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Nominee and Escrow Accounts in Cashless Transactions

The development of cashless transactions in Russia speaks in favour of maximization of their share in total transactions in the foreseeable future. In this context, the paper studies the course of the banking system evolution and factors affecting banks' policy on organizing cashless transactions. The authors justify their viewpoint on the nature of banks' functioning as participants of cashless transactions and identify key features and possible competitive advantages in this field. The paper examines nominee and escrow accounts as new banking products in the sphere of cashless transactions and proves that the use of these types of accounts can significantly improve cash flow security. As a result, the paper presents a comparative analysis of the characteristics, advantages and disadvantages of nominee and escrow accounts, and determines their strengths and weaknesses compared to letter of credit as a well-known method of reducing risks in transactions.

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Introduction

Modern system of cashless transactions is based on interrelated and interdependent activities of the three participants: a Central Bank, banks, and their customers (legal entities and individuals) [2].

In the past 25–30 years, the policy of the Central Bank of Russia was oriented towards increasing the share of cashless transactions. The refusal of paper technologies, maximization of cashless transactions with the use of e-money allows improving the transparency of

payments. Besides, the state enjoys some other benefits. First, it reduces the expenditure on money issue. Second, a certain effect can be obtained from making use of the funds on the relevant accounts in banks to finance the real sector of economy, what possibly could accelerate economic growth.

The plans and tasks set by the Central Bank are fulfilled by the banking sector. Part of banks and customers' activities is regulated by the legislation, whereas the other part remains in the sphere of market relations. The first part, for legal entities includes regulation of the procedure for calculating the cash limit; obligation to effect a significant proportion of cashless payments; obligation to set the maximum amount of payment effected in cash; regulation of the forms of cashless transactions and their procedures, etc. As for individuals, generally they enjoy greater freedom in using cash and organizing their transactions. The second part refers to the banks' policies on cash management services, for instance, determining the rates of commission and fees, creating a list of accounts possible to be open, outlining procedures of money transfer, selecting methods and technologies for customer service.

The principal objective of the present study is to systematize the theory and practice of organizing cashless transactions by banks in order to reveal and justify the prospective directions for improving them. Within the scope of the study, the authors deal with the following tasks:

- Examine trends in the development of circulation of money and cashless transactions in Russia, and assess the specifics of banks' activities in the process of changes;
- Discuss new banking products in the field of cashless transactions and prove the necessity and possibility of their use by both legal entities and individuals.

Current development specifics of cashless transactions

Banks are amid the oldest and most influential institutions of the monetary system of any civilized state. In conditions of constantly changing market, they offer an ever-increasing diversity of new products and services to their clientele extending their range also within classic banking operations. Among traditional banking operations, like issuing loans, accepting deposits and managing cash, the operations of the latter type are gaining particular importance, what is emphasized by such economists as G. A. Galimova, Z. R. Abdeeva, M. A. Gerasimenko, R. N. Denikaeva, A. Yu. Kazak, M. S. Maramygin, S. V. Krivoruchko, V. A. Lopatin, M. A. Abramova, I. Ye. Shaker, A. M. Kosoy, O. S. Kaplina, M. A. Markov, E. S. Chizhova, and others [4–9; 12; 14]. Trends in development of national and global monetary systems prove the crucial role of e-money and maximization of the share of cashless transactions. Hence, if banks are able to provide high-quality cash management services, they can attract more customers, who will first use these services, but later can switch to other ones offered by the same bank.

Despite the fact that the concepts of e-money and cashless transactions are not limited by the borders of banking system, banks as participants of the process have a number of advantages, the most important of which are connected with keeping both the financial and informational risks to a minimum. The first type of risk implies actual loss of funds, whereas the second one means absence or low level of information security [4. P. 69; 9. P. 222].

While considering cash management services from a bank's perspective, the attention is always drawn to a fact that such type of activity not only maintains profitability, but liquidity as well [2; 3]. Hence, an increase in the number of clients will result in the increase in cash funds in correspondent accounts of a bank and create possibilities for improvement of liquidity indicators [10. P. 46].

The data on balance of credit institutions' correspondent accounts in the Central Bank of Russia from 01.01.2010 to 01.11.2016 show the growth of the indicator (table 1).

Trends in the development of the real sector of the Russian economy and its banking system are closely interrelated, that is why an increase in the liquidity in the past two or two and a half years can be linked to a very conservative policy of banks on using the available cash

because of a significant decrease in the number of reliable borrowers. The deceleration in economic growth is known to inevitably lead to a reduction in population incomes and deterioration of the indicators of legal entities' financial stability. Besides, population deposits have never been considered firm liabilities, especially during crisis [10. P. 41]. Therefore, because of the possibility of a cash outflow, a bank has to increase the share of liquid assets generally as well as ensure greater amount of cash funds in correspondent accounts in particular.

Table 1

Balance of credit institutions' correspondent accounts in the Central Bank of Russia in 2010–2016, billion rubles

Indicator	01.01.10	01.01.11	01.01.12	01.01.13	01.01.14	01.01.15	01.01.16	01.11.16
Amount of cash in correspondent accounts of banks	900.3	994.0	981.6	1 356.3	1 270.0	1 215.5	1 594.0	1 924.7

Source: Central Bank of Russia. Statistics. Banking Sector. Available at: <http://www.cbr.ru/eng/statistics/?PrtId=pdko>.

The abovementioned allows concluding that in current conditions, it is difficult to directly link the specifics and quality of providing cash management services to customers to balances of banks' correspondent accounts. It is necessary to carry out a more detailed analysis of the measures of money supply and sight deposits in banks (table 2).

A closer analysis of money supply reveals that there are some positive dynamics, specifically, the share of non-cash increases. The only exception in the presented indicators was the period of the late 2013 – early 2014, what can be explained by the commencement of negative trends in economic and political life. Imposition of sanctions, depreciation of the national currency, increasing difficulties with formation of the government revenues contributed to the uncertainty in forecasting the financial situation both by legal entities and individuals. This cannot but mirrored in the increased demand for cash, which was also due to the outflow of deposits from banks.

Table 2

M2 measure of money supply, billion rubles

Indicator	01.01.11	01.01.12	01.01.13	01.01.14	01.01.15	01.01.16	01.11.16
M0 measure	4 038.1	5 062.7	6 430.1	6 985.6	7 171.5	7 239.1	7 339.0
Share of cash funds, %	26.45	25.3	23.47	25.49	22.34	20.22	19.91
Deposits	11 229.5	14 949.1	20 975.3	24 419.1	24 939.1	28 570.1	29 518.6
Total	15 267.6	20 011.9	27 405.4	31 404.7	32 110.5	35 809.2	36 857.6

Source: Central Bank of Russia. Monetary Statistics. Available at: <https://www.cbr.ru/eng/statistics/?PrtId=dkfs>.

Deposit funds in the structure of M2 measure of money supply are represented both by sight and term deposits. The higher share of the latter type attracted from both legal entities (non-financial organizations) and individuals is more preferable for banks, because resource base of a bank is much firmer if it consists of term deposits. In addition, the growth in volume and share of term deposits is a condition for the increase in a bank's credit investments into the real economy. Table 3 shows the share of sight deposits in the structure of deposits in banks according to a type of a customer and validates the aforementioned dynamics.

The growth of funds in sight deposit accounts might speak in favour of a boosting demand for cashless transactions, because sight resources either maintain or not a minimum yield in economy. However, while examining the overall change of the resources in sight accounts it is necessary to take into consideration the inflation component.

Table 3

Analysis of the dynamics and structure of funds in legal entities and individuals' accounts in banks, billion rubles

Indicator	01.01.2012	01.01.2013	01.01.2014	01.01.2015	01.01.2016	01.11.2016
Total funds	19 729 592	23 171 691	26 455 846	27 523 647	31 286 296	33 952 306
Total sight deposits, included	6 632 980	7 055 140	8 232 141	7 983 793	9 207 010	9 289 151
Share, %	39.65	30.45	31.12	29.00	29.43	27.36
Individuals' funds included	2 048 765	2 447 994	2 873 465	2 635 711	3 136 363	3 082 836
Share, %	30.89	34.70	34.91	33.01	34.06	33.19
Legal entities' funds included	4 584 215	4 607 146	5 358 676	5 348 082	6 070 647	6 206 315
Share, %	69.11	65.30	65.09	66.99	65.94	66.81

Source: Central Bank of Russia. Statistics. Banking Sector. Available at: <https://www.cbr.ru/Eng/statistics/?PrtId=pdko>.

Absence of any substantial changes until 2016 highlights the necessity for banks to develop this direction. The significance of this statement is based on the fact that generally in the country the number of participants (customers) of the system of cashless transactions is unlikely to rise, especially in conditions of slow economic growth. Consequently, the banks will actively compete for existing legal entities and individuals. High probability of the competition intensification is also linked with a decrease in the number of banks, operating in the Russian economy (table 4).

Table 4

Number of banks operating in Russia in 2010–2016

Indicator	01.01.10	01.01.11	01.01.12	01.01.13	01.01.14	01.01.15	01.01.16	01.11.16
Number of banks	1007	955	922	897	859	783	681	594

Source: Central Bank of Russia. Statistics. Banking Sector. Available at: <https://www.cbr.ru/Eng/statistics/?PrtId=pdko>.

The above-mentioned trends may bring extra advantages for banks with state participation and generally for banks listed in the top 50 national banks, because in conditions of uncertainty the most important factor for clients placing their money in a bank is the institution's reliability and liquidity. Less important factors are the rates of commissions and fees charged, transaction speed and others [13. P. 38].

Thus, if talking about competition in banking, including among the leaders, the main competitive advantages turn out to be the speed and the cost of a service.

Transaction speed can be increased through the use of modern technologies. In this instance, it is interesting to look at the experience of such banks as Tinkoff Bank, Rocket Bank, and Touch Bank. These banks do not have a single branch in the territory of the country, operate solely via the Internet or using special applications for smartphones. They only have a head back office, where the personnel responsible for system support works. The key advantage of such a system, as well as a system of electronic payments generally, is a serious reduction of operating costs, because it is both possible to decrease bank's expenses and offer a customer more favourable conditions.

Modern technologies change the character of classic banking operations, particularly:

- The share of operations conducted remotely increases;
- Banks without a single branch emerge;
- Information security is improved;

- Conditions for comprehensive customer service are created. For instance, clients, who have current accounts, are also provided with loan, deposit, depository, and other services. Gradually, these operations will be run remotely as well.

- Conditions for improving banks' liquidity are created;
- Conditions for boosting banks' profitability are created. This is achieved not only through classic fees and commissions for opening accounts and money transfer, but also by offering customers additional services as well as placing remaining short-term money into short-term and liquid financial instruments.

At the same time, a bank, like no other intermediary, should generate even newer, more sophisticated offers for its customers to fit the times.

Nominee and escrow accounts as forms of transaction risk minimization

Nominee and escrow accounts are relatively new banking products in the field of cash management services. Domestic economists make regular attempts to assess their efficiency and demand for them in the market [1; 11; 14; 15].

These accounts are types of a bank account, where funds are kept and operations with them are made. Therefore, nominee and escrow accounts have common characteristics with other bank accounts, though retain some specific features.

The principal peculiarities of opening and holding of bank accounts are stipulated by the Chapter 45 of the Civil Code of the Russian Federation. Common points include that a bank opens to client or a person specified by him/her an account on terms agreed by the parties after concluding an appropriate agreement. According to a bank account agreement, the bank undertakes to accept and credit the incoming funds to the account opened to the client (the account holder), execute the client's orders for transferring and withdrawing of the corresponding amounts of money from the account and for conducting other operations on the account. The bank does not have the right to determine and control the use of the customer's funds and establish other restrictions on the customer's right to manage funds at his/her own discretion, unless otherwise is provided for by the law or by the bank account agreement. The client pays a certain fee for keeping the account by a bank. The amount and the procedure of payment are determined in the account agreement.

A *nominee account* is an account opened by the account holder for the operations with the funds owned by a third party (a beneficiary). The article 860 of the Civil Code of the Russian Federation covers principal specifics of using this type of account. Let us list some of them.

The right for funds coming to a nominee account, including from an account holder, belong to the beneficiary.

The nominee account can be opened for operations with funds, the rights for which belong to several persons – beneficiaries, except for the cases provided for by the law.

Essential condition of the nominee account agreement is the specification of beneficiary or the order of obtaining information from the account holder about beneficiary or beneficiaries, as well as the grounds for their participation in the relations concerning the nominee account agreement.

The law or a nominee account agreement with beneficiary participation can entrust the bank with the task to control the use of the funds by the account holder in the interests of beneficiary within the limits and procedures, which are covered by the law or an account agreement.

The law or a nominee account agreement can limit the range of operations that can be conducted at the behest of the account holder, including through determining the circle of persons, to whom money can be transferred or given or circle of persons with the consent of whom operations in the account are effected or documents, which provide grounds for operations, as well as indicating other circumstances, allowing a bank to control the compliance with the limitations set on operations.

A nominee account agreement can be concluded either with or without participation of a beneficiary. The nominee account agreement with participation of a beneficiary is signed by beneficiary as well.

Should there be several beneficiaries, the bank accounts funds of every beneficiary in sub-accounts of the nominee account provided the obligation to account funds is not assigned to the account holder.

This type of accounts is primarily intended for persons (beneficiaries), who are not personally involved in organization of their payments, which are completed by third parties, for example, their agents, local representatives, subsidiaries as well as persons, who receive investments (account holders).

The movement of funds and documents when organizing transactions using the nominee account is presented in Fig. 1.

Fig. 1. Operation scheme of nominee account

The funds and documents pass through the following stages:

1. Concluding an agreement.
2. Opening an account.
3. Crediting money to the nominee account.
4. Providing supporting documents.
5. Agreeing on payment.
6. Payment order.

The nominee account agreement with participation of a beneficiary can be changed or broken only with the beneficiary's consent, unless otherwise is provided for by the law or by the nominee account agreement. In the event the bank receives an account holder's application for termination of the agreement, it should immediately inform the beneficiary about it. Upon the termination of a nominee account agreement the remaining funds are transferred to another nominee account of the holder or given out to the beneficiary or, unless otherwise provided by law or by the agreement or follows from the substance of the relationship, upon the instruction of the beneficiary, are transferred to another account.

Thus, major specific features of the nominee account agreement are that it determines: circle of persons, to whom money can be transferred or given; circle of persons, with the consent of whom operations in the account are conducted; documents, which provide grounds for operations.

According to the article 860.7 of the Civil Code of the Russian Federation, under the escrow account agreement, a bank (escrow agent) opens an *escrow account* to account and block

the funds received from an account holder (depositor) in order to transfer it to another person (a beneficiary) in the event of the grounds stipulated by the agreement between the bank, the depositor and the beneficiary. General provisions on the bank account are applied to the relations of the parties in connection with the opening, maintenance and closing of the escrow account.

Obligations under the escrow account agreement may be contained along with the escrow account agreement in another contract, according to which the bank is an escrow agent.

The remuneration of the bank as an escrow agent cannot be collected from the funds held in the escrow account, unless otherwise provided for by the agreement.

Neither depositor, no beneficiary are not entitled the right to control funds in the escrow account, unless otherwise provided for by the agreement.

The rule of the article 858 of the Civil Code, which states that no restrictions on the client's right to control the funds in his/her account can be imposed, except for the seizure of the funds, is not applied to the escrow account agreement.

The transfer to the escrow account of other funds of the depositor, in addition to the amount deposited, which is specified in the escrow agreement, is not allowed unless otherwise provided by the agreement.

In the event of the grounds provided for in the escrow agreement, the bank shall, within the period stipulated in such agreement or should it be absent, within ten days, give the deposited amount to the beneficiary or transfer it to the account specified by the beneficiary. The procedure of funds and documents' movement when organizing transactions using the escrow account is presented in Fig. 2.

Fig. 2. Operation scheme of escrow account

The escrow account is closed by the bank upon expiration of the escrow agreement or its termination on other grounds. The rule of the article 859 that the bank account agreement is terminated at the request of the client at any time, is not applied to the relations concerning the escrow account, as well as the item 2 of the article 859, which refers to the termination of the bank account agreement at the request of the bank.

The funds and documents pass through the following stages:

1. Concluding purchase agreement.
2. Opening an escrow account.
3. Transferring money.
4. Submitting documents, which confirm the transfer of ownership.
5. Agreeing on payment.
6. Transferring money.

If the escrow account agreement is terminated, the remaining funds are transferred or given out to the depositor or, if necessary grounds appear, to the beneficiary.

The use of a nominee and escrow accounts is advisable for transactions, where tangible (intangible) assets are acquired or sold, as well as for other transactions of investment nature. In addition, they can be of interest to customers as a way to minimize the risk of non-payment or misuse of funds.

Similarities and differences between nominee and escrow accounts are given in table 5.

Table 5

Comparative analysis of nominee and escrow accounts

Nominee account	Escrow account
Similarities	
1. Special procedures on holding an account, crediting and using funds are established	
2. Accounts are regarded as a way to minimize risk through entrusting a bank with the task of controlling the parties' compliance with conditions of a contract	
3. Special conditions of accounts' closure	
4. Individual approach	
5. Quite substantial rates of bank remuneration for opening an account and conducting operations with it	
Differences	
<i>Giving out funds to the beneficiary</i>	
In case of termination of a nominee account agreement	In the event of the grounds, provided for by an escrow account agreement
<i>Providing information constituting bank secrecy</i>	
Information is provided to the account holder, as well as to the beneficiary: – always, if the agreement is concluded with the participation of the beneficiary; – if this right is given to the beneficiary by the agreement, when the agreement was concluded without his/her participation	Information is provided both to the depositor and the beneficiary
<i>Termination of the agreement</i>	
With the consent of the beneficiary, if the agreement was concluded with the participation of the beneficiary. If the agreement was concluded without the participation of the beneficiary, the latter is obligatorily informed by the bank upon the receipt of the account holder's application about the termination of the agreement	The account is closed by the bank upon the expiration of the escrow agreement
<i>Giving out of remaining funds after termination of the agreement</i>	
The remaining funds are transferred to another nominee account of the holder or given out to the beneficiary, or upon the instruction of the beneficiary are transferred to another account	The remaining funds are transferred to the beneficiary; but if there are no grounds for transferring money to him/her, the funds are given to the depositor
<i>Seizure or write-off of funds upon a writ of execution</i>	
Only allowed for the obligations of the beneficiary	The law does not exclude the possibility of imposing seizures on funds held in the escrow account under writs of execution for the obligations of the depositor. With regard to the obligations of the beneficiary, this is not possible, since the beneficiary is not the owner of funds until their receipt

When assessing the specifics of nominee and escrow accounts it is reasonable to compare them with *letters of credit* and consider as alternatives to this well-known payment method. Such conclusion is quite natural.

According to the regulation “On the rules of money transfer” no. 383–P, when using letters of credit in transactions, a bank (hereinafter called issuing bank), acting at the behest of a payer, issues a letter of credit in accordance with payer’s instructions, whereby promises to transfer money to a recipient on the condition that the recipient provides the documents specified in the letter of credit, which confirm the compliance with other conditions, or give an instruction to another bank to execute the letter of credit.

Based on the given definition we can conclude that in transactions with letters of credit there are four (sometimes three) parties.

The payer is the initiator of payment in transactions with letters of credit. The payer fills in an application in a bank for issuing a letter of credit, where indicates the following items: the number and the date of the letter of credit; banking details of the payer; banking details of the issuing bank; banking details of the recipient; banking details of the nominated bank; sum of money; type of the letter of credit; method for informing the recipient about issuing the letter of credit; complete list and precise description of the documents, provided by the recipient; validity period of the letter of credit; deadline for submission of the documents confirming the shipment of goods (providing services, performing works) and requirements to these documents; payment terms; responsibility for non-fulfillment or improper fulfillment of obligations.

All items listed above become the terms of the letter of credit, which a buyer negotiates with a supplier before issuing it.

The standard scheme of completing transaction using the letter of credit is presented in Fig. 3.

Fig. 3. Transaction scheme using the letter of credit [3. P. 176]

Handling transactions with the use of the letter of credit implies the following stages:

1. A buyer and a seller (of goods or other assets) conclude a sales contract.
2. Application for issuing a letter of credit is filled in.
3. Buyer’s bank is informed by an issuing bank about issuance of a letter of credit, in some cases, this stage implies money transfer to the nominated bank.
4. Buyer’s bank conveys the relevant information to the buyer (the recipient).
5. The buyer ships the goods or performs other actions, specified by the contract.
6. The buyer submits necessary documents to the bank, which confirm the actions performed.
7. Having checked the documents, the issuing bank gives them to the buyer’s bank to make the payment.

8. Upon the completion of the transaction with the letter of credit, the payer's bank informs its customer about the fact of the payment.

9. Stages no. 9 and 10 are possible if the amount actually written off from the account of the letter of credit is not less than the amount that was arranged originally. If unused amount remains in a bank account after the transaction, as well as in case if the transaction was not completed or the validity period of the letter of credit expired, the customer (payer) has the right to apply to the bank to transfer the remaining amount to the current account (9). If the covered letter of credit is used, the payer's bank applies to the nominated bank (10) for the specified funds. After that, the letter of credit can be considered closed.

Among different options for processing cashless transactions, which are used by economic entities nowadays, the letter of credit is utilized the least of all. It suffers from a number of fundamental shortcomings: involves the most complex paperwork, takes a lot of time, diverts available cash, substantially adds to company costs.

Table 6

Comparative analysis of nominee and escrow accounts with letter of credit

Letter of credit	Nominee and escrow accounts
Similarities	
1. Special procedures on crediting and using funds are established	
2. Both letter of credit and nominee and escrow accounts are regarded as a way to keep risks to a minimum	
3. Relatively high rates of bank remuneration for operations completed	
4. Individual approach	
Differences	
<i>Economic nature</i>	
Method of cashless payment	Means of guaranteeing the fulfillment of obligations
<i>Paperwork</i>	
More complex	Less complex
<i>Transaction speed</i>	
Low	Transaction speed increases
<i>Risks</i>	
Risks are high in case of the revocable letter of credit, because the payer can change the payment terms. If the irrevocable letter of credit is used, the risks are smaller	Risks are diminished, because an account holder or a depositor do not have a possibility to withdraw funds

The comparative analysis enabled us to identify some disadvantages inherent in both the organization of transactions using nominee and escrow accounts and transactions with letters of credit. First and foremost, they encompass a relatively high cost of arranging transactions and the necessity to divert available cash. At the same time, nominee and escrow accounts bring a number of tangible benefits, such as increased transaction speed and optimization of funds and documents' flow.

Conclusion

Modern banks are continually striving to match the requirements of the time. Constantly improving their activities, they offer their customers new products and services. This results in the increasing share of cashless transactions in the economy and growing positive balances in banks' correspondent accounts as well as sight deposits generally.

In such conditions, the key competitive advantage of banks include possibilities not only to increase transaction speed and liquidity, but also to ensure its security. Nominee and escrow

accounts are means that allow reducing the risks in transactions as well as to optimize the paperwork and various actions of banks and their customers.

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Номинальные счета и счета эскроу в системе безналичных расчетов

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Характер развития системы безналичных расчетов в России свидетельствует о максимизации их доли в обозримом будущем. Исследование посвящено изучению вектора развития банковской системы и определению круга факторов, оказывающих влияние на политику банков в области организации безналичных расчетов. Авторы обосновывают собственное видение характера функционирования банков в качестве участников системы безналичных расчетов, выделяют основные черты и возможные конкурентные преимущества в данной сфере. Проведен анализ новых банковских продуктов в области безналичных расчетов – номинальных счетов и счетов эскроу. Доказано, что использование данных видов счетов может повысить безопасность движения денежных средств. Выполнен сравнительный анализ характеристик, преимуществ и недостатков номинального счета и счета эскроу. Определены сильные и слабые стороны номинальных счетов и счетов эскроу относительно известного метода минимизации риска расчетов – аккредитива.

Ключевые слова: безналичный расчет; электронные деньги; аккредитив; номинальный счет; счет эскроу.

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