

**Order No. 105/16**

**MAXIMUM FEES FOR  
CASHING GOVERNMENT CHEQUES**

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**August 8, 2016**

**BEFORE:** Karen Botting, B.A., B.Ed., M.Ed., Acting Chair  
Régis Gosselin, B ès Arts, MBA, CPA, CGA, Board Chair  
Carol Hainsworth, CBA, Member  
Allan Morin, B.A., ICD.D., Member  
The Hon. Anita Neville, PC., B.A. (Hons), Member

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## 1.0 Executive Summary

By this Order, and in accordance with *The Consumer Protection Act (Manitoba)*, the Public Utilities Board (“Board”) reports on the review of the fees established by the Board for the cashing or negotiating of a government cheque.

Government cheques include cheques of the Government of Canada, Province of Manitoba and any government agency listed in the Government Cheque Cashing Fees Regulation.

The maximum fees a cheque casher in Manitoba may charge for the cashing or negotiating of a government cheque, is to remain as originally established by Order 72/07 and set out in Regulation 82/2007 and continued in Order 51/10 and Order 25/14.

The maximum amount that may be charged, required or accepted as a cheque cashing fee is the sum of \$3 and 2% of the face value of the cheque.

Exceptions:

For a cheque on which a hold is placed and cash is not then provided, the cheque cashing fees must not exceed the lesser of

(a) \$5; and

(b) the sum of \$3 and 2% of the face value of the cheque

No amount may be charged, required or accepted as a cheque cashing fee for a cheque cashed or negotiated with a concurrent requirement that the person purchase goods or services aggregating 10% or more of the face value of the cheque.

The Board encourages cheque cashers currently charging either no fee or fees lower than the maximum allowable to continue to do so.

In this Order, the Board makes a number of recommendations. The Board considers its recommendations to be as important as the setting of the maximum fee; the recommendations are provided for the purpose of improving consumers' knowledge of the cheque cashing regulations and improving access to accounts in banks, credit unions and caisse populaire providing conditions amenable to fewer Manitobans availing themselves of fringe or convenience banks to cash government cheques.

## 2.0 Background

*The Consumer Protection Act (Manitoba) (“Act”)*, designates the Board as the agency that can set the maximum amount, or establish a rate, formula or tariff, for cashing or negotiating a government cheque. The Board is required to make a just and reasonable Order based on the factors considered and available data. *Section 169(5) of the Act* requires that the Board review its existing Orders at least once every three years. The Board has considerable discretion in carrying out its mandate.

In April 2016, the Board published a public notice of this review in *The Winnipeg Free Press*, *The Metro*, *The Brandon Sun*, *The Winnipeg Sun*, *La Liberté*, *The Portage Daily Graphic*, and *The Interlake Enterprise*. On April 20, 2016 the same notice was sent to 46 weekly newspapers, firms, associations and individuals throughout the Province, including the Government of Manitoba (“government”). The public notice requested interested parties to make submissions in writing to the Board. It advised that the Board would review the submissions and determine if a public hearing was required.

In this third triennial review, the Board considered its understanding of the following:

- the current business and operating requirements of firms and persons who cash or negotiate government cheques for a fee;
- current market options for consumers seeking to cash a government cheque and the relative value of options available to consumers;
- the particular circumstances of both low-income and vulnerable consumers and those consumers lacking either mobility or access to mainline financial institutions (banks, credit unions and *caisse populaire*) to cash a government cheque;
- the availability of information and resource materials for Manitobans domiciled outside of the capital region; and
- the public interest.

The Board considered the May 18, 2016 report from Manitoba Justice (Consumer Protection Office) respecting efforts aimed at implementation of many of the Board's recommendations made in previous orders. The Board also considered the submission of the coalition of Community Financial Counselling Services, Consumers' Association of Canada (Manitoba) Inc. and Winnipeg Harvest and the submission of the Canadian Payday Loan Association.

There was no applicant in this review proceeding and no onus was carried by any party.

### 3.0 Submissions

#### **Community Financial Counseling Services (CFCS), Consumer's Association of Canada (Manitoba) Inc. (CAC) and Winnipeg Harvest**

On May 20, 2016, a joint written submission was received from Community Financial Counseling Services (CFCS), Consumers' Association of Canada (Manitoba) Inc. (CAC) and Winnipeg Harvest ("the Coalition").

The Coalition supported the maintenance of the existing fees and terms applicable to government cheque cashing established by Order 72/07, Order 51/10 and continued in Order 25/14. However, it recommended that consideration be given to implementing a cap on the total amount charged to cash a cheque. The Coalition also made a number of recommendations respecting indemnity for provincial government cheques, identification cards, hold policies of financial institutions, scope of the regulatory provisions, and the wider publication of cheque cashing rate information and low cost bank accounts in addition to a recommendation for enhanced monitoring and enforcement of the rate limits.

The Coalition noted that an indemnity agreement exists between financial institutions and the Government of Canada. The agreement stipulates that Government of Canada cheques of under \$1500 must be cashed at no charge. This issue was considered by the Board in 2007 and 2010. The Coalition recommended that the existing indemnity agreement be extended to include similar cheques issued by the Province of Manitoba. The Coalition indicated that a main reason individuals cash cheques at other than a financial institutions is due to a lack of adequate identification. It recommends that no photo identification be required when cashing a government cheque. In the event that a provincial identification card is required, a more robust effort should be made by Manitoba Public Insurance (MPI) for outreach materials informing low-income individuals that the \$20 fee will be waived. The Coalition also recommended that better outreach materials and information be made available about regulated rates and low-cost bank accounts. The Government of Manitoba should institute a more vigorous

enforcement program. The submission recommended amending *The Consumer Protection Act* to expand its scope to encompass non-government issued cheques. Lastly, the Coalition recommended that the Province work with financial institutions to eliminate holds on government cheques.

The Coalition submitted that the rate should not be increased and that, if the Board was inclined to consider increasing the maximums, an oral public hearing process should be instituted.

### **Canadian Payday Loan Association**

On May 30, 2016, a written submission was received from the Canadian Payday Loan Association (“CPLA”).

CPLA noted that the rate limits in Order 72/07 resulted in savings for consumers cashing government cheques.

The CPLA submitted that the current rates require no further reduction, based on current market conditions and market offerings, the current business case for this product in Manitoba and the needs of consumers.

CPLA submitted that a reduction in maximum fees would further restrict or deny access to this service to those on social assistance without an available alternative.

The CPLA stated that since the Board’s 2007 Order came into force, there has been little change in the ability of Manitobans to access cheque cashing services and low cost accounts from banks and credit unions. CPLA submitted that the government cheque cashing service provided by CPLA members is still an important service to many Manitobans. While there is a cost associated with accessing the service, because of the cost to businesses of providing the service, there are also costs for the alternative of maintaining a bank account to deposit and negotiate a cheque. Furthermore, the customer is faced with a 10-day hold period on those funds, delaying access to the cash.



CPLA identified the reduction in the total number of cheques being processed by its members as a challenge to the underlying business model. The reduction is largely due to conversion of cheque payments to direct deposit. In addition, the expansion of categories of cheques designated for regulatory coverage under the law has also impacted profitability. As a result, economies of scale for this service have been eroded. CPLA stated that the fee chargeable for government cheques is in part subsidised by fees charged on regular cheques.

CPLA advised that, if the Board determined that an oral hearing was required, CPLA would not be participating due to the expense involved.

### **Province of Manitoba**

Order 72/07 included nine recommendations for government consideration. The Province provided information to the Board regarding the recommendations in 2010 and 2013. On May 18, 2016, the Consumer Protection Office (CPO) provided an update to the 2013 information. The original recommendations are shown below along with the provincial updates in italics for each recommendation.

#### Recommendation #1 -

Social Assistance recipients should be provided photo identification at no cost.

*The Province advises that Employment and Income Assistance (EIA) provides funding to participants for this purpose. MPI has continued its policy to waive the \$20.00 fee for the Manitoba Identification Card for low-income individuals.*

#### Recommendation #2 -

Social Assistance recipients should receive counseling on the costs of cashing cheques and other financial matters, and be encouraged and assisted in opening a bank or credit union account.

*The Province advises that funding support to SEED Winnipeg has been continued. Employment and Income Assistance staff continue to provide counseling, assistance, and referral information to clients.*

### Recommendation #3

Direct deposit of social assistance cheques into bank or credit union accounts should be proactively promoted by the Province (the Board understands that a substantial number of recipients of social allowance currently receive their support by direct deposit).

*Currently over 85% of EIA participants receive their benefits through direct deposit. This is a 22% increase since 2013. Direct deposits, which offer the beneficiary immediate access to funds, will continue to be promoted.*

### Recommendation #4

Community Financial Services Centre, a pilot project serving North Winnipeg, should receive government support towards making the service permanent with expanded counseling and referral services.

*The Citizen's Bridge Pilot Project is the successor to the Community Financial Services Centre Program. Citizen's Bridge assists community members in obtaining government-issued ID, facilitates literacy workshops throughout the community in partnership with SEED Winnipeg and provides driver training. Citizen's Bridge and SEED's ID Fund continue to help address the issue of lack of identification required to open a bank account, a key barrier for some community members.*

### Recommendation #5

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

*In 2014, the federal government announced that the country's eight largest banks had agreed to expand low-cost and no-cost banking services for Canadians. The new rules took effect January 15, 2015, and resulted in banks offering the financially vulnerable groups no-cost accounts with cheque-writing privileges and no extra charges for debit cards.*

#### Recommendation #6

The Province should consider providing banks and credit unions with indemnification of Provincial Government cheques given adequate identification, with respect to cheques of \$1,000.00 or more.

*While this is still under consideration, the Province is currently experiencing an increase in cheque fraud. The potential risk of an indemnification program could be higher than previously anticipated. Manitoba continues to promote direct deposit which offers the beneficiary immediate access to funds. Direct deposits are secure, reliable, and safe and the lowest cost payment option. Since 2013, the Province has also started exploring the use of prepaid benefit cards which could be used to pay benefits to individuals without bank accounts or in emergency situations where cheques and direct deposits are not suitable.*

#### Recommendation #7

The list of Provincial Government agencies for which their cheques will be subject to the maximum fees set by this Board should be expanded to include:

- a) all agencies included within the Summary Accounts of the Province; and
- b) municipal governments.

*All government agencies that issue large volumes of cheques continue to be in scope of this recommendation. Manitoba Hydro was added to the list of designated agencies on January 2, 2012.*

#### Recommendation #8

The Province should bring about regulation to provide for the licensing of the near bank industry, including payday lenders and cheque cashers, pawn shops and rent-to-own firms.

*Payday lenders and pawnshops that offer payday loans require a licence to offer payday loans to Manitobans. Rent-to-own agreements are subject to the cost of credit disclosure provisions under The Consumer Protection Act. Clear and understandable*

*disclosure provides the consumer with information related to the cost of the agreement and terms and conditions. Bill 34, The Consumer Protection Act (high-Cost Credit Products) will come into force on September 1, 2016. All credit grantors that offer high-cost loans, as defined in the legislation, will be required to be licensed by CPO and to disclose important information to consumers about any fees, charges and all terms and conditions. Borrowers will also be able to cancel a high-cost credit agreement within 48-hours without penalty.*

#### Recommendation #9

The Consumers' Bureau of the Division of Consumer and Corporate Affairs of the Department of Finance (now a Division of Family Services and Consumer Affairs), which will oversee adherence to the Board's determinations as to maximum fees for the cashing of government cheques, should consider:

- a) the development of a code of conduct for cashers of government cheques; and
- b) the development of pamphlets and other information for general dissemination regarding the cashing of government cheques.

*Information about cheque cashing maximum rates continues to be made available to consumers through the CPO via Fact Sheets, website information, and public education session materials and presentations.*

*The CPO receives few complaints and continues to monitor the marketplace in regards to retailers and cheque cashers. As there has been no indication of widespread breaching of the cheque cashing maximum rates, a Code of Conduct will not be developed at this time.*

## 4.0 Board Findings

As previously indicated, responses to the Board's invitation for submissions provided the Board with current information and recommendations. Based on the responses to its request for participation, the Board concluded an oral public hearing was not needed. This conclusion took into account the significant cost of such a process, the limited response to the Board's public notice and the subsequent information provided to the Board. Therefore, the Board conducted a written hearing process.

Both the Coalition and CPLA have recommended that the maximum rates established by Order 72/07 remain in place; the Coalition does not support an increase and CPLA does not support any reduction in the maximum rate. The Coalition requested an oral public hearing only if the Board was to consider an increase to the maximums set in Order 72/07.

The government provided an updated report of actions it has taken since the issuance of Order 25/14. Since 2014, there is no indication of any significant problems or complaints arising from the rates set by Order 72/07, or from excessive charges to consumers or from a lack of service providers.

The Board considered whether the maximum government cheque cashing rates originally set by Order 72/07 and continued in Order 51/10 and Order 25/14 should be changed. The Board examined the information and submissions it received. Of the 32 potentially interested firms, associations, groups and individuals that received direct notice of the Board's review, only two past participants and the government responded. No case was made supporting changes to the current maximum rate schedule.

The Board considered the current global and Canadian economic climate. The global economy continues to struggle. Canada's economic results are somewhat mixed. The economy is undergoing an adjustment to low commodity prices which have resulted in higher unemployment and lower increases in average wages/income, continued low general price inflation and very low mainstream interest rates.

CPLA indicated that the reduction of the number of cheques issued and the expansion of the categories of rate regulated government cheques have impacted the profitability of this service offering. The CPLA also indicated that the cheque cashing services are subsidized by the other services provided by CPLA members.

The Board is concerned that a reduction in fees may limit the ability of consumers to access cheque cashing services. The Board recognizes that factors supporting access to fee based cheque cashing services include:

- convenience – location of cheque casher, and days and hours of service;
- inability to cash cheques at a bank, credit union or caisse populaire, due to either the lack of an account or lack of adequate identification; and
- the current practice of mainline financial institutions to place holds on cheques.

The Board finds that the rates set by Order 72/07 and continued in Order 51/10 and Order 25/14 should remain in force with no amendments. The CPLA which represents some cheque cashers has not asked for an increase and the Coalition has also not recommended a decrease. The Board did not receive any evidence that would justify a change in rates. Furthermore, the Board wants to ensure that consumers needing protection and assistance by the setting of maximum fees for the cashing of government cheques, are not inadvertently harmed by the Board's decision that the rates remain unchanged. An increase in the rates would increase the cost of services for consumers. A decrease in fees might reduce consumers' access to the service.

The Board is satisfied that continuation of the current government cheque cashing rates strike a fair and reasonable balance between the interest of consumers who out of convenience or necessity wish to use this product, and the interest of businesses that need to earn revenues from this service offering in the current Manitoba market.

Finally, the Board encourages cheque cashers currently charging either no fee or fees lower than the maximum allowable to continue to do so.

## 5.0 Board Recommendations

The Board examined the recommendations that the Board had made in Order 72/07.

Based on the CPO's report, the Board has concluded that some of its recommendations have either been achieved, are out of date or need to be modified in light of current conditions, given that nearly 10 years have elapsed since the recommendations were made.

The Coalition made a submission to the Board which encompassed nine elements. The Board concluded that many of the Coalition's recommendations should be implemented by the Government of Manitoba. Because of the Board's recent review of payday lending undertaken at the Government's request, the Board is particularly sensitive to the importance of improving access to suitable identification, improving financial literacy and access to mainline financial services by low income and vulnerable consumers.

CPO has indicated that few complaints have been received related to cheque cashing services. However, low income and vulnerable consumers are less likely to complain, may not be aware of their rights and may not know where to address their complaints. Systematic enforcement of the cheque cashing provisions will serve to uncover issues and will afford protection to those low income and vulnerable consumers.

The Board believes that vulnerable consumers' limited access to cheque cashing services from mainline financial institutions is due in part their lack of suitable identification. If consumers have an account, the institutional practice of placing a hold on their funds drives consumers to seek alternative service providers. Timely access to funds will improve consumers' use of mainline financial institutions.

EIA recipients are making progressively greater use of direct deposit services which avoids many of the problems associated with cheque cashing. The Board believes that further promotional efforts to encourage the use of direct deposit in combination with improved access to mainline financial institutions will yield a yet higher percentage use of direct deposit.

The Board considered the Coalition's recommendation to extend the cheque cashing provisions to other cheques issued by non government entities. However, no data was available to the Board to justify the extension of the scope of the cheque cashing provisions or the impact that such an extension might have on the cashers of cheques. Further research is needed to gather the data for the Board to consider this recommendation.

The list of bodies designated as government agencies currently includes:

- (a) The Manitoba Housing Authority;
- (b) The Manitoba Housing and Renewal Corporation;
- (c) The Manitoba Public Insurance Corporation;
- (d) The Workers Compensation Board;
- (e) Manitoba Hydro.

While the list currently encompasses the principal agencies issuing many cheques, the Board is of the view that the list should be expanded to include all Manitoba government agencies. In addition, the Board believes that the provisions should apply to municipal governments. This extension of scope would result in the uniform treatment of all cheques issued by all three levels of government.

The Coalition also recommended a cap on the fees charged for cashing cheques. To address this recommendation, data and evidence will be needed for the Board's review. The Board intends to address this recommendation as part of its next triennial review.

The Board agrees with the Coalition that efforts should be made to enhance financial literacy, awareness of the cheque cashing provisions, availability of low fee accounts from financial institutions and low cost identification. The measures being recommended will be low in cost to implement and may significantly reduce costs for some consumers.

The Board also believes that rural Manitobans' access to low cost government issued identification must be addressed. While consumers' knowledge of this service has been



addressed via the funding made available to agencies in Winnipeg, there does not appear to be any initiatives to target rural Manitobans.

The Board makes the following recommendations to replace the recommendations set out in Order 72/07:

1. The Province of Manitoba should consider providing banks and credit unions with indemnification for provincial government cheques accepted with adequate identification for cheques of \$1500 or lower.
2. The Province of Manitoba should work with financial institutions to reduce the holds on government cheques or eliminate the holds if indemnification is available for financial institutions accepting government cheques.
3. The Government of Manitoba should prepare a detailed report prior to the Board's next triennial review which demonstrates how the EIA stakeholder communication efforts regarding cheque cashing have impacted participants.
4. The Province of Manitoba should expand opportunities for rural Manitobans to access low cost government issued identification.
5. The Province of Manitoba should create an outreach program regarding low cost government issued identification for Manitobans domiciled outside of the capitol region, and report to the Minister on its effectiveness, within 12-months of its deployment.
6. The Province of Manitoba should actively promote the MPI Identification Card to all EIA participants and continue to provide funding to participants to obtain this identification card.
7. The Province of Manitoba should continue to proactively promote the direct deposit of social assistance cheques in order to further increase the percentage of recipients' use of this mechanism.

8. The Province of Manitoba should mandate that all businesses domiciled in Manitoba cashing government cheques be required to post the regulated cheque cashing rates set by the Board.
9. The Province of Manitoba should create a robust compliance monitoring and sanctioning program in order to ensure that rates set by the Board are being adhered to and, if not, that appropriate penalties be assessed. Additionally, a public report on compliance and sanctioning initiatives should be provided to the Minister on an annual basis.
10. The Province of Manitoba should mandate that periodic inserts be included with government cheques involving:
  - a. Promotion materials pertaining to the direct deposit option;
  - b. Promotion materials about the low fee accounts offered by financial institutions;
  - c. Promotion materials pertaining to MPI's free identification card for eligible applicants.
11. The Province of Manitoba should mandate the CPO to conduct research to determine whether *The Consumer Protection Act* should apply to other types of cheques, and include the research findings and its recommendations in its next triennial report.
12. The Government of Manitoba should undertake research into the risks, costs and effects of extending *The Consumer Protection Act's* cheque cashing provisions to other types of cheques than government cheques.
13. The Government of Manitoba should continue to fund programs that assist community members to obtain government issued identification and improve their financial literacy.

14. The list of government agencies whose cheques are subject to the maximum fees set by the Board should be expanded to include:

- a. All agencies included within the Summary Accounts of the Province of Manitoba; and
- b. Municipal governments.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure (Rules). The Board's Rules may be reviewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

## 6.0 IT IS THEREFORE ORDERED THAT:

The following schedule of fees and conditions, as initially established in Board Order 72/07, shall continue to be effective for the cashing of government cheques in Manitoba:

### Fees and Terms, Cashing Government Cheques

Government cheques include cheques of the Government of Canada, Province of Manitoba and any government agency listed by regulation.

**Fee Tariff** with certain exceptions, the maximum to be the sum of \$3.00 and (plus) 2% of the face value of the cheque.

### Exceptions

1. For cheques on which a hold is placed and cash not then provided, the maximum charge to be levied shall be the lesser of \$5.00, or, the sum of \$3.00 and 2% of the face value; and
2. For cheques cashed with a concurrent requirement that the person purchase goods or services aggregating 10% or more of the cheque, no fee may be charged.

THE PUBLIC UTILITIES BOARD

Karen Botting, B.A., B.Ed., M.Ed.  
Acting Chair

Darren Christle, MPA, B.A., CCLP, P.Log. MCIT  
Secretary

Certified a true copy of Order No. 105/16  
issued by The Public Utilities Board

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Secretary