one year. These documents are also called securities as they incorporate in their content a certain patrimonial value [3]. Although for those securities that don’t involve a credit is more appropriate to use, as a concept of gender, the designation of commercial securities, the new Civil Code imposes the use of the notion of debt securities [4].

The issuance, the circulation and the negotiation of these securities are closely related both to the international trade and the functioning of the international monetary market. As the international monetary market developed on the monetary markets of different countries, the negotiation and the circulation of these securities can be achieved in countries where the national law allows them.

The failure of fulfilling the obligations assumed through a promissory note, a bill of exchange or a check represents a payment incident. The information management activities specific to the payment incidents is assured by the National Bank of Romania, through the Payment Incident Bureau (PIB). The transmission of information to the PIB is done electronically by using the Interbanking Communication Network. The PIB’s database is organized into two files, namely [5]:

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a. The National Payment Incidents File (NPIF), in which there are registered individuals and businesses that have issued checks, bills of exchange, or promissory notes that were included into payment incidents category, regardless of the nature of the incident. It has three parts, namely:

- The National Checks File (NCF).
- The National Bills of Exchange File (NBEF).
- The National Promissory Notes File (NPNF).

b. National File of Risk-bearing Entities (NFRbE) which collects the information regarding the major payment incidents registered on the name of a natural or legal person, resident or non-resident. The removal of the payment incidents from this database can only be performed by the same entity who previously submitted them to PIB, from its own initiative or at the request of the court, on the base of a written annulation request. This file provides information on:

- the number of incidents recorded in PIB regarding the person who is subject to verification;
- the list of incidents with checks and promissory notes which describes the date and the type of incident and also the specification whether the refusal was a fully or a partially one;
- the period of interdiction of issuing crossed checks.

The literature of specialty [5] classifies the situations that oblige the banks to make a refusal of payment, at the submission by the bank's client of a debt instrument, in:

- **major incidents**: a payment incident is considered major if it is determined by the record of specific situations related to the use of checks, bills of exchange and promissory notes;
- **minor incidents**: from the minor reasons that most often lead, in practice, to payment incidents can be mentioned:
  - the errors in the completion of the mentions on the promissory note, check or bill of exchange; these errors refer only to the incorrect completion of the instrument, because those securities lacking the mandatory particulars listed in art. 1 of Law no. 59/1934 will not be considered checks, these just having the legal force of documents under private signature that establish common law obligations [7].
  - the promissory note/check/bill of exchange rejected because of complete lack of funds, when presented for collection after due date;
  - the prohibition of the payment made by the drawer, in the case of presenting it for collection after due date;
  - the litigation regarding the ownership right.

Both practice and doctrine [8] consider that there was a major payment incident in the following cases:

**A. A promissory note/check/bill of exchange with maturity at a certain time after sight, at a certain time after date of issue or at a fixed date and rejected because of complete lack of funds, when presented for collection on due date**

The issuer of the promissory note and the drawer of the bill of exchange should have the necessary funds into their bank account on due date stated on the securities, in contrast with the check, in the case of which the available funds have to exist at the date of issue of the instrument. In other words, when issuing a check file, the available funds set by the drawer at the drawee bank must exist prior to issuing the check and have at least the value of the check, so to be, as shown in the 3rd Article, paragraph 2 of the Check Law [9], a certain payable sum, upon which the drawer has the right to order by check, in the context of no legal or material impediment which could restrain the payment. The drawer is also required to maintain the coverage till the check cashing or the expiry of the statutory period for presentation, having no possibility of blocking the account. The legal deadline for the submission of payment in the case of all the checks issued and payable in Romania is 15 calendar days calculated from the date of issue [10].

A payment instrument can be presented in original (in material form, on paper) or by truncation [11], this method consisting in the electronic transmission of information obtained from electronic reproduction of the original payment instrument. This method is used especially by the credit institutions which have agreements regarding certain arrangements for payment or which acceded to a similar system of payments.
The drawer who pays has the right to claim from the beneficiary the bill of exchange marked as "paid", signed by the latter (art. 43 par. 1 of Law 58/1934 – updated), such a payment instrument being a proof of payment.

According to the 84th article of Law 58/1934 – updated, if more copies were issued for a bill of exchange, the payment of one copy cancels the effect of the other ones, with the exception of the situation in which the drawer remains held for each copy that was not returned.

If the drawer wants to make a partial payment, the beneficiary can not refuse the payment, being obliged to mention the amount received on the bill of exchange and to issue a receipt to the drawer (art. 43 par. 2 and 3 of Law 58/1934 – updated).

Instead, if the necessary funds don’t exist in the debtor’s account (the drawer of the bill of exchange, of the promissory note or of the check) at the time of payment, the bank refuses to pay, following that the refusal of payment (observed through an authentic document named protest of non-payment – art. 49 of Law 58/1934 – updated) be entered in the Payment Incident Bureau (PIB).

The total or partial refusal of a payment instrument presented through the truncation process is made electronically by the paying credit institution, the credit institution holding the original instrument having to state on the document the date of presentment for payment and the statement of refusal dated and signed by the legal representatives of the credit institution. The registration of the payment refusal to PIB applies even if from the time of presentment for payment of the instrument (when the bank makes the payment refusal due to lack of necessary funds) and the time of recording the incidents to PIB, the debtor has made the payment.

The lack of the necessary funds from the bank account, at the maturity of the payment instrument, represents also a payment incident in the situation in which for the obligation of paying the price stated in the fundamental legal report, namely the contract that justifies the issuance of the security, there could be invoked the exception of non-execution of the contract, because of the non-fulfillment or improper or late fulfillment of the obligation of the party which has the quality of the creditor of the price payment. The justification is that the cambial obligations are autonomous and independent of the fundamental legal report that created them, in other words, the legitimate holder of the security exercises his right, and the issuer of the security exercises the obligation on the basis of the security and not on the legal report that incurred the issuance of the security. [12]

However, if in the case of the legal report the parties defer the maturity date of the payment and therefore is issuing another payment instrument with a new maturity date, the erroneous introduction to payment of the security, by the holder, represents a payment incident, if at that time in the debtor’s account aren’t the necessary funds to make the payment.

The lack of the necessary funds from the debtor’s account at the time of payment leads to the registration of the payment refusal in PIB, having no relevance the fact that, prior to maturity, the debtor has paid the amount owed to the creditor through another mean of payment.

In the case of a payment refusal, the check has penal implications, the issuing of a check without account coverage representing a misdemeanor; instead, the issuing of a promissory note or bill of exchange doesn’t have penal implications, involving only the patrimonial liability of the debtor. [13]

However, for a payment instrument to be considered issued, there is not enough filling the form, being necessary to hand it over to the beneficiary. Thus, in the specialty literature it is considered that the entity who signed and stamped the check file without using it for the purposes of handing it over to the beneficiary has not issued a check in the legal sense [14].

B. A promissory note/check/bill of exchange with maturity at a certain time after sight, at a certain time after date of issue or at a fixed date and rejected because of partial lack of funds, when presented for collection on due date

In the situation in which, at the time of presenting the security for payment there is only a partial lack of funds in the debtor’s account, it also represents a payment incident, having no relevance that the debtor had the necessary funds in other bank accounts. However, the lack of the necessary funds into bank account when presenting the bill of exchange or the promissory note before maturity is not considered a payment incident.

C. The payment refusal by the bank made as a result of closing the debtor’s account prior to the settlement of the security represents also a major payment incident.

D. Although they are rare in practice, the legal regulations [15] mention also other major payment incidents such as:

- the check issued without the drawer’s authorization;
- checks issued with false date or without a mandatory mention;
- the check issued with a signature which is different from the specimen;
- checks issued by a drawer under bank interdiction;
- checks that belong to an edition of instruments unauthorized by the NBR (National Bank of Romania);
- checks declared as lost, stolen or destroyed;
- the insolvency or the bankruptcy of the drawer;
- the garnishment or other measures taken by a public authority to restrict the account availability.

These major payment incidents occurred in the trade of checks, bills of exchange and promissory notes determine the automatic registration of the drawer entitlement to the payment automatic enrollment in the Risky Persons National File (RPNF).

3. The analysis of payment incidents in Romania

The limitation of the liquidities available to companies, accentuated in 2012, caused a deterioration of the payment behavior of all categories of companies. Also there was a decrease of the transactions made through payment instruments between companies.

According to the Romanian National Bank (RNB), in the first 10 months of 2012 the number of the payment incidents decreased with 51% compared to 2011, but the value of the payment incidents registered in PIB increased with 17% compared to the previous year. Thus, the Romanian banks have refused payments with debt instruments amounting to 7,431,695 thousands lei compared to 6,344,536 thousands lei in 2011.

According to estimates, at the end of 2012, the total payment amounts rejected when presented for collection was close to the value of the amounts rejected by the credit institutions in 2010, the year which saw the highest level of the payment refusals in the last decade. Given that this increase in value occurred despite the decrease with 56% of the number of payment incidents in the first 10 months of 2012 compared to 2010 it results that the average value of a rejected instrument grew by 72%, to over 44,000 lei. The reason for this is that in the last year, the weight of the companies that had a large turnover and issued payment instruments of high value grew in the total number of companies registered in the PIB.

As in the previous years, the promissory notes remained the payment instruments with the largest sums rejected by banks, respectively 7,178,143 thousands lei in the first 10 months of 2012, with 19% above its level registered in 2011, even if the number of the notified incidents decreased by 44% compared to the same period.

The payments by checks registered a pronounced decline in the first 10 months of 2012, respectively a decrease of 25% compared to 2011 and a decrease of 74% compared to 2009, when the value of the checks rejected when presented for collection registered the highest level.

Compared to 2007, in 2008 the total amount of the rejected payments with debt instruments increased by 2.4 times, in 2009 by 5.09 times, in 2010 by 5.17 times, in 2011 by 3.43 times and in the first 10 months of 2012 by 4.01 times. The largest increases were recorded for promissory notes (616.75% in 2010 compared to 2007), followed by bills of exchange (576.42% in 2010 compared to 2007) and checks (241.27% in 2009 compared to 2007). In terms of value, the highest total amount of the rejected payments with debit instruments was achieved in the case of the promissory notes in 2010 (8,980,421.3 thousands lei), respectively by checks in 2009 (946,831.7 thousands lei) – table 2 [16].

Table 2. The value of the debt instruments rejected when presented for collection (2007 – 2012)

<table>
<thead>
<tr>
<th>Period</th>
<th>Total value of the checks rejected when presented for collection (thousands lei)</th>
<th>Total value of the bills of exchange rejected when presented for collection (thousands lei)</th>
<th>Total value of the promissory notes rejected when presented for collection (thousands lei)</th>
<th>Total value of the debt instruments rejected when presented for collection (thousands lei)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan. – Dec. 2007</td>
<td>392,424.0</td>
<td>621.3</td>
<td>1,456,083.1</td>
<td>1,849,128.3</td>
</tr>
<tr>
<td>Jan. – Dec. 2008</td>
<td>870,059.5</td>
<td>28.3</td>
<td>3,576,100.3</td>
<td>4,446,188.1</td>
</tr>
<tr>
<td>Jan. – Dec. 2009</td>
<td>946,831.7</td>
<td>289.3</td>
<td>8,474,992.6</td>
<td>9,422,113.7</td>
</tr>
<tr>
<td>Jan. – Dec. 2010</td>
<td>589,132.3</td>
<td>3,581.3</td>
<td>8,980,421.3</td>
<td>9,573,134.6</td>
</tr>
<tr>
<td>Jan. – Dec. 2011</td>
<td>335,615.9</td>
<td>3,011.4</td>
<td>6,005,909.3</td>
<td>6,344,536.7</td>
</tr>
<tr>
<td>Jan. – Oct. 2012</td>
<td>251,192.7</td>
<td>2,359.3</td>
<td>7,178,143.5</td>
<td>7,431,695.7</td>
</tr>
</tbody>
</table>

It should be noted also that the number of the rejected checks presented for collection in 2012 is the lowest in the last 6 years. Thus, if in 2007 there were 18,133 rejected checks, in the period January – October 2012 there were only 8,265 of these cases. The same situation was also in the case of promissory notes – table 3 [17].

<table>
<thead>
<tr>
<th>Period</th>
<th>Total number of refusals of the payments with checks</th>
<th>Total number of refusals of the payments with bills of exchange</th>
<th>Total number of refusals of the payments with promissory notes</th>
<th>Total number of refusals of the payments with debt instruments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan. – Dec. 2007</td>
<td>18,133</td>
<td>6</td>
<td>151,576</td>
<td>169,715</td>
</tr>
<tr>
<td>Jan. – Dec. 2008</td>
<td>27,616</td>
<td>1</td>
<td>266,610</td>
<td>294,227</td>
</tr>
<tr>
<td>Jan. – Dec. 2009</td>
<td>31,490</td>
<td>485</td>
<td>461,528</td>
<td>493,503</td>
</tr>
<tr>
<td>Jan. – Dec. 2010</td>
<td>21,464</td>
<td>1,001</td>
<td>331,595</td>
<td>354,060</td>
</tr>
<tr>
<td>Jan. – Dec. 2011</td>
<td>12,785</td>
<td>1,021</td>
<td>219,645</td>
<td>233,451</td>
</tr>
</tbody>
</table>


According to statistics, in 2012 the value of the refusals of payments with bills of exchange was maintained to about 3,000 lei, as in 2011, this amount referring, however, to a smaller number of refusals (640 in the first 10 months of 2012 compared to 1,021 registered in 2011).

This situation represents a synergistic effect of several factors, the main cause being the lack of liquidity. Coupled with the limitation of liquidities, firms have become extremely cautious in terms of accessing a credit. The demand for new loans, measured by the number of queries submitted by banks to the Central Credit Register (CCR) shows a decrease of the number of queries by 21% in 2012 compared to the same period in 2011 and by 90% compared to 2008. This reflects the fact that although liquidity is weak, on the one hand, the companies are reluctant to access new loans to support their business and, on the other hand, most businesses are already heavily indebted, having a high proportion of debt in the capital structure and the potential of additional funding being a marginal one.

The period of recovering the claims, an important indicator regarding the liquidity of companies, had a mixed trend in 2011 (a deterioration through its growth for small companies, respectively a slight improvement through its reduction, for medium and large companies), but in the year 2012 there was an increase of this indicator for all types of companies.

According to data provided by RNB [18]-[19], in 2012 the number of the account holders that generated payment incidents was 59,910, of which 41,682 – risk people and 3,155 – people under bank interdiction. Their structural analysis, from the legally point of view, revealed 652 individuals (of which 650 risk people and 2 persons under bank interdiction) and 59,258 legal entities (of which 56,105 – risk people and 3,153 – people under bank interdiction).

Given that a large part of those persons who are under bank interdiction continues to issue checks and promissory notes, due both relatively uncontrolled release of these payment instruments by some banks for such person and the enabling legislation, the penalties being most often non-existent, the specialists in the domain predict, for 2013, a significant increase of the payment incidents.

4. Objectives and methodology

During 2012, Coface Romania CMS analyzed individually, at the request of business partners or for the monitoring of direct exposure in the insurance division, a number of 23,292 micro-enterprises with a turnover of 12.3 billion euros, representing 30% of the turnover of all micro-enterprises active in Romania [20]. The main findings of the analysis showed that, compared to 2011, 47% of micro-enterprises included in the sample were classified in the same risk class, 30% have been classified in a higher insolvency risk class, and 23% - in a lower insolvency risk class. Also the Coface payment index showed an increase of 90% in 2012 compared to 2011, of the number of incidents reported by the partners to Coface as the insurer of the corporate debts [21].

Taking in consideration the statistics and the results of the study conducted in 2012 by Coface Romania, during January – February 2013 there was drawn up a qualitative marketing research among eight managers of bank branches in the City of Brașov, in order to identify the main factors that led to the increase of the value of payment incidents registered in PIB. The purpose of this qualitative research was to identify the opinions of these managers regarding the use of payment instruments in the context of the economic – financial crisis.
Of the many techniques of qualitative researches it was chosen the semidirective in-depth interview method. This requires the development of an interview guide, usually including both closed-ended and open-ended questions; but in the course of the interview, the interviewer has a certain amount of room to adjust the sequence of the questions to be asked and to add questions based on the context of the participants' responses [22].

Regarding the major objectives of the research, they were:

- the identification of the main reasons that led to the increase of the payment amounts rejected by banks;
- the measures taken by banks to reduce the number and the value of such payment incidents.

In order to achieve the above objectives, it was drawn up a questionnaire for selecting the potential respondents, thereby complying with the requirements of the specialty's theory and practice. This questionnaire had as the main purpose the inclusion in the sample of those respondents representative to the research objectives, namely managers of banking institutions from the City of Brașov.

The interviewees’ responses were audio recorded and then transcribed, the obtained information being subsequently subjected to a primary data processing technique, called the qualitative content analysis.

The next section contains a summary of the content analysis results, obtained from the in-depth interviews conducted among the managers of the leasing companies.

5. The synthesis of the results of qualitative marketing research

A. The main reasons that led to the increase of the payment amounts rejected by banks.

Most cases in which the banks notify a payment incident are due to the payment instruments drawn in the context of the lack of funds. In these situations there are included:

- the checks rejected because of total or partial lack of funds, when presented for collection after due date;
- the promissory notes with maturity at a certain time after sight, at a certain time after date of issue or at a fixed date and rejected because of total or partial lack of funds, when presented for collection on due date.

However, most of the interviewed managers believe that the total or partial lack of the funds from the debtor’s account is not, most often, due to the dishonesty of the check or promissory note issuer (the reported incidents refer mainly to unsettled checks and promissory notes), but to their ignorance of how to use these tools, namely on which situations they can issue them. Thus, in the opinion of most managers:

- the customers are erroneously issuing checks and promissory notes with no date and no amount stated on the document, to guarantee a payment that is to be made through another method of payment;
- the customers are issuing check files with the "not to order" clause, thinking that the beneficiary can not back the payment instrument, but in reality it can be transferred by assignment of debt without the consent of the debtor;
- customers are backing the promissory notes to cover a debt, without mentioning on the instruments one of the following formulas: "without recourse", "no guarantee" or "no obligation", making them to be at the risk of being asked to make the payment, at maturity, in the case in which the endorser doesn't make the payment to the beneficiaries of the security;
- the issuers of the promissory notes don’t require the restitution of the document marked “paid” in the case in which the debt was compensated or totally paid off, making them to be at the risk of being registered in PIB if, by error or bad faith, the security holder present the instrument to the bank for collection.

Besides the lack of the funds from the debtor’s account, most managers have identified several other causes that generate payment incidents, such as:

- checks rejected when presented for collection because they were issued without the drawer's authorization;
- checks rejected when presented for collection because they were issued with false date;
- checks rejected when presented for collection because they were issued by drawers under bank interdiction.

B. The measures taken by banks to reduce the number and the value of the payment incidents

In order to decrease the number of the payment incidents, the interviewed managers mentioned that they have taken two major measures:
the growth of the prudentiality by modifying the internal procedures for issuing the checkbooks and the promissory notes; so, if till 2009 banks issued to customers check files and promissory notes in the number requested by them, in present, as a result of the new internal rules, each bank has set different levels of approval for the issuance of payment instruments, as it follows:

- all banks have prohibited the release of the check files to those companies that have been registered in PIB or about they have information that will register a payment incident;
- most banks releases to clients only five check files or promissory notes, regardless of the number of the instruments requested by the customer, each customer receiving another set of 5 instruments after the first one was fully settled, this aspect being monitored by the SBO (small business officer) of the paying banking institution;
- for those companies that request more than 5 check files, these will be released only with the approval of the bank manager, who also is the one that decides the release of the promissory notes to those companies which conclude leasing contracts and to whom the leasing company request such payment instruments to guarantee the payment of the leasing rates;
- for those companies that conclude contracts that take place in the long term and request partial payments at different due dates, for which are requested more than 10 check files/promissory notes, these will be released only with the approval of a department of the banking institution headquarter.

the implementation of a new communication strategy with customers; in this regard:

- most banks have created a newsletter system through which it communicates to clients all the legislative changes regarding the payment instruments, namely regulations, technical rules, circulars issued by the RNB;
- some banks have developed guidelines (named textbooks by other banks) for using the payment instruments, these including recommendations for companies regarding the choice of payment instruments according to certain specific situations, to which were attached the main legal regulations in the matter of payment instruments;
- a relatively small number of managers stated that after the moment of introducing the automatic settlement of the payment instruments in 2009, there were not taken any additional measures through which the customers could have been informed about certain aspects of the settlement of debt instruments; in the present, in these banks, the only measures taken to support the customers consist of checking the account of the debting client when the instrument is presented at the paying credit institution and of approving it in order to supply the account no later than 12 noon of that banking; before closing the Central Clearing House of RNB on the 1st May of 2009, the customers of those banks that had certain ways of electronic communication (in this category being included most of the banks) had 3 banking days at their disposal, from the moment of the approval of the bank's SBB (Small Business Bankers), for funding their account in order to avoid a payment incident, in the context in which the debtor bank was electronically informed about the securities that had to be settled, the effective settlement following to be made in about 3 days from the moment of the communication, when the payment instruments reached in the possession of the debting bank by courier; in the present, in the context in which the settlement is made faster by sending electronically the scanned instruments, thus renouncing to the effective transmission of the documents through the old circuits which also included the National Bank, the effective collection period has decreased significantly. It was also registered a decrease of the period of time in which the issuer of the check or promissory note could avoid any payment incident, this period being of only a few hours since the bank has given its approval.

6. Conclusions

The qualitative marketing research was intended to be a source of information regarding the main factors that led to the increase of the value of payment incidents registered in PIB. Moreover, it reflects the attitudes and opinions of the managers of bank branches in the City of Brașov regarding the use of payment instruments in the context of the economic – financial crisis.

The results of the qualitative marketing research confirmed the statistics which showed that the promissory notes were the main securities that registered the highest number of incidents and they were also the payment instruments with the highest sums refused by the banks. Analyzing the causes that generated the payment refusals of the credit institutions it was found that the lack of the funds from the debtor’s account held a significant weight.

The decrease in the last few years of the volume of transactions carried out by the means of payment instruments reflects, on the one hand, a smaller volume of transactions between the company and, on the other hand, a higher prudence of the companies regarding the issue of such securities, as a result, in
particular, of the fact that banks have taken certain measures to limit the settlements made through debit instruments. As a consequence, the number of the payment incidents decreased, but their value was still at a very high level because of the banks which, through their internal regulations, have restricted the number of the issued instruments, but not having the means to limit the value of these instruments. Thus, there was a decrease of the weight of the incidents generated by the SMBs, who reported fewer incidents of relatively low value, but there was also an increase of the weight of the large companies that issued high value payment instruments.

Taking into consideration that the main Romanian laws governing the payment instruments were in force since 1934, to keep up with the constant changes that occurred on the international markets, they have been modified and supplemented by a series of recent regulations. For a better understanding and an easier access for the users of checks, bills of exchange and promissory notes to these regulations it is required the development of a single regulation regarding the payment instruments and their adaptation to the needs of the Romanian business environment, aiming at the same time the harmonization of the Romanian legislation with the European one. For this purpose, it is recommended the establishment of a working group that would include specialists from different fields, namely representatives of RNB, Ministry of Finance, the Romanian Banking Association, the Association of Large Commercial Networks, of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania, who are related to the instrumentation, monitoring and administration of the payment instruments, as well as the penalization, if appropriate, of their users.

Despite the specific limits of this qualitative research, such as the small number and the short duration of the interviews, the frequent interruptions of the interviews, the impossibility of extrapolation of the results to the population studied, due to their unrepresentativeness, the analysis of the responses provided by the interviewed managers led to certain conclusions, that constitute a reference point in the efforts of deepening the theme by designing a quantitative research.

References:

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