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May 20, 2016

Mr. Darren Christle  
Secretary and Executive Director  
Manitoba Public Utilities Board  
Winnipeg, Manitoba  
R3C 0C4

Dear Mr. Christle:

**Re: Triennial Review of Allowable Fees for Cashing Government Cheques pursuant to s. 169(5) of *The Consumer Protection Act***

Community Financial Counseling Services (CFCS), the Consumers' Association of Canada (Manitoba) and Winnipeg Harvest (together, the Coalition) appreciate the opportunity to offer these comments regarding the Triennial Review of Allowable Fees for Cashing Government Cheques.

At the outset, the Coalition notes that cheques are declining in importance as a financial instrument as payments are increasingly made through direct deposit, online banking or debit cards.<sup>1</sup> For example in 2013, the Provincial Government indicated that over 80% of Employment and Income Assistance (EIA) cheques were paid by direct deposit, up from 63% in 2010 and 43% in 2007.

However, there is still a subset of the population, the remaining 10-20% who do not receive direct deposit, that relies on cheques for government benefits. Regulatory protection should be geared towards this segment of the population.

The Coalition also notes that government cheque cashing is part of the larger issue of financial exclusion, which was a theme explored during the recent payday loans review in April 2016. Dr. Jerry Buckland discussed financial exclusion in his evidence filed during the payday loans review:

A core notion in the study of payday lending is financial exclusion. While this problem is most pronounced in 'poor' countries, it exists in a complex and nuanced form in 'rich' countries. It is a condition in which primarily low-income and low asset people have no bank account or only limited financial services from a 'mainstream' financial institution, such as a bank or credit union.

It is estimated that between 3 and 5 percent of Canadian adults have no bank account, and a higher share are underbanked, in that they do not get sufficient financial services from a bank and turn to payday lenders. This division of the market may appear to meet the needs of

1 Law Commission of Ontario Report, "Fees for Cashing Government Cheques", 2008, p. 10.

poor people but, it is argued by critics, this bifurcation leads to a small and expensive services being provided to poor people while large and less expensive services are offered to the non-poor. Moreover, the fringe FIs are often weakly regulated as compared with the mainstream FIs.<sup>2</sup> [emphasis added]

Addressing financial exclusion is fundamentally related to the goal of financial empowerment and of ensuring that individuals who are unbanked are aware and understand the benefits of having a bank account. Continued and renewed efforts by governments, mainstream banks and non-profit organizations are needed to identify individuals who are unbanked and to help them overcome or reduce barriers to mainstream banking.

While keeping this broader picture at the forefront of the discussion, the Coalition would like to make the following general comments and recommendations relating to government cheque cashing.

### **General Recommendations**

#### ***1. Indemnity agreements for provincial government cheques***

There currently exists an indemnity agreement in place between mainstream financial institutions and the Government of Canada.<sup>3</sup> Under this agreement, banks must cash Government of Canada cheques of under \$1,500 at no charge, as long as the individual has the required identification.

In 2007, the PUB made the following recommendation:

The Province should consider providing banks and credit unions with indemnification of provincial government cheques given adequate identification, with respect to cheques of \$1000 or lower.<sup>4</sup>

In 2010, the Province of Manitoba indicated that it was considering the experience of other provinces, such as British Columbia and Alberta who have indemnity agreements in place for cashing provincial government cheques. The Province stated that it may not implement provincial indemnification until direct deposit represents 80% of benefit payments, given the process undertaken in other provinces. At that time, over 60% of EIA participants received benefits through direct deposit.

In 2014, the Province of Manitoba suggested that this recommendation was still under consideration. It also indicated that it continued to promote direct deposit and other provincial governments and the federal government are using the same approach. At that time, over 80% of EIA participants received benefits through direct deposit.

2 Dr. Jerry Buckland, "Payday Lending: A Mature Industry with Chronic Challenges", 2016 Payday Loans Review, March 14, 2016, Tab 2, Consumers' Coalition Pref-filed Evidence of March 24, 2016, at p 3.

3 See <http://www.fcac-acfc.gc.ca/eng/resources/publications/yourRights/Pages/Cashing-Encaisse.aspx>.

4 PUB 2007 Order No. 72/07 , p 19.

Given that the 80% threshold has been reached, it would appear that it is time to revisit the indemnification agreement recommendation.

It is worth repeating that government cheque cashing rates primarily protect consumers who are unbanked or underbanked and that these consumers are more likely to be low-income. While the government should continue to promote direct deposit, an indemnity agreement, such as the one recommended by the PUB in 2007 and which is already in place at the federal level, would provide additional protection to the segment of the population still relying on cheques.

As was noted by the Law Commission of Ontario in 2008, Indemnity agreements could encourage low-income individuals to approach and develop relationships with these institutions and to view them as relevant to their needs, thereby contributing to a broader objective of encouraging low-income individuals to become and remain banked.<sup>5</sup>

Such an indemnity agreement should include adequate training for staff at mainstream financial institutions. This agreement should apply to cheques of \$1,500 or lower to remain consistent with the federal indemnity agreement.

## ***2. Low-cost or no-cost universal identification***

Identification is a requirement for cashing federal government cheques and would likely be a requirement for any provincial indemnity agreement. One of the reasons identified by the PUB in 2007 and accepted in subsequent reviews for why individuals cash cheques other than at a bank or credit union was the inability to cash cheques at a bank or credit union either through lack of account or lack of identification.<sup>6</sup>

Given the importance of identification to access the majority of financial services and the likelihood of unbanked or underbanked individuals to be from low-income families, a low-cost or no-cost universal identification option should be established at the federal or provincial level. Unlike the current service provided by MPI, this option should not require photo identification in order to be issued.

## ***3. Improved information on free identification option***

Given that identification is a requirement for cashing federal government cheques and would likely be a requirement for any provincial indemnity agreement, there should be improved awareness initiatives of free identification options.

As was indicated by the Province in 2010, MPI began to provide a new photo identification in 2009. EIA provides funds to participants to obtain identification if required to open a bank/credit union account or to access their services. In addition, MPI has a policy of waiving

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5 LCO Report, p. 55.

6 PUB 2007 Order No. 72/07, p. 13.

the \$20.00 fee for the Manitoba Identification Card for low-income individuals.

In the Coalition's experience, the fact that MPI waives the fee for low-income individuals and which individuals qualify for this option are not well-known to consumers. MPI should post information at every Autopac and MPI location clearly stating that the fee for the Manitoba Identification Card is waived for low-income individuals and which individuals qualify.

#### **4. Improved information on rates for cheque cashers**

Businesses that cash government cheques should be mandated to post the regulated rates for government cheque cashing as set by the PUB. This would ensure that consumers are aware of the rate regulations in Manitoba and their rights under *The Consumer Protection Act*.

Additionally, information about how to contact the Consumer Protection Office if rates are not being respected should be included in the posted information.

#### **5. Proactive measures should be taken to enforce government cheque cashing rates**

The Coalition would like to reiterate its recommendation from 2013 regarding enforcement measures for government cheque-cashers.

The Coalition believes that a proactive approach is important to ensure that rates set by the PUB are being respected. A reactive approach, based on receiving complaints from consumers, may not be adequate to enforce the rates, given two main reasons:

- persons cashing government cheques are often vulnerable consumers and therefore may feel that they are not in a position to challenge government cheque cashers, especially given that they may feel as though they have no other viable options; and,
- linked to the issue of education, persons who do not know their rights cannot enforce their rights.

The Coalition recommends that the Consumer Protection Office take proactive measures, such as conducting mystery shopping, to ensure that the rates set by the PUB are being respected by businesses that cash government cheques.

#### **6. Information on bank accounts for low-income families**

In 2007, the PUB made the following recommendation:

The Province should engage banks and credit unions in discussions towards the provision and marketing of low-cost accounts for social assistance families.

In 2010, the Province indicated that eight large banks offered low-cost bank accounts as well as a number of credit unions. The Province was considering approaching financial institutions to explore opportunities to market financial services to low-income Manitobans.

In 2014, the Province stated that discussions with financial institutions had been initiated to

explore opportunities to market financial services to low-income Manitobans.

Given that it is primarily low-income and low-asset individuals who remain unbanked or underbanked, the Province should ensure that information about low-cost bank accounts is made available to this population. The Province should prepare an accessible publication providing information about mainstream financial services that are available for low-income consumers.

### **7. Other types of cheques**

Currently in Manitoba, *The Consumer Protection Act* provisions relating to cheque cashing only apply to government cheques. The Coalition recommends that consideration be given to regulating the rate charged to cash other types of cheques. Research should be undertaken into the risks, costs, and effects of this type of regulation on the cheque cashing business and consumers.

### **8. Banks and credit unions hold policies**

One of the reasons identified by the PUB in 2007 and accepted in subsequent reviews for why individuals cash cheques other than at a bank or credit union was the practice of placing holds on cheques.<sup>7</sup>

The Coalition recommends that the Province work with banks and credit unions to eliminate holds on government cheques. Eliminating holds for government cheques may have the effect of encouraging low-income individuals to approach and develop relationships with mainstream financial institutions.

### **9. Government cheque cashing rate**

The Coalition has not seen evidence to support an increase in the maximum rate for government cheque cashing set by the PUB in 2007 and continued in 2010 and 2014. Our clients' preliminary view is that the existing rate ceiling is satisfactory and that it should not be raised.

However, the Coalition recommends that consideration be given to implementing a cap on the total amount charged to cash a cheque.

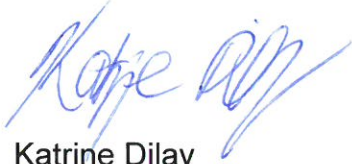
The Coalition recommends that a public hearing be held if an increase in the rate or a change to the formula, such as the implementation of a cap, is contemplated so that further research and evidence can be presented.

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<sup>7</sup> PUB 2007 Order No. 72/07, p 13.

Thank you for your consideration of these comments.

Yours truly,



Katrine Dilay  
Articling student-at-law



Byron Williams  
Attorney

cc: The Consumers' Association of Canada (Manitoba Branch)  
Winnipeg Harvest  
Community Financial Counselling Services