

Fees for Cashing Government Cheques

FINAL REPORT

November 2008

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LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO



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We are pleased to release this Final Report in our study on charging fees for cashing government cheques. Madam Justice Karen Weiler proposed this project. The Law Commission of Ontario's Board of Governors approved it for study on November 19, 2007 and approved this Final Report on October 6, 2008.

A disproportionate number of low income recipients of government cheques cash their cheques at businesses in the alternate financial sector. The LCO's recommendations in this project are intended to provide an environment in which those who pay fees to cash their government cheques do so as a matter of choice, rather than because of their inability to establish bank accounts, their geographic location or other factors outside their control. Accordingly, the recommendations are directed at government, as well as private actors in this area. This Report has been distributed to relevant government ministries and to community groups and other organizations with an interest in facilitating access to their funds by recipients of government cheques.

The Law Commission of Ontario is a partnership among the Ministry of the Attorney General, Osgoode Hall Law School, the Law Deans of Ontario's law schools, the Law Foundation of Ontario, and the Law Society of Upper Canada.

The LCO is governed by a Board of Governors, which is comprised of representatives of the founding partners and members at large. The Board of Governors approves LCO policies, projects, discussion papers and reports. The Board's approval reflects its members' collective responsibility to manage and conduct the affairs of the LCO, and should not be considered an endorsement by individual members of the Board or by the organizations to which they belong.

The mandate of the LCO is to recommend law reform measures to enhance the legal system's relevance, effectiveness and accessibility; improve the administration of justice through the clarification and simplification of the law; consider the use of technology to enhance access to justice; stimulate critical legal debate; and study areas that are underserved by other research. The LCO has committed to engage in multi-disciplinary research and analysis and make holistic recommendations, as well as to collaborate with other bodies and consult with affected groups and the public more generally.



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EXECUTIVE SUMMARY

I. Introduction

Governments regularly transfer funds to individuals for a variety of benefit programs. When funds are transferred by cheque, some individuals access those funds through relatively costly cheque cashing services. Is this a matter for public concern, and if so, are there ways to transfer funds more fairly and effectively?

This Report is the result of extensive research and public consultation. The Project was publicly launched in March 2008 with a widely distributed Consultation Paper. The Law Commission of Ontario (LCO) received written responses from 15 organizations and individuals, and organized further meetings and interviews with 25 organizations. Consultees included a wide range of stakeholders, including financial service providers, academics, municipal and provincial governments, legal clinics, and community and advocacy organizations.

II. Key Themes and Issues

While the issue of cheque cashing fees appears narrow, a closer examination reveals that it cannot be understood without considering the effects of a number of broad social trends and complex policy issues:

Poverty Reduction: Recipients of government benefits generally have very low incomes. As a result, the fees for cashing their government benefit cheques can have a very significant impact on their finances. As well, the pressing short-term needs for immediate cash may require individuals who are living on a survival budget to make decisions that cost them more over the long term.

Regulation of Alternative Financial Services (AFS) Sector: While mainstream financial institutions such as banks and credit unions are significantly regulated and superintended for the benefit of consumers and the community as a whole, the emerging AFS sector, which provides most cheque cashing services, has generally been subject to very little regulation or oversight.

Low Income Communities and the Mainstream Financial Services Sector: A small but significant portion of the Canadian population is “unbanked” – that is, does not have an account with a bank or credit union, and by necessity receives their financial services either from the informal economy or the AFS sector. The unbanked are disproportionately low-income Canadians.

Diversity and Differential Impact: Those impacted by fees for cashing government cheques are disproportionately female lone-parents, persons with disabilities, Aboriginal persons, newcomers and youth.

Financial Services and New Technology: The financial services sector continues to undergo rapid technological change, particularly with the growth in electronic banking. These changes offer both opportunities and barriers for consumers.

Effective Allocation of Risks and Responsibilities: There are necessarily costs and risks associated with the transfer of funds from government to individuals through financial institutions, particularly the risk of fraud. Various methods of transferring funds will allocate these costs and risks differently among consumers, financial institutions and government.

Informed Choice: A key question for consideration is whether recipients of government benefits have both meaningful alternatives for accessing their government funds, and the skills and information necessary to choose between them.

III. Nature of the Problem

COST OF CASHING GOVERNMENT CHEQUES IN ONTARIO

Most people who receive funds through a cheque access those funds through accounts with a bank or credit union. Included in the relatively low cost of an account is the opportunity to deposit cheques and withdraw the funds, or to immediately cash the cheque. Funds in an account may be accessed in person through a teller, or through an increasingly wide array of electronic options, such as ABMs, online or telephone banking, or debit cards.

However, a small but significant number of Canadians (approximately seven per cent, as estimated by a recent survey) at least occasionally access cheque funds through the cheque cashing industry. For a charge usually consisting of a flat fee plus a percentage of the value of the cheque, they can immediately receive the funds transferred by cheque.

The rates for cashing a cheque in this manner are relatively high compared to the cost of an account with a financial institution. Canada's largest cheque cashers, Money Mart and Cash Money, currently charge an item fee of \$2.99 per cheque, plus 2.99 per cent of the face value of the cheque. The fee for cashing a \$500 cheque is therefore \$17.94.

IMPACT OF CHEQUE CASHING FEES

The Government of Ontario issues cheques for a number of social benefit programs, most importantly the Ontario Child Care Supplement (now transitioning into the Ontario Child Benefit), the Ontario Works and Ontario Disability Support (ODSP) social assistance programs, and the Guaranteed Annual Income Supplement for seniors.

There are over 370,000 beneficiaries of the Ontario Works general social assistance program, approximately half of them sole-support parents and their children. There are approximately 330,000 ODSP beneficiaries: this program assists persons with disabilities and their families.

The Ministry of Community and Social Services estimates that over three million cheques are issued each year to Ontario Works and ODSP recipients. There are no firm estimates on how many of these cheques may be cashed for a fee, but the number may be substantial. A survey conducted in March 2008 by the Thunder Bay Social Service Administration Board of Ontario Works clients who received their benefits by cheque revealed that approximately 40 per cent of these individuals cashed their cheque for a fee at an AFS business, or a pawnshop or convenience store.

Social assistance rates are low, falling far below Canada's Low Income Cutoffs. For example, a single person receiving assistance through Ontario Works receives a maximum of \$560 per month, or \$6720 per year, while a sole-support parent with one child receives a maximum of \$1,180 per month (including the Ontario Child Benefit), or \$14,160 per year. Given these low rates, an individual paying \$20 to \$40 per month to cash his or her social assistance benefit cheque could experience a significant impact on the ability to afford basic necessities such as food or clothing.

THE MAINSTREAM FINANCIAL SERVICES INDUSTRY

Given the relatively high costs of accessing cheque funds through AFS businesses rather than through an account with a bank or credit union, why do low-income individuals use these services?

It is estimated that between three and five per cent of Canadians do not have an account with a bank or credit union. Low-income individuals are much more likely to be unbanked than other Canadians, with some estimating that as many as 15 per cent of low-income individuals are unbanked. Those living in Northern regions are also more likely to be unbanked than those in Southern regions.

There are a number of reasons why low-income consumers may not use the services of a mainstream financial institution, and may therefore resort to AFS services:

Location: Frequently, in remote Northern communities there are no mainstream financial institutions, and recipients of government cheques have few alternatives for accessing their funds. Some low-income urban communities may also lack convenient access to mainstream financial institutions.

Identification Requirements: Appropriate identification is required in order to open an account. Low-income individuals may have difficulty obtaining identification due to costs or complex processes.

Cheque Hold Policies: In order to manage the risk of fraud, mainstream financial institutions may place a "hold" on funds deposited by cheque if there are insufficient funds in the account to cover the cheque. As a result, access to the funds may be delayed, a significant difficulty for individuals on a survival budget.

Garnishment and Set-off: In some circumstances, there is a risk that funds placed in a bank account may be garnished or set-off to address outstanding debts, and this may act as a deterrent to maintaining an account or depositing funds.

Attitudinal Barriers: Low-income individuals have expressed concerns regarding negative or discriminatory treatment by staff of mainstream financial institutions, or have expressed the perception that they don't "belong" in such institutions.

Hours of Operation: For individuals who are reliant on the personal services provided by tellers, hours of operation may have a significant impact on their choice of a financial services provider.

THE ALTERNATIVE CHEQUE CASHING INDUSTRY

The formal cheque cashing industry is relatively new in Canada, and continues to evolve. Businesses providing cheque cashing services usually do so as part of a bundle of alternative financial services, including payday loans, tax preparation and refund services, and stored value debit cards. It is estimated that there are 750 Ontario businesses providing formal cheque cashing services.

In remote Northern Ontario communities, where neither mainstream financial services nor the major cheque cashing businesses operate, cheque cashing is provided through the network of Northern Stores, which provide cheque cashing, white label ABMs, money transfers and prepaid mastercards, along with a range of retail services.

Unlike mainstream financial institutions (such as banks, credit unions, and trust and loan companies), this “alternative financial services” (AFS) sector is subject to minimal regulation and superintendence. Only recently has there been a move to regulate these businesses in Ontario, with the passage in June 2008 of Bill 48, the *Payday Loans Act, 2008*. This Act will, when it comes into force, create a comprehensive regulatory scheme for Ontario’s payday lenders, including licensing, maximum cost-of-borrowing caps, a compliance mechanism and a consumer education fund.

IV. Avenues to Reform

Concerns regarding fees for cashing government benefit cheques are not new. There have been a number of initiatives across Canada and in the United States aimed at addressing the problem:

Bans: Some jurisdictions have enacted legislation banning fees for cashing government cheques. In order to ensure that government benefit recipients are still able to access their funds, such legislation is generally paired with other initiatives to encourage use of mainstream financial services.

Regulation: Several jurisdictions in Canada and the United States have passed legislation regulating cheque cashing services, for example by setting maximum fees for cashing government cheques.

Indemnity Agreements: Governments may also enter into indemnity agreements with mainstream financial institutions. Under such indemnity agreements, the financial institutions agree to immediately cash government cheques upon presentation of appropriate identification. In return, the government agrees to indemnify the financial institutions in cases of fraud.

Alternative Methods of Payment: Another option is to reduce reliance on cheques as a means of transferring government funds. Many jurisdictions have implemented programs to encourage benefit recipients to receive their funds through direct deposit. More recently, some jurisdictions have been experimenting with the use of benefit cards.

Improving Access to Mainstream Financial Services: As well, there have been a number of initiatives aimed at increasing use of mainstream financial institutions by low-income individuals, for example, through provision of low-cost identification, or the creation of low-cost bank accounts, or initiatives to increase financial capability among low-income consumers.

V. Recommendations

The LCO, in considering options for law reform, has taken the following into account:

- Given the complexity of the issue, solutions must combine initiatives to address immediate needs with long-term initiatives to address the underlying causes of the problem.
- Solutions must be pragmatic, recognizing the day-to-day needs of those living on a survival budget, as well as the fact that AFS and mainstream financial institutions are businesses, and are providing services in the expectation of a reasonable opportunity for profit.
- Solutions must recognize the diversity of needs among low-income individuals, as well as respecting the privacy, dignity and autonomy of social assistance recipients.
- Solutions must recognize the unique dynamics of the situation in Ontario. Solutions that are appropriate in other jurisdictions may need to be modified to address the particular circumstances of Ontario's low-income community and its financial services sectors.
- Given the complex roots of the issue, in order for law reform to be effective, it must be supported by complementary government initiatives to broaden options, provide information and increase access to financial services for recipients of social benefits

The LCO therefore recommends the following (*a full listing is provided at Part VI of this Report*):

1. Enactment of legislation to regulate cheque cashing services, including licensing and disclosure requirements, a process for setting maximum fee rates, and a compliance mechanism;
2. Passage of legislation to provide Ontarians with a low-cost official photo-identification that is an alternative to the driver's license;
3. Initiatives to increase education and access to information regarding cheque cashing for low-income consumers;
4. Development of an indemnity agreement between the Government of Ontario and mainstream financial institutions to ensure that recipients of government benefits can cash their cheques at no cost, and without delay;
5. A pilot program to explore the use of benefit cards as a means of providing government benefits to remote communities without mainstream financial institutions;
6. Initiatives by mainstream financial institutions and government to increase usage of the mainstream financial services by marginalized communities.
7. Collection of data by the Government of Ontario to monitor the success of initiatives related to cheque cashing fees.

I. INTRODUCTION

This Report addresses whether steps should be taken to ensure that individual recipients of government funds can access those monies at low or no cost, and if so, what steps would most effectively achieve that goal. It summarizes the results of the Law Commission of Ontario's (LCO) independent research and public consultation on this topic, outlines and analyzes key issues, explores the options for reform, draws conclusions and makes recommendations.

As a result of this Project, the LCO believes that long-standing concerns regarding fees for cashing government cheques must be expeditiously addressed. The issues are multi-faceted and therefore solutions, to be effective, must take a holistic approach. Legislative reforms must take into account the complex causes of the problem, and be complemented by supportive policies and initiatives. Accordingly, the LCO's recommendations include both those requiring changes to the law and government policies and programs, and those addressed to other actors and intended to make the legal recommendations more effective. The LCO's objectives are to provide a comprehensive analysis of this issue in Ontario and to make practical recommendations that can form the basis of an effective and appropriate reform to this area of law.

This Project had its origins in a 2007 visit by the judiciary to Northern Ontario. Concerns were expressed regarding the distribution of federal funds related to the residential school settlements: visiting judges heard that some individuals had paid exorbitant fees in order to cash their cheques through cheque cashing businesses. These concerns were conveyed to the LCO and were the inception of this Project, which was approved by the Board of Governors in November, 2007. The central purpose of this Project was to examine concerns about the impact of fees for cashing government cheques on low-income Ontarians. These Ontarians are likely to have reduced access to mainstream financial institutions and high fees have a substantial impact on their finances. Initiatives to address fees for cashing government cheques are likely to benefit some of the poorest Ontarians.

Concerns about cheque cashing fees are longstanding. The matter was raised in the Ontario legislature as early as 1984, and in 1992, a member of the Ontario Legislative Assembly unsuccessfully brought forward Bill 154, the *Government Cheque Cashing Act, 1992*, a private member's bill that would have prohibited fees for cashing government cheques. Recently, there has been considerable research and public policy debate on the broader issues related to the Alternative Financial Services (AFS) industry, particularly payday lending. Ontario, like several other provinces, has recently passed legislation regulating payday lending (see Appendix B for key highlights of this legislation, which has not yet come into force).¹ As a result of this fresh attention to the AFS sector, issues related to cheque cashing have been receiving renewed focus. Both British Columbia and Manitoba have recently undertaken legislative initiatives to regulate fees for cashing government cheques, while other jurisdictions have taken non-legislative initiatives, such as entering into indemnity agreements with banks and credit unions to ensure immediate and cost-free cashing of government cheques. (See Appendix C for an overview of Canadian initiatives addressing cheque cashing fees.)

Issues related to the AFS industry are many and complex, and the discrete focus of this Report must be emphasized. This Project did not attempt to address all of the broad public policy issues surrounding the AFS industry in general. Nor did it address the specific issues related to payday lending that have recently been the focus of significant public concern. Indeed, while payday lending and cheque cashing are often housed in the same businesses and share some similar contexts, the issues and public policy considerations they raise differ in many ways, particularly when it comes to the cashing of government cheques. The common conflation of the two services may mislead as often as it illuminates.

The LCO publicly launched this Project in March 2008 with a Consultation Paper that summarized key issues and options for reform. The Consultation Paper was posted on the LCO website, and was also sent out to over 100 stakeholders, including legal clinics, financial institutions, academics, municipal social service administrators, relevant government ministries, and community and advocacy organizations. In response, the LCO received 15 written responses from both individuals and organizations, and organized further meetings and interviews with 25 organizations. The LCO wishes to extend its thanks to all those who participated in this consultation for their invaluable contributions. A list of contributors is appended to this Report in Appendix A.

The Report is divided into four sections:

Key Themes and Issues: This section outlines the central elements of the context and the public policy issues to be considered.

Nature of the Problem: This section describes the nature and impact of cheque cashing fees, the central features of the cheque cashing industry and reasons for the usage of cheque cashing services.

Avenues for Reform: Many jurisdictions have already taken steps to address this issue. This section outlines initiatives that have been undertaken in other jurisdictions and analyzes their appropriateness in the Ontario context.

Conclusions and Recommendations: Finally, this section analyzes the issues and sets out the LCO's recommendations for reform.

Initiatives to address fees for cashing government cheques can assist those living in poverty by ensuring that they can access more of their government benefits, encouraging stronger relationships between low-income communities and mainstream financial institutions, and ensuring that government funds aimed at benefiting the most needy do so more effectively and efficiently.

II. KEY THEMES AND ISSUES

This Project raises a specific and discrete issue. Governments regularly transfer funds to individuals for a variety of benefit programs. When funds are transferred by cheque, some individuals access those funds through relatively costly cheque cashing services. Is this a matter for public concern, and if so, are there ways to transfer funds more fairly and effectively?

However, an examination of this relatively narrow issue touches on a number of quite broad social policy issues. It is not the purpose of this Project to address or resolve these complex issues, but they are an essential part of the context of this Project. The issue of cheque cashing fees cannot be understood or addressed without considering these wider trends and factors, which will be touched upon throughout this Report.

A. Poverty Reduction

Recipients of government benefits are disproportionately low-income, as are customers of cheque cashing services in general. Social assistance recipients in particular have extremely low incomes, far below Canada's Low Income Cutoffs.²

Given these low income levels, the fees charged by cheque cashing businesses may have a very significant impact on the finances of these customers. For example, a social assistance recipient who is living on \$560 per month can ill afford to spend \$20 of that in cheque cashing fees. An annual expenditure of \$240 on cheque cashing fees could have a significant impact on access to clothing, food or other necessities.

The decisions regarding financial services made by individuals with extremely low incomes by necessity often respond to immediate needs. Pressing short-term needs for immediate cash may require individuals to make decisions that actually cost them more over the long term.

Ontario's provincial Government has made a commitment to tackle poverty. A special cabinet committee has been established to develop a focused strategy for reducing poverty. This includes achieving better results from publicly funded programs and services, and developing effective partnerships between individuals, communities and government.³

Initiatives to address fees for cashing government cheques can assist those living in poverty by ensuring that they can access more of their government benefits, encouraging stronger relationships between low-income communities and mainstream financial institutions, and ensuring that government funds aimed at benefiting the most needy do so more effectively and efficiently.

B. Regulation of Alternative Financial Services

Ontario's mainstream financial services sector, which includes banks, credit unions, and trust and loan companies, is extensive, well-established, and significantly superintended and regulated for the benefit of individual consumers and the community as a whole. The Alternative Financial Services (AFS) sector is relatively new and is rapidly expanding and developing. It provides a range of services targeted to the financial services' needs of low

and moderate income consumers, who may be comparatively underserved by mainstream financial services. Until recently, it has been subject to very little regulation or superintendence. This has led to concerns about consumer protection, particularly given the importance of financial services to the wellbeing of consumers and the vulnerability of many of the consumers served by AFS businesses.

Recently, there has been a move across Canada to provide basic consumer protections and regulation with respect to certain alternative financial services, in particular payday loans. Ontario's Bill 48, the *Payday Loans Act, 2008*, which recently received Royal Assent and is expected to soon come into force, creates a licensing, complaints and enforcement scheme for payday lenders, as well as a mechanism for setting lending rates. Similar legislation has been enacted in several other provinces.

A number of provinces, specifically British Columbia, Saskatchewan, Manitoba and Quebec, have introduced or passed legislation regulating in various ways the cheque cashing services offered by the AFS sector.

C. Low Income Communities and the Mainstream Financial Services Sector

Cheque cashing fees must be understood in the larger context of concerns regarding financial exclusion and access to mainstream financial services by low-income and marginalized communities. Most consumers do not pay high fees to cash cheques; they receive relatively low-cost services through their accounts with banks or credit unions (see Appendix F for an overview of basic banking fees).

A small but significant portion of the Canadian population is “unbanked” – that is, does not have an account with a mainstream financial institution. This number is generally estimated at between three and five per cent of the population as a whole, with a much higher estimated incidence among low-income populations, including recipients of social assistance.⁴ Individuals who are unbanked receive most of their necessary financial services either from the informal economy or from AFS businesses, thereby paying higher rates than the general populace for their financial services.

The relationship between mainstream financial institutions and low income communities was the subject of considerable discussion during the LCO's public consultation on this project, with many social service providers and advocacy organizations emphasizing the importance of developing measures to encourage use of mainstream financial services institutions by low-income individuals.

D. Diversity and Differential Impact

Recipients of government benefits, and low-income individuals in general, are not homogenous groups. Financial exclusion and fees for cashing government cheques will impact differently, depending on the communities affected. In contemplating the impact of fees for cashing government cheques, the specific needs and circumstances of the following groups should be considered, keeping in mind that individuals may be members of more than one of these groups.

Women: Approximately half the beneficiaries of the Ontario Works social assistance program are lone-parent families, most of them headed by women. This issue therefore has a significant impact on these families, which tend to be the most economically vulnerable of all families and the most likely to experience poverty over the long term.⁵

Persons with Disabilities: There are well over 300,000 persons with disabilities who are in receipt of Ontario Disability Support Program benefits and who may therefore be directly impacted by fees for cashing government cheques. Persons in receipt of Workers Safety and Insurance Board benefits may also be affected. In particular, individuals with mental health related disabilities often face unique and substantial barriers, such as stigma or lack of legal capacity, in accessing mainstream financial services.

Aboriginal Persons: Aboriginal individuals are disproportionately likely to be low-income, whether living in urban centres or First Nation communities,⁶ and may face cultural or attitudinal barriers when accessing financial services. There are additional geographical barriers for First Nations individuals living in remote communities.

Newcomers: Newcomers to Canada are disproportionately likely to experience low-income.⁷ A recent report by the Ontario Association of Food Banks notes that one-third of all Ontarians forced to turn to food banks are newcomers.⁸ They may also face linguistic or cultural barriers to accessing mainstream financial services.

Youth: As is discussed in detail at section III.B.1, several studies have shown that users of AFS outlets in general, and of cheque cashing services in particular, are more likely to be young and to have few assets or social networks to rely upon. This particularly affects young families.

E. Financial Services and New Technology

The financial services sector continues to undergo rapid technological change. The development of electronic banking through automated banking machines (ABMs), direct deposit, online banking and debit cards creates opportunities for some consumers, and challenges for others. For some, electronic banking offers increased convenience, choice and flexibility, as financial services can be accessed at almost any time, from any location. For others, who do not have the resources to access online banking, or perhaps the technological or other forms of literacy to access the new options comfortably, the decline in importance of in-person services may reduce ease and convenience.

Cheques are declining in importance as a financial instrument, as payments are increasingly made through direct deposit, online banking or debit cards. Governments have been experimenting with new forms of payment, such as direct deposit, and most recently, benefit cards, with the hope that new technology can be turned to the benefit of their low-income clientele. Nevertheless, for the foreseeable future, a significant segment of the low-income community will continue to access their government funds through cheques, and will continue to require low-cost means of accessing those funds. (For further information regarding receipt of government benefits via cheques, see section III.B.1)

F. Effective Allocation of Risks and Responsibilities

There are necessarily costs and risks associated with the transfer of funds from government to individuals through financial institutions. Most notably, there is always at least some risk of fraud. There are also administrative costs. A key question for consideration is the fair and effective allocation of these costs and risks.

Unfortunately, as there has been very little study of these costs and risks and little information about them is publicly available, they are difficult to assess realistically. Certainly, costs and risks will be greater or lesser depending on the payment option selected. For example, direct deposit and benefit cards can significantly reduce administrative costs for government, as well as opportunities for fraud.

The various methods of transferring funds allocate costs and risks differently among government, financial institutions and payment recipients. Indemnity agreements, for example, shift the costs away from payment recipients towards government (and thereby taxpayers) and to some degree financial institutions (depending on the particulars of the indemnity agreements). The cheque hold policies of mainstream financial institutions reduce risk for financial institutions, but reduce the ability of payment recipients to access funds immediately. The fees charged by AFS businesses pass the costs associated with the risks on to the consumer.

G. Informed Choice

To the degree to which consumers of AFS cheque cashing services are making informed choices among a range of financial service options, the payment of fees may arguably be considered a matter of individual preference rather than of public concern.

The notion of informed choice has two components: meaningful alternatives and sufficient information to evaluate those alternatives.

First, for a real choice to exist, consumers must have reasonable options available. For example, if in remote locations there is only a single provider of financial services, consumers have no meaningful alternatives. This brings us back to the issue of access to mainstream financial institutions touched on earlier.

The second component is that the choice must be informed. Consumers must have the necessary information and skills to make a reasoned decision. Where information is not available to consumers, for example with respect to costs of various methods of accessing their government funds and available options, or where consumers do not have the literacy skills, or the technological or financial knowledge to understand the information provided, consumers will not be in a position to make informed evaluations regarding financial services, even where meaningful alternatives exist.

With respect to fees for cashing government cheques, the question becomes whether recipients of government benefits have both meaningful alternatives and the skills and information necessary to choose between them, as only then can these consumers be said to be making an informed choice to use cheque cashing services.

The effects of low income levels, together with rapid evolution of technology and the financial services sector, have left some consumers behind, paying relatively high fees in order to access what most consider basic financial services.

H. Summary

Upon first glance, the issue of fees for cashing government cheques appears simple, but in reality it is the result of complex, intersecting social trends. The effects of low income levels, together with rapid evolution of technology and the financial services sector, have left some consumers behind, paying relatively high fees in order to access what most consider basic financial services. The issue is particularly pressing where these low-income consumers require these financial services in order to access government income-support. In this scenario, low-income consumers are bearing most of the risk and responsibilities attendant on the transfer of government funds: the question is whether this is a fair or effective result, and if not, how it can be addressed.

III. NATURE OF THE PROBLEM

There are a number of ways in which a person can access government funds that have been transferred by cheque: individuals who hold accounts with banks or credit unions may deposit the cheque in their account and withdraw funds (subject to any cheque hold policies); the individual may pay a fee and cash the cheque at an Alternative Financial Services (AFS) business; or in some cases, the cheque may be cashed through a small business such as a convenience store. The costs of using these different services vary considerably: cashing one's cheque through an AFS outlet is considerably more expensive than accessing funds through a bank account. Most Ontarians access funds through their bank accounts; however, a small but significant number of Ontarians pay the higher fees required to cash their cheques at an AFS business or cash them through informal means.

Over the years, concerns have been repeatedly voiced by organizations serving or advocating for low-income individuals about the impact of relatively expensive cheque cashing services on these Ontarians, particularly those in receipt of government assistance. Several Canadian jurisdictions have taken legislative initiatives to ensure that recipients of government cheques can access these funds at low or no cost (see Appendix C).⁹

The issue of fees for cashing government cheques raises the following questions:

- Who uses cheque cashing services?
- How widespread is the use of cheque cashing services among recipients of government benefits and what is the impact of those fees on these individuals?
- Why do consumers use cheque cashing services when funds can also be accessed through mainstream financial institutions at low or no cost?
- Are the cheque cashing rates charged by AFS businesses excessive in light of the risks and costs associated with providing the service? What are the costs and risks of cashing government cheques?

The answers to these questions are important in determining whether reform is necessary, and if so, what reforms would be both practical and effective.

The situation and the issues are complex, and in some cases, only limited information is available. During the LCO's public consultations, it became clear that stakeholders have different perceptions, not so much as to whether the payment of fees for cashing government cheques is an issue of concern, as it was generally agreed that this is a pressing issue, but of the source of the problem. The core issue was variously characterized as the profound poverty and lack of social supports for certain segments of Ontario society; barriers to mainstream financial services; predatory practices by AFS businesses; or lack of financial awareness and poor choices by some individuals.

The following section attempts to address these issues by outlining available information regarding the users of cheque cashing services, barriers to the use of mainstream financial services and the key features of the cheque cashing industry.

A. Cost of Cashing Government Cheques in Ontario

The cost of cashing a government cheque in Ontario may vary considerably depending on the source of the cheque cashed, the institution cashing the cheque and local arrangements. Cashing a government cheque may involve low or even no charges or it may involve considerable expense.

1. BANKS AND CREDIT UNIONS

Banks and credit unions will cash cheques for account holders, subject to their cheque hold policies. The major banks all now offer basic banking accounts for under \$4.00 per month. Services offered with these accounts include the deposit and withdrawal of cheques (for details, see Appendix F).¹⁰ Account holders may therefore access cheque funds for a very minimal charge. Some banks also offer “pay as you go” fee structures for those with branch accounts: for example, Royal Bank or Bank of Montreal account holders who choose a pay-as-you-go fee option will pay \$.75 to cash a cheque of any amount.

Federal government cheques of up to \$1,500.00 may be cashed without fee at any bank (regardless of whether the person holding the cheque is an account holder) upon production of a piece of identification that has both a photo and a signature, or of two pieces of other acceptable identification.¹¹ Federal law specifically exempts banks from cashing such cheques where there is evidence of illegal or fraudulent activity with respect to the cheque.¹²

As well, a number of Ontario municipalities have entered into informal agreements with local banks or credit unions to facilitate the cashing of social assistance benefit cheques without charge.¹³ Under these agreements, the social services delivery agent agrees to indemnify the financial institution in cases of fraud, and in return the bank or credit union agrees to cash Ontario Works program cheques without charge, whether or not the cheque holder is an account holder, upon the production of appropriate verification. The verification required differs depending on the agreement; some require the same type of identification as is used for cashing federal government cheques, while others permit cheques to be cashed based on the presentation of a letter produced by the social service provider.

2. AFS BUSINESSES

Government cheques may also be cashed at AFS businesses. Cheque cashing businesses charge a range of fees for this service. Usually fees include both a flat “item” or “transaction” charge and a charge calculated as a percentage of the value of the cheque being cashed. Generally, there is no difference in the fee charged for cashing government, payroll or personal cheques. For example, as of July 2008, Money Mart and Cash Money each charged an item fee of \$2.99 plus a percentage fee of 2.99 of the face value of the cheque, while Cash House charged \$1.49 plus 2.49%. The fee for cashing a \$500 cheque would therefore be \$13.94 at Cash House and \$17.94 at Money Mart or Cash Money. A lone mother of two young children cashing her monthly social assistance and Ontario Child Benefit cheques for \$1,510 at Money Mart or Cash Money would pay \$48.14 per month to cash her cheques, for a total annual charge of \$577.67 per year.

3. INFORMAL CHEQUE CASHING

Finally, government cheques may be cashed as an ancillary service by retailers such as bars or convenience stores, or occasionally by landlords. Data on such services are limited. However, based on information provided to the LCO by stakeholders, the fees for such informal cheque cashing services may vary greatly, from minimal to exorbitant. In some cases, the cheque casher will require that the funds from the cheque be spent in-store. This practice appears to be relatively rare in urban centres in Southern Ontario, but may be quite common in remote communities, particularly in Northern Ontario.

B. Impact of Cheque Cashing Fees: Users of Cheque Cashing Services and Recipients of Government Benefits

Who uses cheque cashing services? In attempting to assess the impact of fees for cashing government cheques, it is helpful to consider available information about three groups: users of AFS businesses in general, users of cheque cashing services and those who are cashing government cheques in particular. There has been significant research on users of payday loan services, some research on persons who use cheque cashing services, and very little research on persons cashing government cheques.

These groups overlap: payday loan users also frequently use the cheque cashing services provided by AFS businesses, for example. However, they are certainly not identical. By virtue of having employment income, payday loan customers and individuals cashing payroll cheques differ in important respects from persons who rely on government cheques for subsistence. The Canadian Payday Loan Association (CPLA) prohibits members from providing payday loans on the basis of social assistance payments; however, it appears that some organizations that are not members of the CPLA do provide such services to social assistance recipients.¹⁴

Further, it is important to remember that the provincial Government issues a variety of cheques and not all persons receiving government cheques are low-income, while some persons cashing payroll cheques may very well be.

1. USERS OF AFS SERVICES

A number of studies and surveys have examined the characteristics of customers of AFS businesses, usually with a focus on payday loan services.

Use of AFS outlets is relatively rare among Canadians. A 2005 survey conducted by Ipsos-Reid for the Financial Consumer Agency of Canada (FCAC) found that only seven per cent of Canadians have used an AFS business.

Studies agree that users of AFS businesses overall are more likely to be young and low-income. The Ipsos-Reid survey found that AFS users were more likely to be young, low-income and urban (the latter likely reflecting the current distribution of AFS locations).¹⁵ A Statistics Canada study of Canadian payday lending patterns based on the 2005 Survey of Financial Security found that young families (families with the major income recipient between the ages 15 and 24) were three times more likely to have used payday loans than families whose major income recipient was aged 35 to 44. Use of

payday loans was also found to be associated with lower levels of education. Low-income families were twice as likely to have used payday loans. Particularly vulnerable were families with bank balances of \$500 or less, as well as families that did not have credit cards. Almost half of those using payday loans reported that they had no one to turn to for financial assistance in the face of financial difficulties.¹⁶

Users of AFS services are also disproportionately likely to be found in Northern regions, at almost double the rate of Canadians in other regions (13 per cent, compared to seven per cent).¹⁷

According to the Ipsos-Reid survey, the most frequently used alternative financial service was cheque cashing (57 per cent of users), with 25 per cent of AFS customers using payday loans services. Surprisingly, one-quarter of AFS customers reported using these businesses to cash a federal government cheque – which may be cashed without charge at any bank upon presentation of appropriate identification. Supporting these results, a 2006 survey found that fully 31 per cent of all those using cheque cashing outlets over the previous year did so in order to cash a federal government cheque. Neither survey asked users about cashing provincial or municipal government cheques; presumably this would also be a significant proportion of the cheques cashed. The 2006 survey went on to note that 40 per cent of those using non-bank services to cash cheques did not know that the fees were higher than those offered by mainstream financial institutions.¹⁸

The Ipsos-Reid survey found that AFS consumers cashing federal government cheques were substantially more likely to be young and low-income than other AFS customers (who already are more likely than the average to be young and low-income).

Interestingly, evidence given in a hearing before Manitoba's Public Utilities Board in 2007 indicates that a very substantial proportion of persons cashing cheques through Money Mart have no account with a bank or credit union – perhaps as many as one-third of these customers.¹⁹

2. IMPACT ON RECIPIENTS OF GOVERNMENT CHEQUES

Government cheques may be issued for a variety of purposes, including employment and payment for business services. Wages to Ontario public servants are for the most part paid through direct deposit and therefore make up a relatively small proportion of cheques issued. For the fiscal year 2007-2008, the Ontario government issued 693,861 cheques for direct operating expenses.²⁰

There are also a number of benefit programs for which cheques may be issued. In the fiscal year 2007–2008, the Ontario government issued 1,732,426 cheques related to transfer payments. The top programs for which cheques were issued were as follows:

Ontario Child Care Supplement (OCCS): This program provides low-income Ontario families who have children under the age of seven and who meet other eligibility criteria with a monthly supplement to assist with child care costs. The program is integrated with the federal Canada Child Tax Benefit. The OCCS is currently in transition with the introduction in July 2008 of the Ontario Child Benefit (OCB),²¹ and will gradually be phased out.

Ontario Disability Support Program: This program is fully described in the following section. Note that cheques for the Ontario Works social assistance program are not

included here among cheques issued by the Ontario Government, as those cheques are issued by service delivery agents.

Vehicle Plate Refunds: Drivers who move out of Ontario and have more than three months remaining on their license plate validation may apply for a refund.

Guaranteed Annual Income Supplement (GAINS): This program provides a guaranteed minimum income to Ontario seniors, in addition to the federal Old Age Security pension and Guaranteed Income Supplement, through monthly payments of up to \$83.00 per month.

Northern Ontario Travel Grants: These travel grants are funded by the Ministry of Health and Long Term Care to help defray the transportation costs for eligible residents of Northern Ontario who must travel long distances within Ontario or Manitoba to receive medically necessary insured specialty services that are not available locally.

Integrated Tax Administration System: The Ministry of Revenue administers Ontario's tax statutes, tax credits, and tax benefits (such as GAINS, the OCB, and the OCCS).

Of these transfer payments, the Northern Ontario Travel Grants, Tax Administration payments and Vehicle Plate Refunds are occasional payments, and apply across all income groups. The OCCS, GAINS and social assistance payments, however, are targeted to low-income groups, are recurring payments, and are essential to their recipients' economic security.

LCO consultees overwhelmingly focused their concerns on recipients of social assistance benefits, emphasizing the limited income and vulnerability of this group of Ontarians. Further information on Ontario's social assistance programs and the impact of cheque cashing fees on this group is therefore provided below.

Background

In the Province of Ontario, social assistance is a shared responsibility between the provincial and municipal governments. Ontario provides two main social assistance programs: Ontario Works, and the Ontario Disability Support Program (ODSP). The Ontario Works program is the general social assistance program, and is governed by the *Ontario Works Act, 1997*. Ontario Works is delivered by Municipal Service Managers, District Social Service Administration Boards (SSAB), and First Nations communities, the governments actually issuing the cheques and overseeing the day-to-day administration of the program. The ODSP provides income support and benefits to persons with disabilities and their families who are in financial need. This program is delivered by the Ministry of Community and Social Services.²²

As of March 2008, there were 372,018 beneficiaries of the Ontario Works social assistance program, approximately half of them (187,481) members of sole-support parent families, approximately one-third (108,638) single individuals, and the rest couples without children. There were 332,627 beneficiaries of the ODSP, over half of whom are single individuals. There were also 22,420 families receiving the Assistance for Children with Severe Disabilities Benefit. In total, in March 2008, almost three-quarters of a million Ontarians were receiving social assistance benefits.²³

Impact

It is difficult to estimate how frequently social assistance recipients use cheque-cashing outlets, although certainly social service providers believe it to be a very common experience. The Ministry of Community and Social Services reported to the LCO that although a substantial proportion of social assistance payments are provided electronically (four million payments per year), it produces over three million social assistance cheques each year. The Waterloo SSAB estimated that approximately 50 per cent of Ontario Works recipients in that municipality were currently receiving payments via cheque; in Thunder Bay, this figure was 80 per cent. The Thunder Bay SSAB surveyed a sample of cheque recipients for the month of March 2008, and found that 36 per cent of all cheques issued were cashed at an AFS outlet and seven per cent at other non-bank locations, such as convenience stores or pawn shops. These figures indicate that a very sizeable number of social assistance recipients may be regularly paying significant fees in order to access their government benefits. The deep poverty of social assistance recipients may itself be one of the reasons for the use of cheque cashing services. The Thunder Bay SSAB submitted that the root cause of the use of payday loan and cheque cashing outlets is poverty:

Social assistance rates are currently inadequate to meet the basic needs of Ontarians that require support. The reduction of Ontario Works and ODSP rates by 20% and the subsequently declining rates (relative to inflation) have created a situation of dire poverty for many Ontario children and families.

As a result of their low income levels, persons dependent on social assistance urgently require access to their funds as quickly as possible; in these circumstances, the immediacy of access provided by cheque cashing outlets becomes of prime importance.

In terms of benefits, a single person receiving assistance through Ontario Works is currently entitled to a maximum of \$560 per month (\$6,720 annually), combining shelter and basic needs allowances. A single person receiving ODSP is entitled to \$999 per month (\$11,998 annually). A lone parent with one child under the age of 12 can receive a maximum of \$1,180 per month (\$14,160) under Ontario Works (when combined with the OCB) or \$1,680 per month (\$20,160 annually) from ODSP (when combined with the OCB). For context, the 2007 Low Income Cutoff pre-tax for a single person was \$14,914 for rural areas and \$21,666 for large urban areas; the 2007 Low Income Cutoff pre-tax for a lone parent with one child was \$18,567 for a rural area and \$26,972 for a large urban area.²⁴

Many submissions pointed out that, given the extremely low incomes of recipients of social assistance benefits, payment of fees for cashing these cheques is oppressive. The Public Interest Advocacy Centre stated that:

Considering that the majority of persons using these services are vulnerable low-income consumers, such as parents on welfare or the disabled, this clearly suggests that the added fees are both oppressive and regressive... This is further substantiated by a National Council of Welfare Report in 2005 which found that welfare incomes across Canada continue to be well below the poverty line, coming in at less than two-thirds of the poverty line for all households in all jurisdictions in 2005 ... With the already low income these individuals receive, it is more than illogical for them to surrender a substantial portion of their social assistance cheques for added fees.

A single person receiving \$560 per month (\$6,720 per year) in benefits, who spends \$20 per month, or \$240 per year to cash those benefits is therefore spending over the course of a year approximately two weeks worth of his or her benefits simply in order to access them. Because the budget is very small to begin with, the impact of cheque cashing fees on the ability to afford the necessities of life may be large.

C. Financial Capability and Access to Information

A recurrent issue in discussions regarding AFS businesses is the degree to which consumers who use these services are exercising an informed choice. One of the purposes of Ontario's recently passed Bill 48, the *Payday Loans Act, 2008*, (see Appendix B) was to ensure that consumers have the appropriate information to understand the risks and responsibilities associated with payday loans. Similarly, it is appropriate to ask the extent to which users of cheque cashing services, and in particular, individuals cashing government cheques, understand the costs of this service and the alternatives available.

The ability to understand and apply information about financial issues and to plan for the future may have a significant impact on an individual's life. As financial products, services and options are becoming more and more complex and access to credit becomes easier, financial literacy is becoming increasingly important. As the FCAC states:

To be able to access and effectively use the most basic financial products and services, such as chequing or savings accounts, credit cards, debit cards, on-line banking, consumers must have sufficient levels of knowledge and must know their rights.²⁵

Financial capability is important for low-income individuals, who have only a small margin for error as they can ill afford to lose any potential financial benefit. However, few organizations provide financial advice to low-income individuals.

It is difficult to assess general levels of financial capability in Canada. A 2006 survey conducted for the FCAC found that while a large majority of survey respondents felt informed and confident that they had the required knowledge to make ordinary financial decisions, a majority acknowledged that most information about financial matters was hard to understand, and over 40 per cent indicated a need for further education. A sizeable proportion of financial consumers do not feel informed about their rights with respect to financial institutions. Three-quarters of respondents did not know whether it costs something to cash a federal government cheque: only 22 per cent knew that it is free of charge.²⁶

Levels of financial capability may well be lower among low-income individuals than in the general population. Social service providers that the LCO consulted emphasized that social assistance recipients often have complex needs and may receive inadequate support to meet those needs. The Thunder Bay SSAB stated that many Ontario Works clients are underserved by the mental health, addictions and development services systems and require greater supports than are currently available:

The assumption is generally made that persons in receipt of social assistance are capable of independent living and are able to make rational choices concerning their banking arrangements; however, we have found many clients have fallen through significant cracks in the

health care system and are struggling to cope with basic activities of daily living. For these clients, making and maintaining banking arrangements would require third party support and guidance.

Government and non-profit social service organizations that the LCO met with during its consultations indicated that some of their clients face challenges with technological, financial and basic literacy. They may have difficulty accessing and understanding information about bank charges and services, and in understanding the relative costs and services of AFS and mainstream services. For these individuals, technology like ABMs and debit cards may be a barrier rather than an opportunity, and print information regarding financial services and options may be of little help. In these situations, the type of respectful personal assistance potentially rendered by tellers is crucial.

The LCO heard repeatedly that low-income individuals are confused about the costs and services associated with basic banking services, and may prefer cheque cashing services because charges are up-front, one-time and easy to understand.

The LCO also heard that the front line staff in organizations assisting low-income individuals are themselves often not particularly confident of their financial literacy skills and have insufficient knowledge of rights and services for low-income individuals. They are therefore concerned that they are often unable to provide clients with the information and advocacy that they require with respect to financial services. As Professor Jerry Buckland points out, because of the way that various welfare programs are structured, such that current and future welfare payments change as one's income rises, there are particular challenges in providing helpful financial advice to low-income people. Bank staff must be aware of these challenges if they are to provide advice that meets the needs of low-income individuals.²⁷

Some communities, such as newcomers or Francophones, may face additional linguistic and cultural barriers in attempting to access information about financial services. The Centre Francophone de Toronto pointed out that cultural and linguistic barriers exacerbate the other barriers that their clients face in accessing mainstream financial services.

*Our clients must overcome many barriers, including those of language, culture shock and mostly financial concerns. They find it harder and harder to integrate since the labour market is out of their reach. Most of them rely on nothing else but welfare cheques and financial assistance from the government. Since they can not open a bank account either because they do not know their rights or due to bank requirements, they have to turn to payday loan or cheque cashing services.*²⁸

Centre Francophone de Toronto

The Ontario Federation of Indian Friendship Centres indicated that it is important to have culturally appropriate services available for Aboriginal persons. The Nishnawbe-Aski Legal Services Corporation told the LCO that for information about financial services and options to be meaningful, it must be presented in the language of First Nations communities, and with respect and understanding for cultural and historical differences.

Persons with mental health issues may also face unique barriers to information. The Centre for Addiction and Mental Health (CAMH) pointed, as an example of what can be done to overcome such barriers, to the pioneering work of the Provincial Alliance Credit Union, which has partnered with CAMH to provide accessible financial services to this community.

The FCAC has undertaken significant initiatives to understand the financial information needs of Canadians, including low-income Canadians, and to find effective methods of providing this information. They have, for example, undertaken surveys of levels of consumer awareness of financial services options and their rights and responsibilities as consumers, partnered to produce a 2005 Symposium on Financial Capability, developed plain language and interactive tools to increase consumer awareness, and made efforts to educate financial institutions on their responsibilities.²⁹

D. The Mainstream Financial Services Industry

As noted earlier, most Canadians do not pay fees, and certainly do not pay high fees, to obtain funds transferred by cheque: through their accounts at mainstream financial institutions, they receive their funds at no or very low charge. Why then do many individuals, including a significant number of recipients of government benefits, use AFS businesses in order to receive their funds? The question is especially pressing because, as is clear from the previous section, those individuals paying significant cheque cashing fees are often those the least able to afford these costs. To fully understand the issues surrounding fees for cashing government cheques, it is important to look at not only the AFS sector that provides formal cheque cashing services, but also the broader context of the mainstream financial services sector where most Canadians receive services.

Canada, and Ontario, has a strong mainstream financial services sector that for the most part serves consumers well; however, recent years have seen rapid growth in the AFS sector – a trend that has been the source of considerable comment and conjecture. There are Ontarians who use both mainstream financial services and AFS, and others who use only one or the other. The following section explores some key trends and issues that have been identified with respect to the mainstream financial services industry.

1. BACKGROUND

The mainstream financial services sector is an intricate web of institutions, regulatory bodies, laws and services. As a result of its vital role in the economy and in the lives of consumers, the financial services sector in Canada and Ontario has in general been heavily regulated and superintended. Due to the complex, multifaceted and frequently shifting policy considerations relating to financial services, legislation and policy in this area are also complex and ever changing.

Ontarians currently access mainstream financial services through a range of institutions, including banks, credit unions, trust companies and loan companies. In Ontario, the financial services sector is dominated by banks, and in particular by the “Big Five” that have their headquarters in the province: Royal Bank, Toronto Dominion, Scotiabank, Bank of Montreal and the Canadian Imperial Bank of Commerce. The banking industry is heavily

regulated in Canada and subject to significant superintendence. For example, the FCAC has a mandate to monitor all banks and federally incorporated or registered insurance, trust and loan companies and cooperative retail associations for compliance with federal legislation and to promote the adoption of policies that ensure consumer protection.

Credit unions have a long history in Ontario, developing in the early 1900s as a response to difficulties consumers and farmers faced in obtaining credit. Modelled on the cooperative system, credit unions are established by consumers for the purpose of meeting their needs. Because of the dominance of the banking industry in Ontario, the credit union movement has a relatively low level of visibility, although it plays a vital role in providing financial services, particularly in rural and Franco-Ontarian communities. In urban centres, credit unions often are associated with specific ethnic communities or occupational groups. Currently, approximately 13 per cent of Ontarians have a membership with a credit union, and credit unions have about five per cent of the deposit-taking market in Ontario.³⁰ Credit unions are generally provincially regulated, and like banks, are subject to significant regulation and superintendence.

The last few decades have seen very rapid change in the financial services industry. When considering cheque cashing, perhaps the most important development has been the rapid technological change that has resulted in the explosion of electronic banking. This includes the introduction and widespread adoption of credit and debit cards; the ability to conduct financial transactions online, over the telephone, or most commonly via ABMs; and the continued growth in direct deposit programs.³¹ The growth in electronic banking has implications for access to financial services and for the role of cheques in transferring funds (and the consequent necessity for cheque cashing services).

Rapid changes in the financial services industry have increased consumer choice, but have also led to increased complexity and sometimes to confusion on the part of consumers. There is a plethora of institutions, services and options available, requiring greater sophistication on the part of consumers. While the rapid pace of innovation has increased ease of access for many, the LCO heard from organizations working with low-income individuals that consumers who are not technologically literate may find themselves left behind. Recent surveys by the FCAC found that a sizeable proportion of financial services consumers do not feel well informed about their rights and responsibilities, a majority felt that most information about financial matters is hard to understand, and a substantial minority felt powerless in their dealings with financial institutions.³²

It has been noted that the public, for a variety of reasons, has higher expectations of financial institutions, and in particular of banks, than they do of other businesses, and tends to see them as shouldering a higher degree of public responsibility.³³ Over the past ten years in particular, there have been a number of reforms to the banking system to address public concerns, including enhanced requirements regarding public disclosure and notification, access to services and protection of privacy and personal information.

2. USE OF MAINSTREAM FINANCIAL SERVICES: PATTERNS AND BARRIERS

A number of the submissions to the LCO emphasized that the issues associated with cheque cashing fees cannot be understood or addressed without considering the relationship between low-income communities and the mainstream financial services

sector, and the nature and impact of financial exclusion. This involves a consideration of broad issues of income disparity, economic marginalization, and the role of financial services in individual and community well-being.

This Project deals with a relatively discrete issue: the effective transfer of funds from government to individuals. It is beyond the scope of this Project to deal with all of the broad concerns related to financial exclusion and access to financial services. However, the issue at hand cannot be understood and addressed without considering this broader context.

As outlined in the previous section on users of cheque cashing services and recipients of government cheques, these individuals are disproportionately likely to be both low-income. To understand the reasons for the use of cheque cashing services, the impact of cheque cashing fees and the practicalities of potential reforms, it is essential to understand the relationship between these individuals and the mainstream financial services industry. This section briefly outlines some of these elements.

The issues associated with cheque cashing fees cannot be understood or addressed without considering the relationship between low-income communities and the mainstream financial services sector, and the nature and impact of financial exclusion.

Financial Exclusion and the Unbanked/Underbanked

The term “financial exclusion” has been variously defined, but generally speaking, an individual may be considered to be financially excluded when he or she lacks adequate access to, or information about, basic goods and services provided by the financial services sector or government.³⁴ In Canada, financial exclusion has been mainly considered through the phenomenon of “unbanked” or “underbanked” individuals – that is, those who have no or insufficient access to mainstream financial institutions such as banks or credit unions. Persons who are unbanked or underbanked may use either informal financial services (such as those provided by family and friends, or by grocery stores and landlords), or AFS institutions like cheque cashers, payday lenders and pawnshops.

The mainstream financial services sector provides well for the vast majority of Canadians, who have little or no difficulty in accessing financial services. Trends towards electronic banking have actually increased ease of access for many. The number of unbanked Canadians is hard to measure with accuracy, given that those who are most likely to be unbanked are also those who are most difficult to reach by standard survey methodology. Most estimates place the percentage of unbanked Canadians at between three and five per cent – that is, about one million Canadians.³⁵ This is relatively low, compared to, for example, the United States, where the figure is generally estimated to be at minimum ten per cent.³⁶

While the number of unbanked or underbanked in Canada is relatively low, for these individuals, financial exclusion may have a significant impact. Individuals who are unbanked or underbanked may pay high costs for basic financial transactions, are vulnerable to unregulated or predatory practices, and miss out on access to services and benefits that would be of material benefit to them. The cumulative effects of financial exclusion may ultimately reinforce social and economic marginalization.³⁷ Research for the Task Force on the Future of the Canadian Financial Services Sector found that a strong majority of Canadians viewed access to basic banking services as essential. Access to cheque cashing services was viewed as essential or important by 95 per cent of Canadians, and access to a basic chequing account was viewed as essential or important by 85 per cent of Canadians.³⁸

Unbanked individuals are, not surprisingly, more likely to use cheque cashing services. For example, note the estimate provided by Money Mart during Manitoba's hearings on setting fees for cashing government cheques, that up to one-third of their cheque cashing customers are unbanked.³⁹

Not all Canadians are equally likely to be unbanked. For example, the percentage of unbanked individuals may be significantly lower in Quebec than in the rest of the country and higher in northern Canada.⁴⁰

There may also be religious or cultural barriers to mainstream banking services. For observant Muslims, religious requirements forbidding, for example, the payment or receipt of interest may mean that they do not have access to appropriate financial services, and may therefore find themselves unbanked or underbanked. Recently, there has been growing interest on the part of financial institutions in developing sharia-compliant products and services.⁴¹

Most importantly, financial exclusion is closely associated with low income. Some have estimated that as much as 15 percent of low-income individuals may be unbanked.⁴² A 1995 Environics study found that eight per cent of individuals with incomes below \$25,000 did not have access to banking services.⁴³ In 1998, the government of Saskatchewan estimated that between 55 and 60 per cent of its social assistance caseload was unbanked.⁴⁴ While there do not seem to be any recent studies of levels of financial exclusion among low-income Canadians, the social service agencies that the LCO met with confirmed that in their experience, low-income individuals continue to be disproportionately likely to lack a relationship with a mainstream financial institution.

In recent years, there have been significant efforts to make it easier for low-income individuals to open bank accounts. The major banks all now offer low-cost basic banking services. A basic bank account offering standard withdrawal, transfer and bill payment services costs less than \$4.00 per month.⁴⁵ The requirements for opening a bank account in Canada were simplified in the 2003 *Access to Basic Banking Services Regulation*.⁴⁶ Generally, two pieces of identification from a prescribed list must be provided, although one piece may be sufficient if the identity of the person seeking the account is confirmed by a client in good standing with the bank or an individual in good standing in the community where the bank is located. Additional identification may be required if bank staff have reason to question the identity of the person seeking to open an account.

Banks are not required to open bank accounts in certain circumstances, such as where it is believed that the individual plans to use the account for illegal or fraudulent purposes; opening the account would subject other customers or employees to physical harm, harassment or abuse; the individual refuses to consent to the bank verifying the identification presented; or the individual has a history, within the previous seven years, of illegal or fraudulent activity in relation to financial services providers. Where a bank refuses to open an account, it must give written reasons and provide information on how to contact the FCAC.

The FCAC is responsible for monitoring the compliance with access to banking requirements and regularly undertakes "mystery shopping" expeditions to assess progress. In 2004-2005, mystery shoppers were successful in opening a bank account in 84

per cent of their attempts. The FCAC noted that the main reason for refusal to open a bank account was uncertainty on the part of bank employees about identification requirements, and in a number of instances, banks required identification in excess of what was required by the *Access to Basic Banking Regulations*. The FCAC also noted the very low rate of compliance by the banks with requirements to provide written reasons for refusal.⁴⁷

Why are low-income individuals disproportionately likely to be unbanked? A number of reasons have been offered. The LCO heard from a number of organizations working with low-income individuals that their clients may find bank accounts superfluous, as they are left with a zero balance at the end of each month. At very low levels of income, individuals by necessity may operate in a cash economy, focused on immediate, day-to-day needs, rather than on planning for the future. Some individuals find that having their monthly cash in hand assists them with their survival budgeting. Other issues include attitudinal barriers, identification requirements, cheque hold policies, hours of operation, and location. The following sections outline each of these potential barriers to opening and maintaining an account with a mainstream financial institution.

Identification Requirements

In order to prevent fraud, personal identification is required both to open a bank account and to cash a federal cheque at a bank where one is not an account holder.

Efforts have been made to reduce and simplify the requirements for identification. Under the 2003 *Access to Basic Banking Services Regulations*,⁴⁸ persons seeking to open a bank account must present two pieces of identification. At least one of the pieces of identification must be from the following list:

- Canadian driver's license,
- Current Canadian passport,
- Canadian birth certificate,
- Social Insurance Number,
- Old Age Security card,
- Certificate of Indian status,
- Certificate of Canadian Citizenship or Certificate of Naturalization, or
- Permanent Resident Card or specified Citizenship and Immigration forms.

The second piece of identification may be from the above list or may be:

- an employee I.D. card,
- a debit or bank card with name and signature,
- a Canadian credit card with name and signature, or
- a current foreign passport.

If a second piece of identification is not available, the person seeking to open the account can have someone known to the bank confirm his or her identity.

Many of these documents are expensive to obtain (e.g., driver's license, passport, birth certificate), require complex paperwork or pre-suppose access to financial resources (e.g., employee I.D., debit cards, credit cards). As well, persons who are leading transient lifestyles or who are struggling with mental health issues may find their identification lost or stolen, and if they do not have a fixed address may have difficulty in replacing identification. Not surprisingly, low-income individuals may find they have insufficient identification to open a bank account. Persons without immigration status are also highly unlikely to be able to meet the above identification requirements.

The 2007 Street Health Survey of 368 homeless adult Torontonians, conducted for the City of Toronto between November 2006 and February 2007, found that 50 per cent of those surveyed did not have a Social Insurance Number, and 29 per cent did not have proof of citizenship (such as birth certificate, citizenship card or record of landing).⁴⁹

The Nishnawbe-Aski Legal Services Corporation told the LCO that older members of First Nations communities may have particular difficulties in accessing identification. Some individuals never had their births registered. Others were "renamed" upon arrival in residential schools, and therefore have inconsistent identification.

A number of studies have identified difficulties in accessing identification as a barrier to financial services.⁵⁰ The Task Force on the Future of Financial Institutions recommended that governments take steps to ensure that all Canadians have access to low-cost identification, in order to improve access to financial services. The LCO heard widespread frustration and concern about the lack of low-cost, accessible identification for Ontarians.

Because lack of identification may create a barrier to accessing many services, several non-profit organizations run "identification clinics" to assist clientele in obtaining identification. As well, municipal social assistance programs often have initiatives to help individuals to access identification, either through funding the cost of obtaining identification, or by providing administrative assistance. Social service agencies may also develop partnerships with local credit unions or banks to provide letters of verification of identity to supplement or substitute for inadequate identification.

Several provinces and territories provide individuals who do not need or cannot meet the requirements for a drivers' license with a low-cost alternative photo identification that qualifies under the *Access to Banking Regulations*. For example, Saskatchewan Government Insurance provides a \$10.00 photo identification card and New Brunswick provides a similar card for \$9.20 (a complete list is available at Appendix E).

Currently, Ontario does not provide any low-cost alternative photo identification for individuals who do not have driver's licenses that meet the requirements of the *Access to Banking Regulations*. However, in June 2008, the Ontario government introduced Bill 85, the *Photo Card Act, 2008*. As part of a set of broader initiatives to provide Ontarians with an alternative to the passport and to encourage cross-border travel, the Bill would permit the Ministry of Transportation to issue photo identification cards to Ontario residents who do not hold a driver's license.⁵¹ The Bill would also enable the Ministry to issue enhanced photo identification cards that include citizenship information, which will facilitate cross-border travel. Ministry documents indicate that, should the Bill pass, the photo cards are expected to be phased in by 2010. It is anticipated that the cost of the basic photo identification card will be \$35.00, and the cards will be valid for a period of five years.⁵²

In most parts of Canada, persons seeking to open an account may also present their provincial health care card as identification. Since the passage of the *Ontario Health Cards Number and Control Act* in 1991, Ontario has placed restrictions on the use of health cards as identification. Currently, section 34(4) of *Ontario's Personal Health Information Protection Act (PHIPA)* prohibits any person from requiring the production of another person's health card, unless that person is providing provincially funded health resources or if a third party is collecting the information for purposes related to the provision of provincially funded health resources to the card holder. It also prohibits the collection or use of health numbers by persons who are not health care custodians.⁵³ At the time of the passage of the *Health Cards Number and Control Act*, the Ontario government indicated that the right to individual privacy and confidentiality of health information outweighed the convenience to business and other organizations of "having yet another way to establish the identity of individuals". As well, the government was concerned to avoid the development of a pattern of usage of health cards for purposes other than their intended use: the delivery of health-related services.⁵⁴

While *PHIPA* does not prevent individuals from voluntarily producing their health cards as identification, because financial institutions cannot record health numbers for identification purposes, financial institutions do not collect or use the health card for the purpose of establishing identity. As the provincial health card is a free and near universal photo identification, the Canadian Bankers Association has pointed to this prohibition on the use of the Ontario health card as identification as an unintended barrier to access for low-income persons.⁵⁵

Many organizations suggested that restrictions on the use of health cards as identification be eased; others, however, felt that there were privacy concerns related to the use of health cards, and suggested that it would be more appropriate to explore other means of providing Ontarians with access to low-cost identification.

Cheque Hold Policies

Account holders generally may cash cheques at their bank or credit union, subject to cheque hold policies. In order to prevent fraud, financial institutions may place a hold on funds deposited by cheque to allow time for the cheque to clear. For example, the institution may need to make sure that the person or company who wrote the cheque has enough funds to cover the cheque; to make sure that the person or company who wrote the cheque has not put a "stop payment order" on the cheque; and to verify the cheque details with the person or company who wrote the cheque to ensure that it has not been altered. Under the *Cheque Holding Policy Disclosure (Banks) Regulation*, banks are required to provide account holders with information regarding their cheque hold policies.⁵⁶

Cheque hold policies vary from institution to institution. Banks and credit unions may apply different hold periods depending on the source of the cheque – for example, if it is drawn on the same bank, on another Canadian financial institution, on an American institution, or on a foreign institution. Institutions may also consider whether or not a cheque is 'encoded'. The customer's 'creditworthiness' may be taken into account – for example, the length of time that the customer has been an account holder with that bank, the current status of the customer's existing accounts, and the customer's credit history with the bank.

It was the opinion of many consultees that cheque holds, together with identification requirements, are the two most significant issues limiting the use of mainstream financial institutions by low-income individuals.

Efforts have been made to reduce the length of holds placed on cheques. The Canadian Bankers' Association indicated to the LCO that:

The consultation paper suggests that bank cheque hold policies are one of the factors that influence consumers' use of alternative cheque cashing services such as payday lenders and pawnshops. However, it should be noted that less than one per cent of deposit accounts are subject to cheque holds. Banks may apply a hold on funds deposited by cheque to manage risk. If they don't, banks are giving the depositor immediate access to the funds despite the fact that the cheque settlement process takes several days or longer to complete. Since April 2007, banks have committed to limiting the maximum hold period on cheques to seven days. The hold period will be further reduced to four days once electronic imaging and electronic settlement is fully implemented.

As the Canadian Payments Association will begin rolling out cheque-imaging across the country in the fall of 2008, it is anticipated that cheque-clearing times will continue to improve.⁵⁷

However, many stakeholders emphasized to the LCO that cheque hold policies are a significant barrier for low-income individuals, who are generally operating under very tight cash-flow requirements and cannot wait to access their funds. As the Thunder Bay SSAB stated:

By the end of the month, many Ontario Works families simply cannot wait for three days for a cheque to clear, due to a simple lack of funds. Although it makes little rational/economic sense to persons with money left in the bank at month's end, the paying of a high fee to immediately cash an inadequate cheque becomes an essential and self-perpetuating practice for the poorest of families.

The LCO heard from organizations working with low income individuals that, while in practice cheque hold periods may in most cases be quite short, where individuals hear that holding periods may be "up to" five days, the risk that they could be without access to their funds for the maximum period of the hold may act as a deterrent to depositing the cheque. It was the opinion of many consultees that cheque holds, together with identification requirements, are the two most significant issues limiting the use of mainstream financial institutions by low-income individuals.

A survey conducted for the FCAC in late 2006 reported that nine per cent of respondents holding a bank account reported problems with their institution's policy of holding funds when depositing a cheque.⁵⁸

Attitudinal Barriers

In our society, negative attitudes towards low-income individuals, and in particular towards those in receipt of social assistance, are widespread. Like all of us, low-income individuals want to be treated with respect and dignity. A significant number of organizations working with low-income Ontarians informed the LCO that their clients tend to find mainstream financial institutions intimidating and impersonal, and therefore may be reluctant to deal with them. As well, several organizations indicated to the LCO that there is a signif-

icant need for sensitivity training for front-line staff in mainstream financial services on issues related to disability (particularly mental health issues), racism, newcomers and low income.

A recent study on the use of AFS businesses in Winnipeg reported concerns about lack of respectful and courteous treatment of low-income individuals by some mainstream financial institutions. The study stated that respondents “commented on feeling alienation and discrimination; they often expressed feeling mistreated and disregarded by the bank tellers because they received social assistance.”⁵⁹ Similarly, another recent survey regarding the financial service choices of residents in low-income inner-city neighbourhoods in Toronto, Vancouver and Winnipeg reported that Toronto survey respondents were significantly more likely to feel disrespected at mainstream financial institutions than at AFS businesses, describing mainstream banks as aloof and uninterested in providing help.⁶⁰

As well, a consultee whose organization provides financial literacy training and support for low-income Ontarians informed the LCO that bank staff are often unaware of the entitlements and circumstances of low-income individuals, and may provide inappropriate or inadequate advice to individuals seeking assistance; this individual recommended that staff of financial institutions also receive training on resources and financial planning for low-income individuals.

In the February 14, 1997 *Agreement Between the Federal Government and the Major Banks on Access*, the banks committed to remind staff of the need for all customers to be treated with fairness and respect, and to provide more information and training to low-income groups to help them become more knowledgeable about and comfortable using banking services.

While credit unions, as community driven organizations, could play a significant role in reaching out to low-income communities, given their relatively low profile in Ontario, this potential is currently relatively unrealized.

There are a number of banks and credit unions that have, on a local basis, made efforts to reach out to low-income and marginalized communities. The Royal Bank’s two Toronto “Cash & Save” outlets are an excellent example. Located in low-income communities, these institutions are associated with local organizations serving low-income communities, and provide accessible and relevant storefront services, such as low-cost cheque cashing⁶¹ and money orders. As noted earlier, the Provincial Alliance Credit Union has partnered with CAMH to provide financial services to clients of that organization and operates within that institution. Also of interest, some banks in northern Ontario communities have engaged Aboriginal outreach officers to develop connections with the local Aboriginal communities.

Hours of Operation

There has been a general move away from in-person banking and towards electronic banking through ABMs and online banking. For many Canadians, financial services are more accessible than ever, as technology enables them to access their accounts and carry out transactions virtually 24 hours per day. A recent survey by the FCAC found that almost half of the respondents used online banking, and 94 per cent had a bank debit card.⁶² For these consumers, access to physical bank branches has diminished in importance.

Generally speaking, most bank branches are open only on a very limited basis on evenings and weekends, although the Canadian Bankers Association indicated that many branches are extending their hours and opening on Saturdays and even Sundays in order to meet customer needs.

For individuals who are unable to use technology to access financial services, whether because they cannot afford the technology or for other reasons, access to in-person financial services remains vital. The LCO heard from some community organizations that for these individuals, the limited hours of service offered by the majority of mainstream financial service businesses outside of regular business hours may be problematic.

Garnishment and Set-Off

The Ministry of Community and Social Services and some SSABs informed the LCO that some low-income individuals may be deterred from using direct deposit, or from maintaining any accounts with banks or credit unions, by concerns that their monies may be garnished or seized due to outstanding debts.

Presentation of cheques for cashing does not create a creditor-debtor relationship that would permit banks (or other institutions cashing a cheque) to seize a social assistance cheque presented for cashing only.⁶³

The courts have also rejected attempts to garnishee social assistance benefits while in the hands of social assistance administrator. A case decided prior to the enactment of the current provisions of the *Ontario Works Act* and the *Ontario Disability Support Program Act*, rejected an attempt by a creditor to garnishee social assistance at source, stating that garnishment of social assistance benefits was contrary to public policy:

The purpose of the General Welfare Assistance Act is to assist people in need by providing them with sufficient monies for shelter, food, clothing and other basic necessities. They are given partial or total welfare assistance because they have few or no means. To permit garnishee proceedings would take the monies that are deemed necessary to sustain families, thereby putting them back into a position of need. The province through these administrative boards would be required to provide additional funds to replace that which has been taken or to let these people either starve or go without shelter.⁶⁴

Currently, both the *Ontario Works Act*⁶⁵ and the *Ontario Disability Support Program Act*, 1997⁶⁶ state that financial assistance provided under those Acts is not subject to garnishment, attachment, execution, seizure or receivership under any other Act, with the exception of deduction of amounts for support orders under the *Family Responsibility and Support Arrears Enforcement Act*, or any prescribed government debts. This applies even where benefit payments have been directly deposited into an individual's account at a financial institution.⁶⁷ Social benefits do not lose their character and become liable to seizure merely because they are deposited in a bank account.

However, where there is already money in the account into which the benefit payments are deposited and the monies are therefore co-mingled, there may be difficulty in ascertaining which amounts are protected, and in these circumstances, funds may be seized or garnisheed.

The above-referenced provisions of the *Ontario Works Act* and the *Ontario Disability Support Program Act* do not specifically protect these funds from ‘set-off’, which arises where parties have mutual debts or cross-obligations, and it is not clear whether the provisions apply. The most common situation where set-off occurs is where an individual in receipt of government benefits has a credit card debt with the same bank where benefit payments are deposited: in these cases, the bank’s right of set-off will likely be governed by the provisions of its contractual agreements with its customer (e.g., the cardholder agreement).

Residents of remote areas of Northern Ontario lack access to financial services, as they do many basic services. In many remote communities, particularly First Nations reserves, there is no mainstream financial services provider.

Location

There has been considerable research and public policy discussion regarding physical access to mainstream banking in remote, rural and low-income urban areas.

Remote and Rural Communities

Without a doubt, residents of remote areas of Northern Ontario lack access to financial services, as they do many basic services. In many remote communities, particularly First Nations reserves, there is no mainstream financial services provider: residents must make do with ABMs (often “white label” ABMs⁶⁸) or non-depository services provided by general stores or other businesses. The Nishnawbe-Aski Legal Services Corporation informed the LCO that only a small minority of the First Nations communities belonging to the Nishnawbe-Aski Nation have access to a mainstream financial service provider.

Lack of accessible mainstream financial services may have serious consequences for these communities, as became apparent with the distribution of the residential school settlement funds. Following the distribution of funds, there were reports of Aboriginal claimants paying expensive fees to local stores and other intermediaries that would cash cheques in communities not served by mainstream financial institutions.⁶⁹

Similar issues exist in parts of rural Ontario. Bank branch closures have had a significant impact on rural communities: the Public Interest Advocacy Centre found that between 1989 and 1999, 45 per cent of bank branches in rural Canada had closed.⁷⁰

The problem of access to financial services in rural and remote areas has been widely acknowledged. In 2001, the *Bank Act* was amended to require banks to provide advance notice to customers of bank branch closures.⁷¹ The first National Rural Conference sponsored by the Government of Canada in 2000 identified access to financial resources for rural business and community development as a top priority for action. Initiatives included the amendment of the *Co-operative Credit Associations Act* to permit credit unions and caisses populaires to form national retail associations⁷² and a pilot project, since abandoned, to provide over-the-counter financial services to rural residents through Canada Post outlets.⁷³

Low-Income Urban Communities

Recently, significant research has been carried out on physical access to banking services in low-income urban communities. Concerns have been raised that low-income urban communities receive less service from mainstream financial institutions and have been disproportionately affected by bank branch closures, and therefore have few choices for accessing financial services beyond the AFS businesses that are over-represented in these areas. Important research on these issues has been carried out in Toronto, Winnipeg and Vancouver by ACORN, the United Way of Toronto and Professor Jerry Buckland of the University of Winnipeg.⁷⁴

During the summer of 2008, the LCO undertook a location analysis for bank branches and cheque cashing outlets for the city of Toronto (see Appendix D). The focus of the analysis was on formal cheque cashing and not on AFS businesses more generally or pawnbrokers, so there may be some discrepancies between the results of the LCO's mapping exercise for Toronto, and those of other organizations, such as the United Way and ACORN. The LCO also mapped the locations of bank branch closures in Toronto since 2002.

Based on this review, generally residents of low-income neighbourhoods have access to a physical bank branch within one mile. Caution should be exercised in drawing conclusions from this, however, as a mile may be a considerable distance for persons who have limited access to transportation, particularly in the winter months or where they are accompanied by small children, or they have mobility-related disabilities. Moreover, it is true to say that there are areas of Toronto where cheque-cashing outlets have a more prominent and visible presence than do mainstream financial institutions.

Not surprisingly, bank branches are noticeably clustered in Toronto's financial district, while cheque cashing outlets are concentrated in low and medium income areas, particularly Parkdale, the surrounding Junction, Crescent Town, and the Weston region. One noticeable exception to this is the very dense concentration of cheque cashing outlets along Yonge Street between College and Wellesley, a high income neighbourhood which is also a heavy traffic corridor and a central location for many social services. Cheque cashing outlets also tend to be concentrated along main traffic corridors, and may therefore border high income areas.

No noticeable pattern appeared in mapping bank branch closures since 2002. The greatest density of bank branch closures was in the financial district, which may reflect the fact that bank branches were particularly dense in that area to begin with, or perhaps a greater use of online and other electronic banking services by financial services consumers in this vicinity.

E. The Alternative Cheque Cashing Industry

The cheque cashing industry is a relatively recent phenomenon, and continues to grow and evolve. This section outlines some of the key features of cheque cashing in Ontario, including the types of institutions providing cheque cashing services, the key features of cheque cashing services, the relationship with the rapidly expanding payday loans industry, and the economic aspects of cheque cashing.

Cheque cashing takes place as both a formal and an informal service. Small businesses may cash cheques for customers, not as part of their official business functions, but as an additional service for customers of their official services, often as a means of accessing payment for these services. Payment may or may not be required for this informal cheque cashing. Formal cheque cashing is provided as an official business service, for set fees, and in a professional manner. Formal and informal cheque cashing therefore operate under different dynamics and raise different concerns.

1. INFORMAL CHEQUE CASHING

Alongside the formalized cheque cashing services provided by AFS businesses there continues to exist an informal cheque cashing economy, which predates the formal AFS sector in Canada.

There is a long history of informal cheque cashing by grocery stores, pawnshops, landlords, and other small businesses. However, it does not appear to have been the subject of much research, and almost all the available information about informal cheque cashing is anecdotal.⁷⁵

With the rise of electronic banking, including credit and debit cards, and direct deposit, cheques have declined in importance as a method of transferring funds.⁷⁶ It is likely that the prevalence and importance of informal cheque cashing have also declined. However, informal cheque cashing may continue to play an important role in rural or remote communities where access to any kind of formal financial services is very limited.

Informal cheque cashing may often operate as a benefit to low-income individuals who otherwise might have difficulty accessing their funds. However, persons working with low-income communities have at times expressed concerns about possible abuses by informal cheque cashers. For example, stories have surfaced about grocery store owners who cashed social assistance cheques, but required recipients to place a fingerprint on the cheque and provided ten per cent of the value of the cheque in the form of in-store food vouchers.⁷⁷ There have also been stories of landlords cashing social assistance cheques and taking rent payments and vague “charges” off the top, so that the intended recipient of the funds received almost nothing. It is impossible to know how widespread such abuses are; individuals may not be aware that anything improper has taken place, or may be embarrassed to acknowledge what has happened. Given the vulnerability of the population concerned and the involvement of public funds, even if only a small number of individuals or businesses were operating in such a manner, it would be cause for serious concern.

Operating as it does in an almost invisible manner, informal cheque cashing is difficult to monitor and therefore also difficult to regulate. Some have therefore voiced concerns that solutions to the issues raised by fees charged for cashing government cheques not have the unintended effect of pushing cheque cashing into the informal sphere. Given the limited information available about informal cheque cashing and any abuses associated with it, it is difficult to assess the weight that should be accorded to such concerns.

2. NORTH WEST COMPANY

The cheque cashing services provided by the North West Company’s Northern Stores across Northern Canada have evolved in a unique context, and differ from both informal cheque cashing and the AFS businesses operating mainly in urban areas.

A study conducted on behalf of the Financial Consumer Agency of Canada (FCAC) found that Northern residents were the most likely of all Canadians to have used a cheque cashing service. Indeed, they were almost twice as likely as the average Canadian to have done so in the past year: 13 per cent of Northern residents had done so in 2006, as compared to seven per cent of all Canadians.⁷⁸

As noted earlier, remote communities in Northern Ontario suffer from a dearth of many vital services, including financial services. Frequently, banks do not operate in such communities, and nor do major AFS businesses.

In many communities, the only financial services available are through ABMs (often white

label), or the Northern Stores operated by the North West Company. In 2000, the North West Company operated over 200 retail outlets in Canada, 27 of them in Northern Ontario. These outlets provide a wide variety of services to residents, including retail shopping and some basic financial services.

Financial services provided by the Northern Stores include cheque cashing, money transfers, white label ABMs and prepaid mastercards. North West recently launched a new service whereby customers can deposit cheques at any of the company stores and then make debit purchases or get cash from an ABM. Placing money on the card costs \$3.00 and each debit transaction costs \$1.00.

As with informal cheque cashing services, the role of businesses like the Northern Stores in remote communities has been little discussed in most studies or debates regarding access to financial services and cheque cashing fees. As the sole provider of financial services, Northern Stores have a unique relationship with these communities, which are highly dependent on the continued availability of their services.

In November 2006, the North West Company intervened in the hearing of the Manitoba Public Utilities Board on setting rates for cheque cashing fees. The North West Company indicated that its cheque cashing services operate quite differently from those of the AFS industry, and are significantly less expensive. It stated that:

The North West Company is looked to by its communities to act as the province's bank account. I think that that's an important point here. The Province of Manitoba does not send cash through the mail. It is not, when it issues cheques, sending out coins or bills, it is sending out cheques and for those areas of the province where there are no banking institutions the communities look to the North West Company to be the source of cash Suffice it to say, we're looked at, however, to make sure there's sufficient cash in communities when the Province issues its cheques, whether they're child tax credit cheques or whatever the cheques are.⁷⁹

LCO staff who called Northern Stores were told that the standard cheque cashing charge is 1.5 per cent of the value of a cheque. However, this may vary from store to store: for example, one Northern Store contacted by LCO staff does not charge for a cheque under \$49.99 and charges a flat \$3.00 fee for cheques over that amount. The LCO heard from the Nishnawbe Aski Legal Services Corporation of individuals being charged cheque-cashing rates of up to ten per cent of the value of the cheque.

3. THE FORMAL CHEQUE CASHING INDUSTRY

The formal cheque cashing industry is of relatively recent provenance. Money Mart, which continues to dominate the formal cheque cashing business in Canada, first opened its doors as a specialized cheque cashing business in 1982, with an outlet in Edmonton, Alberta.⁸⁰ Ten years later, it was reported that Money Mart had 92 outlets in Ontario alone.⁸¹ Today there are an estimated 750 businesses providing formal cheque cashing services in Ontario.⁸² These are mainly found in the larger cities, such as Toronto, Hamilton, Ottawa and Windsor. However, cheque cashing businesses have been expanding to smaller centres as well. Money Mart states that it currently has an outlet in

every centre with a population of 40,000 or more, and there are cheque cashing outlets in small urban centres across southern and central Ontario, such as Cobourg, Pembroke, Tillsonburg, Petawawa and Thorold. However, formal cheque cashing businesses are not currently present in small rural communities.

Most cheque cashing businesses offer a range of services targeted to low and moderate income consumers, including payday loans, wire transfers, money orders, tax preparation and refund, and stored value debit cards. Newcomers in particular may be drawn to the wire transfer and money order services, as important to their needs.

There is no overall regulatory framework for the AFS sector as a whole, comparable to those for banks and credit unions. Superintendence of AFS businesses has generally relied on voluntary compliance with industry norms.

In contrast to mainstream financial services, the formal cheque cashing industry and the AFS industry as a whole is the subject of little regulation or superintendence. As is outlined later in this Report, some provinces have recently moved to regulate cheque cashing fees and there is a general move across Canada to regulate payday loan services, including recent legislation in Ontario. However, there is no overall regulatory framework for the AFS sector as a whole, comparable to those for banks and credit unions. Superintendence of AFS businesses has generally relied on voluntary compliance with industry norms.⁸³ While mainstream financial institutions are seen as having a certain level of public responsibility, no such expectations have been placed on the AFS sector.

Some observers predict continued rapid growth for these businesses in Ontario, speculating that recent initiatives to regulate payday loans will remove uncertainty about the legality of the business model and spur increased investment and expansion, particularly from large America chains. It has been reported that one major player in the cheque cashing/payday loan industry has plans to place outlets in every Ontario community of 7,500 or more.⁸⁴

The formal cheque cashing industry has been controversial almost from its inception. In 1984, during a debate in the Ontario Legislature, a Member of Provincial Parliament referred to these businesses as “parasites on the poor”. At that time, the Minister of Community and Social Services stated that “any amount deducted from the cheque of a disadvantaged individual may be considered excessive by an enlightened society”. The Ministry also committed to a number of steps to address the impact of cheque cashing fees on social assistance recipients, such as working with unbanked individuals to ensure access to mainstream financial institutions, consideration of a direct bank deposit system for social assistance benefits, and development of a pilot project with the Province of Ontario Savings Office to increase access to financial services in remote parts of the province.⁸⁵

In January 1989, a Resolution was adopted by the Legislative Assembly of Ontario that government, municipalities and banking institutions should work towards entering into an agreement whereby social assistance recipients could be provided with identification cards that would give them easy access to banking services without having to resort to cheque cashing services. Shortly thereafter, a private member’s bill was introduced that would have prohibited any person from charging a fee for cashing a cheque issued by the governments of Canada, Ontario, or a municipality. This Bill did not progress past first reading.⁸⁶

Another private member’s bill was introduced in November 1991. Bill 154 similarly prohibited the charging of fees for the cashing of government cheques. At his statement introducing the Bill, MPP Gilles Morin touched on many issues that continue to resonate

today: difficulties among low-income individuals in obtaining and maintaining identification, difficulty cashing cheques at banks, low social assistance rates, and the high costs of cheque cashing services.⁸⁷ Unusually for a private member's bill, it received second reading, and was reported back to the House for third reading following committee. However, it was never passed. The government, while acknowledging as valid the concerns actuating Bill 154, declined to move it forward. Instead, the government stated that it would work with the Canadian Bankers Association to address identification issues and to develop an indemnification agreement. It also referred to efforts to increase the number of social assistance recipients who received their benefits through direct deposit. Concerns were expressed that if legislation was passed without other measures in place to ensure access to mainstream services, cheque cashing would simply go underground, as consumers would have nowhere to go.⁸⁸

4. "CONVENIENCE BASED FINANCIAL SERVICES"

The rapid growth of AFS businesses has led to considerable speculation regarding the reasons for the popularity of these services among consumers, given the relatively high cost of AFS services compared to that of mainstream financial services. To what degree are consumers making an informed choice among meaningful options?

Certainly, some users of AFS outlets appear to have few alternatives: in the Ipsos-Reid survey referenced earlier, seven per cent of AFS users indicated that they used these services because they did not have a bank account and another seven per cent indicated that they had a poor credit rating or had declared bankruptcy.⁸⁹ For other consumers, however, the level of choice available is less clear-cut.

National Money Mart Company describes the services it provides as "convenience-based retail financial services". When surveyed, customers of businesses like Money Mart overwhelmingly cite the convenience of these services as the reason for selecting them. In a 2007 Pollara survey conducted for the payday loan industry, 75 per cent of users of payday loan services ranked these businesses first in terms of "convenience", while 19 per cent ranked banks as most convenient (only three per cent identified credit unions as most convenient).⁹⁰

The term "convenience" connotes ideas of ease and comfort, as well as the notion that the choice of service is one of personal preference among a number of comparable alternatives. Given the debates about who uses AFS outlets and why, it is helpful to break down, as far as is possible, what users of these services mean by the term "convenience". Surveys of users of AFS businesses generally identify four factors as making these services "convenient":

Speed of service: In the survey conducted by Ipsos-Reid in 2005 for the FCAC, 25 per cent of those surveyed who had used AFS outlets for cheque cashing or payday loans cited as their primary reason "faster/more efficient/needed money immediately". The survey conducted by Pollara for the payday loan industry found that 51 per cent of those using payday loan services did so because of the "quick and easy process". A telephone survey of cheque cashing customers carried out by Discovery Research of Kelowna, British Columbia for National Money Mart found that speed of service was one of the top three reasons why first time users went to Money Mart.⁹¹

Hours of operation: AFS businesses are often open evenings and weekends: Money Mart notes that its stores are usually open 9 a.m. to 9 p.m., or even longer. In the Ipsos-Reid survey, 18 per cent of users of AFS businesses gave as their primary reason for use “more convenient hours/they’re open evenings and weekends”. The Pollara survey found that payday loan businesses ranked much more highly than banks or credit unions in terms of hours of operation and the Discovery Research survey of cheque cashing customers found that the top cited reason why first time users went to Money Mart was that the banks were closed. In its submission, Money Mart noted that approximately 40 to 45 per cent of all government cheques cashed by its businesses in Manitoba in 2005 were processed outside of the hours when banks are traditionally open. Since bank account holders may access funds immediately at all hours through ABM services (providing their cheques are not subject to cheque hold policies) the importance of hours of operation to users of cheque cashing services is not immediately clear. It may perhaps relate to the role of cheque hold policies or to the importance of personal service to some clientele.

Location: In the Ipsos-Reid survey, 5 per cent cited the “convenient” location of the AFS business. The Pollara study found a much higher percentage of payday loan users citing location as the most important reasons: 18 per cent. The Discovery Research survey of cheque cashing customers found that convenient location was one of the top three reasons for first-time users selecting an AFS business. Given the fact that most AFS businesses are located within one mile of a mainstream financial institution, this factor is difficult to interpret.

Welcoming Attitude: Users of AFS outlets generally rank them very highly in terms of respectful and welcoming customer service. An Environics Research Group study of payday loans customers found that 92 per cent were satisfied with their treatment by customer service representatives and 87 per cent were satisfied with the overall customer service experience.⁹² The Discovery Research survey indicated high levels of satisfaction with the friendliness of the tellers. In its submission, Money Mart noted that customers consistently cite the friendly and welcoming store atmosphere as a reason for using their services. The LCO heard from organizations working with low-income individuals that the relative informality and the personal service offered by AFS businesses may make them less intimidating to their clients than mainstream financial institutions.

The notion of convenience raises the issue of choice: to the degree that consumers are simply choosing the most appealing of several financial service options, the use of AFS businesses is unlikely to be a matter of pressing public policy concern. However, the issue of choice in this situation is a complex one.

The users of cheque cashing services are not homogenous; nor are low-income individuals. There are differing levels of knowledge, empowerment, need and disadvantage. Undoubtedly, there are customers of AFS businesses who are in a position to freely choose between the available financial services options, understand the choices they are making, and can afford to pay for their convenience. There are also customers of AFS businesses who are, for a variety of reasons, unbanked and have no other options when cashing a cheque.

As discussed in the earlier section on financial literacy, there are some consumers of

For individuals for whom accessing the funds from a cheque immediately means the difference between a meal today or waiting to eat until tomorrow, speedy access to funds is more than a matter of convenience.

cheque cashing services who do not fully understand the costs they are paying for the convenience of AFS services, or the alternatives available to them. Individuals who do not understand the fee structure for bank accounts or who do not have the mathematical or financial literacy skills to calculate out the annual cost of cashing their cheques at a cheque cashing outlet are not empowered consumers.

One must further question what the notion of “convenience” really means for the most vulnerable consumers. The notion of choice must be evaluated in the context of the situation of the consumer and the available options. For individuals for whom accessing the funds from a cheque immediately means the difference between a meal today or waiting to eat until tomorrow, speedy access to funds is more than a matter of convenience. While it may make sense in the long term, for example, to deposit the cheque in an account and wait one or more days for the cheque to clear, short-term immediate needs may well seem most pressing. Similarly, for individuals with limited access to transportation or limited ability to pay for public transportation, the availability of services within easy walking distance becomes a more important factor than it is for those with easy access to transportation or electronic banking services. If one must pay \$4.00 for a return trip by public transportation to a bank, the charges for cashing a cheque at an AFS business begin to appear reasonable by contrast.

5. RELATIONSHIP WITH THE PAYDAY LOANS INDUSTRY

The cheque cashing industry has rapidly diversified, so that cheque cashing is now generally not a stand-alone business. Businesses that offer formal cheque cashing services do so as part of a suite of financial services, including most prominently payday loans, but often also foreign currency exchanges, money orders, money transfers, and tax refund loans. It appears that cheque cashing now plays a much less prominent role than it formerly did in the services provided by AFS businesses.⁹³ As the formal cheque cashing industry is so closely aligned with the payday loans industry, it is important to give some brief consideration to the relationship between the two services.

A payday loan is a short-term small principal loan made to the borrower upon the guarantee of a post-dated cheque or pre-authorized debit. Canada’s payday lending industry has grown very rapidly since its beginnings in the early 1990s. It has frequently been the source of controversy, since when all fees and expenses are considered, the effective annual rate of interest can be very high, far beyond the 60 per cent set as a criminal rate by section 347 of the *Criminal Code*. Some have characterized the payday lending industry as essentially a predatory business, charging excessive rates and entrapping low-income Canadians in a cycle of debt. Others, while agreeing that the industry requires regulation, see payday lenders as meeting a need that is not being met by mainstream financial institutions.

There has been a move across Canada to regulate the payday loans industry. The federal government has amended the *Criminal Code* to add section 347.1, which exempts payday lenders from its criminal interest rate provisions if the loan is made in a designated province.⁹⁴ A designated province is one which has taken legislative measures to protect recipients of payday loans and limit the cost of borrowing. British Columbia, Manitoba, Saskatchewan and Nova Scotia have passed payday lending legislation that meets the requirements for federal designation. The Canadian Payday Loan Association (CPLA), which represents 21 payday loan businesses, has supported the move towards regulation,

calling for a national regulatory framework for payday lending that will both protect consumers and allow for a viable industry.⁹⁵

Ontario recently passed Bill 48, the *Payday Loans Act, 2008*, which will, when in effect, meet the federal requirements for designation.⁹⁶ As is described in more detail in Appendix B, Bill 48:

- requires all payday lenders and loan brokers to hold a license,
- prohibits concurrent and “back-to-back” loans,
- restricts default charges, and
- creates a mechanism for developing a maximum cost-of-borrowing cap.

The provisions of the legislation will be enforced by the Consumer Protection Branch of the Ministry of Government Services and Consumer Affairs, which will conduct inspections and respond to consumer complaints. The Bill also creates a fund to educate the public regarding rights and responsibilities under the Act, as well as with respect to financial planning in general.

When introducing Bill 48, the government identified four objectives:⁹⁷

- addressing the sources of sustained poverty in Ontario,
- increasing confidence in the integrity of the payday lending and furthering Ontario’s capacity for sustained economic growth,
- providing all Ontarians with a solid understanding of the risks and responsibilities that come with being a consumer, and
- protecting consumers from all walks of life who occasionally rely on payday loans to help them deal with short-term financial crises.

The move to regulate the payday lending industry and the form it has taken appear to be a reflection of a fairly broad, though not universal, consensus that these businesses are a permanent part of the financial services landscape.

Payday loan and cheque cashing services are in some ways closely related. As noted above, most formal cheque cashing services also provide payday lending services (although not vice-versa – there are a number of specialized payday lending companies). The business models for cheque cashing and payday lending services are similar: providing quick, convenient, friendly and easy access to cash for those who cannot afford to or do not wish to wait, or who have no alternative means of accessing these financial services. Cheque cashing fees may make up part of the overall fee package for a payday loan.⁹⁸

There is likely some significant overlap between persons who use cheque cashing services and those who use payday lending services. However, far more Canadians have used cheque cashing services than have used payday loan services (one study showed that seven per cent of all Canadians used a cheque cashing service in 2006, as opposed to the two per cent of all Canadians who had used a payday loan service).⁹⁹ The Ipsos-Reid poll conducted for the FCAC found that 57 per cent of those who have used AFS outlets used the cheque cashing service, compared to 25 per cent who had used the payday lending service.¹⁰⁰

It appears that some persons in receipt of social assistance do seek and obtain payday

loans. Although the CPLA's *Code of Best Business Practices* prohibits its members from providing loans to persons in receipt of social assistance, not all payday lenders are members of this Association.¹⁰¹ In discussions related to Bill 48, the Government has stated that it will consider separate cost of borrowing limits for payday loan recipients who are in receipt of social assistance.¹⁰²

6. ECONOMICS OF CHEQUE CASHING

Some have suggested that the fees charged by the formal cheque cashing industry are excessive, and that these businesses are, in effect “preying on the poor”. There is little public information about the economics of the Canadian cheque cashing industry. Available data on the economics of the AFS industry generally focus on payday loan services. While more data are available about the American cheque cashing industry, this information must be applied to the Canadian situation with caution, as the American cheque cashing industry is significantly older, larger and more mainstreamed than its Canadian counterpart.¹⁰³

As noted above at section III.E.3, in Canada, formal cheque cashing services are almost invariably provided as part of a spectrum of services provided by the larger AFS businesses. These businesses continue to show growth. In 2004, Ernst and Young LLP conducted an important study for the Canadian Association of Community Financial Services Providers (a precursor to the CPLA) of the costs of providing payday loans in Canada. The study found that while payday loan providers on the whole are earning returns on equity that are comparable to other segments of the financial services sector, several companies are not making adequate returns and are being forced to discontinue offering payday loans. Further, the largest operators have the lowest costs, while the smaller operators have the highest costs.¹⁰⁴ A study by Professor Jerry Buckland concluded that, with the exception of two anecdotal instances, he had not found substantive data to support the view that the AFS sector was earning “above-normal profits”. He hypothesized that high fees by AFS outlets may reflect the expensive and risky services these businesses offer.¹⁰⁵

It is difficult to determine what proportion of the AFS sector is comprised of cheque cashing services, and of that, what portion of cheques cashed are government cheques. In its ruling on rates for cashing government cheques in Manitoba, the Manitoba Public Utilities Board concluded that cheque cashing makes up a secondary source of revenue for AFS businesses (behind payday loans), and that the cashing of government cheques makes up only a fraction of the overall volume and range of cheques being cashed.¹⁰⁶ One American study indicated that government cheques made up only 16 per cent of all cheques cashed by American cheque cashing businesses.¹⁰⁷

In considering the fees charged for cashing cheques, the most frequently given reason for the current fees is the level of risk associated with this service. There are risks associated with cheque cashing, whether of fraudulent activities or of insufficient funds on the part of the payor. Of course, with government benefit cheques, only the former is a risk. For example, fraud might take the form of altering or forging cheques. Mainstream financial institutions manage these risks by providing cheque cashing services only to account holders (except where there are indemnity agreements in place), and by identification and cheque hold policies. Cheque cashing businesses take on a higher level of risk of fraud.

The business models for cheque cashing and payday lending services are similar: providing quick, convenient, friendly and easy access to cash for those who cannot afford to or do not wish to wait, or who have no alternative means of accessing these financial services.

It is difficult to assess the level of risk associated with cashing government cheques. One American study found that 0.5 per cent of the face value of cheques bounce, but after collection, net losses are only 0.2 per cent.¹⁰⁸ In 2002, the Financial Service Centers of America, the cheque cashers' trade association, reported that less than one per cent of cheques presented to cheque cashers are returned, and between 80 and 90 per cent of these are ultimately collected.¹⁰⁹ A Canadian study by Professor Jerry Buckland, based on data from Dollar Financial Group, found that returned cheques amounted to less than one per cent of the total face value of those cashed. Of this, almost three-quarters were ultimately collected, leaving a net write-off of 0.2 per cent of the total face value of cashed cheques.¹¹⁰

These figures do not differentiate between government benefit cheques and other types of cheques, such as payroll cheques. However, since government cheques present the risk of fraud but not of insufficient funds, it seems likely that they would make up a relatively small proportion of returned cheques. The LCO was unable to obtain any specific statistics related to the risks of fraudulent cashing of government cheques. However, government social services providers indicated that, in their experience, the risk is relatively minor. The Waterloo SSAB told the LCO that it has had an indemnity agreement in place with a local bank for Ontario Works payments for approximately 20 years, and only once has that indemnity agreement ever been called upon. Social service providers pointed out to the LCO that government benefit cheques are generally not attractive targets for fraud because the amounts are so small: the return on fraud would be disproportionate to the required effort. Business cheques are a much more attractive target.

Figures on the risks of cashing cheques do not reflect the costs of attempts (successful or not) to collect on returned cheques. In its submission, Money Mart did not provide any figures on the risks or costs associated with cheque cashing, but did state that its experience is that "if a cheque is dishonoured it is far more difficult to collect from government than from a corporation".

Any consideration of the economics of cashing government cheques should take into account the cost to taxpayers of funds that are intended to provide for the basic necessities of vulnerable Ontarians being instead spent on cheque cashing services to transfer funds between the government and these individuals. The Thunder Bay SSAB, based on a survey of its clientele, found that in the month of March 2008, 36 per cent of the cheques it issued to Ontario Works recipients were cashed at AFS outlets for a fee, and another 7 cashed through pawnshops or convenience stores. It estimated that almost \$10,000 was paid in cheque cashing fees by Thunder Bay SSAB clients in a single month, with an estimated annual cost of \$120,000 in this single, relatively small district. Based on this, the amount of government payments being funneled to cheque cashing fees is likely to be significant.

F. The Need for Reform

Not all those using AFS businesses in general, and cheque cashing services in particular, are vulnerable consumers: while there is definitely a significant segment of the customer base that merits that description, studies show that these businesses attract moderate as well as low income users. Where individuals have reasonably accessible alternatives to the use of high-cost cheque cashing services, are aware of their available options and of

Any consideration of the economics of cashing government cheques should take into account the cost to taxpayers of funds that are intended to provide for the basic necessities of vulnerable Ontarians being instead spent on cheque cashing services to transfer funds between the government and these individuals.

A monthly fee of \$15 or \$20 may not seem like much to most Ontarians, but for individuals whose annual incomes are under \$20,000, an annual savings of \$200 could make the difference in obtaining winter clothing or paying utility bills.

their relative costs, and the financial impact of the costs is not punitive, there is no pressing public policy concern.

However, recipients of government cheques are by and large vulnerable consumers. In particular, the incomes of recipients of social assistance benefits are generally extremely low, far below Canada's Low Income Cutoff. Given their poverty, the fees charged by cheque cashing services have a significant impact. A monthly fee of \$15 or \$20 may not seem like much to most Ontarians, but for individuals whose annual incomes are under \$20,000, an annual savings of \$200 could make the difference in obtaining winter clothing or paying utility bills. One could also make the argument that these costs represent a very ineffective end use for government funds. There are no precise figures on how many social assistance recipients are using cheque cashing services, but the available information suggests that the numbers are substantial.

It is not clear that those persons paying fees to cash their government cheques are aware that AFS fees are considerably higher than what they would pay at a bank or credit union for a similar service. Studies conducted by the FCAC show that a significant number of financial consumers do not feel well informed about their rights with respect to financial institutions. Further, many low-income individuals face linguistic, cultural, educational, or disability-related barriers, or a combination of these, to accessing and understanding the information they need to make choices about financial services, and in particular about cashing their government cheques.

Further, in some cases, low-income individuals do not have reasonable alternatives available for accessing their government funds. One must keep in mind that those living in deep poverty are generally in a day-to-day struggle for survival. Long-term planning is difficult and the focus is most often on immediate and urgent needs. A bank account may well seem superfluous to those who rarely, if ever, have money left at the end of the month. The very fact of poverty limits choices: for example, while in the long-term it may be wiser to open a bank account, the immediate cost of obtaining identification may make that option unattainable in practical terms.

Despite some significant efforts by governments, financial institutions and social service organizations to reduce barriers to mainstream financial services, more remains to be done. The barriers vary depending on location and circumstance – for example, individuals in remote communities frequently lack physical access to a mainstream financial institution, while homeless persons in urban communities may lack the identification to access services – but barriers do exist, and may leave recipients of government funds with few viable alternatives to the use of a relatively expensive AFS business.

Finally, the importance of reliable and trustworthy financial services to individual and community well-being is well-recognized, and is the basis for the considerable regulatory and superintendence framework governing banks and credit unions. The AFS sector is relatively new and has not been the subject of similar government oversight, although that is beginning to change. In ensuring that recipients of government funds can access those funds at reasonable cost, the ongoing role of AFS businesses must be acknowledged, and steps taken to ensure that consumers of these businesses have similar protections to those that currently exist for customers of mainstream financial institutions.

IV. AVENUES FOR REFORM

This section of the Report considers the various options for addressing the issues associated with fees for cashing government cheques, and their suitability to the situation in Ontario.

The problems associated with high costs for accessing funds from government cheques are not unique to Ontario. A variety of initiatives have been undertaken in other jurisdictions, including:

Consumer Education: Generally this is aimed at ensuring consumers have the skills and information to make choices about available financial services, but there may also be a broader focus on enhancing financial capability.

Encouraging Use of Mainstream Financial Institutions: Individuals who hold accounts with banks or credit unions can deposit and withdraw funds at minimal cost, as well as receiving a number of other benefits. Steps that encourage usage of mainstream financial services, such as providing access to low-cost identification, will therefore also assist in ensuring access to government benefit funds at low cost.

Alternative Methods of Government Payments: There is an inherent risk of fraud when payments are made by cheque. Fees, cheque holds and identification requirements are methods adopted by financial services providers to manage these risks, but all can create barriers to low-income consumers. Alternative methods of payment, such as direct deposit and benefit cards can reduce risks and potentially ease access to funds.

Indemnification Agreements: Indemnification agreements essentially transfer the risk of cheque-related fraud to government (i.e., the taxpayer), and thereby enable financial service providers to cash government cheques without charging fees.

Regulation: Several jurisdictions have regulated either cheque cashing fees or cheque cashing service providers. Regulation generally takes one of three forms: licensing and monitoring schemes for cheque cashing businesses, prohibitions on fees for cashing government cheques, or regulation of cheque cashing fees.

Recent years have seen considerable activity in Canadian jurisdictions on this issue. A description of initiatives across Canada can be found in Appendix C.

There have also been many reform initiatives in the United States, where the cheque-cashing industry has a long history. These are described below at section IV.F.2

A. Considering Options for Reform

Considering the wide range of reforms that have been adopted in other jurisdictions, there is likely no single best approach to ensuring low-cost access to government benefit payments. Reforms must be responsive to the financial history and culture of the particular jurisdiction where they are implemented, taking into account current regulatory frameworks and any local aspects of the issue. This section of the Report examines the various reform alternatives, weighing the benefits and disadvantages of each approach, and highlighting any issues unique to Ontario.

In considering potential reforms, it should be kept in mind that the issue is, as outlined in

In considering risks and costs, it must also be remembered that AFS businesses, like mainstream financial service providers, are businesses, and are providing services in the expectation of a reasonable opportunity for profit.

the previous section, complex and multi-faceted. Therefore, any single initiative is likely to be inadequate on its own. Most jurisdictions have opted for a package of reforms rather than a single initiative, and it is helpful to consider how various initiatives may interact with each other.

It is a reality that there are costs and risks associated with providing access to government funds – the risk of fraud most importantly, but also costs in time, effort and administration. The current system places much of the burden of these costs and risks on the shoulders of low-income individuals. One of the key questions in assessing any reform is where it allocates those costs and risks, and whether that apportionment is fair and effective.

In considering risks and costs, it must also be remembered that AFS businesses, like mainstream financial service providers, are businesses, and are providing services in the expectation of a reasonable opportunity for profit.

A fundamental principle of any reform should be respect for the dignity, privacy and autonomy of social assistance recipients, who make up a significant proportion of those cashing government cheques. This is a group already often heavily stigmatized, marginalized and excluded.

To be successful, reform must be sensitive to the circumstances of those whose lot it seeks to better: in this case, recipients of government benefits. These individuals are generally living on extremely low incomes, far below the Low Income Cut Offs, and their priority is often simply day-to-day survival. Many are lone parents; as well, recipients of Ontario Disability Support Program (ODSP) benefits are, of course, living with the challenges associated with their disabilities. They already face multiple barriers and challenges. Reforms must offer realistic and practical solutions for those living in such circumstances.

A fundamental principle of any reform should be respect for the dignity, privacy and autonomy of social assistance recipients, who make up a significant proportion of those cashing government cheques. This is a group already often heavily stigmatized, marginalized and excluded. As well, it should be recognized that low-income individuals are a diverse group, with an array of needs and resources. The circumstances of a single person with mental health issues living on the streets of an urban environment are different from those of an Aboriginal mother living in a remote community in Northern Ontario, and different again from those of a newcomer family struggling to find their footing in a new country. Reforms should, to the degree possible, recognize this diversity.

As noted in the previous section, the issue of low-cost access to government benefit payments is closely tied to the larger issue of financial exclusion and access to financial services. The aim of this Report, however, is not to solve the very broad and complex issues associated with financial exclusion, but to develop pragmatic recommendations for addressing the narrower question. For practical purposes, one must assume that, for the near future and for a variety of reasons, there will continue to be some unbanked individuals. Decreasing the number of unbanked Ontarians will reduce the number of individuals paying high fees to cash their government cheques, as well as addressing broader social justice issues. However, reforms should also take into account the needs of those who remain unbanked.

B. Consumer Education and Financial Literacy

1. CONSUMER EDUCATION AS A STRATEGY

Consultees generally agreed that low-income consumers are often unaware of the true costs of cheque cashing fees and of the alternatives available to them.

There is a significant contingent of consumers who are not aware of their rights with respect to mainstream financial institutions, the comparative costs of using cheque cashing services, and their recourse should they have a concern or complaint with respect to bank services.

Thunder Bay Social Service Administration Board

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Thunder Bay Social Service Administration Board

As many credit unions already offer low cost alternatives, especially when compared to alternative financial services (AFS), the issue does not seem to be the necessity of mandating low costs. Rather it would seem to be educating people to the alternatives available to them and inducing them to take advantage of those alternatives.

Central 1 Credit Union

It is likely that some type of consumer awareness or education measures are essential to ensure the success of any initiative to facilitate access to low-cost cashing of government cheques. Consumers must have the information and skills to understand the options available to them and how to access them, evaluate the benefits and disadvantages of various services in light of their own particular circumstances, and be able to advocate for their rights where necessary.

For example, the relatively low level of awareness about the right to cash a federal government cheque without fee at any bank and to make a complaint to the Financial Consumer Agency of Canada (FCAC),¹¹¹ and the number of individuals cashing federal government cheques at AFS businesses despite the availability of free services through the banks¹¹² highlights that even the best initiatives will have limited success unless there is adequate consumer education.

However, consumer education is not enough by itself to solve the issues. It will not remove barriers to use of mainstream financial services, such as lack of identification or cheque hold policies.

Consumer education alone does not address other systemic issues such as lack of banking services in certain geographic areas and stringent identification requirements for opening a bank account.

Ministry of Community and Social Services

Consumer education is therefore best considered as one component of any initiative to ensure low-cost access to government benefits.

2. PROVIDING EFFECTIVE CONSUMER EDUCATION AND FINANCIAL LITERACY PROGRAMS

The provision of financial literacy and consumer education programs to low-income individuals raises some complex issues. Low-income individuals are diverse, and there is a broad spectrum of educational needs. Some low-income individuals have good general financial skills and knowledge and need only access to appropriate information, while others will face barriers related to basic literacy (for example, those who use English as a second language), technological literacy, or lack of understanding of basic financial concepts, such as comparison shopping. Some will have multiple needs.

Consumer education alone does not address other systemic issues such as lack of banking services in certain geographic areas and stringent identification requirements for opening a bank account.

Ministry of Community and Social Services

The target audience (in this case, low-income and unbanked/underbanked Ontarians) can be elusive and resistant to most standard consumer education methods. That means one must look at alternatives to the standard consumer education models. Our member credit unions suggest that the best consumer education is word of mouth within the low-income community.... That one-on-one education could occur through social workers, government employees and others who work closely with low-income Ontarians.

Central 1 Credit Union

The LCO heard that financial literacy and consumer education programs must be:

- Based on understanding and respect for the diverse circumstances of low-income individuals. This includes the content, method and approach to education. For example, individuals on social assistance are operating on a survival basis and attempting to address immediate needs in extremely difficult circumstances; programs that do not address this will be seen as irrelevant.
- Accessible, whether in relation to physical location, language or disability-related needs.
- Trustworthy. Government communications are authoritative and represent a public commitment. Organizations working with low-income individuals, such as legal clinics and advocacy organizations are often a highly trusted source for information.
- It may be beneficial to have programs that “train the trainer”. If front-line staff in organizations that serve low-income individuals are themselves not well-informed about rights and resources, not only will opportunities to provide advice and information be missed, but incorrect or inadequate advice may be provided.
- As well, the LCO heard that front-line staff of financial institutions may need further information or training related to the rights and entitlements of low-income individuals in order to provide appropriate advice or assistance.

The LCO received many practical suggestions regarding methods of reaching out to low-income individuals with financial information:

- Education should be carried out as early as possible; for example, the high school curriculum could include the fundamentals of financial literacy.
- Cheque cashing businesses could be required to post, in a highly visible manner, information on fees, such as the total cost of cashing cheques for common amounts, such as \$500 or \$1000.
- Inserts could be sent out with government cheques, informing recipients of their rights and choices when cashing their cheques.
- An education fund could be established to assist programs and organizations that work with low-income communities to increase financial capability.

With respect to the last suggestion, Ontario’s Bill 48, the *Payday Loans Act, 2008*, requires licensed payday lenders to contribute to a public education fund, the purpose of which is to educate the public regarding rights and responsibilities under this Act, as well as with respect to financial planning in general. The creation of this fund may offer opportunities for education relevant to issues of cheque cashing fees.

The non-profit Social and Enterprise Development Innovations (SEDI) provides several interesting examples of programs aimed at encouraging asset-building and financial capability among low-income individuals. For example, the Learn\$ave Program, offered in partnership with the Social Research and Demonstration Corporation¹¹³ and funded by Human Resources Development Canada matches the savings each participant puts aside in an Individual Development Account. SEDI has also piloted the use of Independent Living Accounts to assist individuals and families living in transitional housing facilities to save for first and last months' rent or other needs, while simultaneously providing life-skills training. Finally, SEDI's "My Child's Future" project aims at increasing the number of low and moderate income Canadians who use RESPs to save for their children's education.

The 2008 Government of Ontario Budget announced a \$10 million, four-year investment in a pilot program to help low-income Ontarians to build equity. Details are expected to be announced later this year by the Ministry of Community and Social Services.

C. Encouraging the Use of Mainstream Financial Institutions

As noted earlier, the major banks all provide low-cost basic bank accounts that provide deposit and withdrawal services. Individuals can maintain a bank account at a fraction of the cost of the fee for cashing cheques through a cheque cashing outlet. Encouraging the use of mainstream financial institutions is one means of reducing the costs of accessing government benefits.

The issue of financial exclusion is a large one, and it is beyond the scope of this project to attempt to resolve it. However, issues surrounding the costs of accessing government benefits cannot be fully understood or addressed without considering the issue of access to mainstream financial services. To the degree that they are relevant to resolving the issues raised by this project, barriers to financial inclusion must be addressed.

The major reasons why low-income consumers may not use mainstream financial institutions have been outlined in detail at section III.D.2. To summarize:

Location: This is an especially significant barrier for those living in remote communities, and has therefore a particular impact on First Nations individuals. Some low-income urban communities may also lack convenient access to a mainstream financial institution.

Identification Requirements: Low-income individuals may have difficulty obtaining adequate identification due to cost or complex processes. As well, transient individuals may not have an address to send documents to, and are disproportionately likely to have their identification lost or stolen. Health cards are not used as identification in Ontario, and Ontario does not currently provide an alternative photo-identification to the driver's license.

Cheque Hold Policies: Cheque hold policies enable financial institutions to manage the risk of fraud inherent in transferring funds by cheque. Where a cheque hold applies, the financial institution will not release the funds until it has been able to verify that the cheque will be covered. Individuals who maintain enough money in their accounts to cover any cheques being cashed will generally not be affected by cheque hold policies. However, low-income individuals are generally operating under very tight cash-flow requirements. They usually will not have sufficient funds in their accounts to cover their government

cheques, but at the same time cannot afford to wait until the funds are released. Cheque hold policies essentially transfer the risk of fraud from the financial institution to the individual cashing the cheque. Where low-income individuals resort to cheque cashing services to access the funds from their government cheques, the costs for those individuals can be quite high, relative to their overall incomes.

Attitudinal Barriers: The LCO heard that low-income individuals have expressed concerns regarding negative or discriminatory treatment by staff of mainstream financial institutions, or have expressed the perception that they don't "belong" in a mainstream financial institution.

Garnishment and Set-off: The risk that social assistance payments, once placed in a bank account, may be garnished or set-off is a significant deterrent to use of a chequing account for some individuals.

Hours of operation: For individuals who are reliant on the individual services that are provided by tellers, hours of operation may have an impact on their choice of a financial services provider.

All of these issues were raised repeatedly by organizations that serve low-income individuals. Access to identification and holds on government cheques were generally agreed to be the most pressing issues in urban environments; lack of physical locations was highlighted as a particularly important issue for remote communities.

Some of the above-mentioned issues, like lack of identification, seem amenable for the most part to fairly straightforward solutions. Others present considerable difficulties. There have been various attempts to address the dearth of mainstream financial institutions in remote and rural communities, with only limited success. Cheque hold policies present another difficult issue, as they are a response to the risk of fraud; essentially mainstream financial institutions respond to this risk through cheque holds, while AFS businesses respond by charging relatively high fees for their cheque cashing services. Cheque hold policies cannot simply be abolished without providing other security for the risk of fraud.

The LCO received many suggestions for increasing the use of mainstream financial institutions by low-income individuals:

- Ensuring access to low-cost identification for low-income individuals;
- Provision of basic financial services to remote communities through provincial government ministries that already have a presence in these communities (such as the Ministry of Natural Resources);
- Creation of a provincial Access to Banking Standing Committee, consisting of representatives of mainstream financial institutions operating in Ontario and organizations representing low and moderate-income consumers;
- The development of local, community-based financial services providers as a social enterprise; or alternatively, encouraging the creation of credit unions in underserved communities;
- Training for front-line staff of financial institutions on the needs of low-income consumers and sensitivity training on issues such as mental health and racial profiling;

If front-line staff in organizations that serve low-income individuals are themselves not well-informed about rights and resources, not only will opportunities to provide advice and information be missed, but incorrect or inadequate advice may be provided.

- Amendments to cheque hold policies;
- Mainstream financial institutions offering no-fee accounts to social assistance recipients, similar to those offered to students; and
- Increasing partnerships between financial institutions and agencies, and organizations serving low-income communities.

There was also very considerable discussion about the possibility of outreach initiatives from financial institutions to low-income and other marginalized communities. RBC's Cash & Save outlets in Toronto were often cited as a model for outreach to low-income communities and a significant success. Another model is the partnership between the Provincial Alliance Credit Union (PACU) and CAMH. The LCO also heard praise from the Ontario Federation of Indian Friendship Centres for RBC's practice of using Aboriginal outreach and education staff in communities with significant Aboriginal populations. The key elements in the success of Cash & Save and the PACU initiative were seen as their location (convenient presence); sensitivity to the clientele they serve; and tailoring of their services to the needs of the community.

In a recent report, the Ontario Association of Food Banks advocated for the establishment of a network of community development credit unions, as a means of addressing financial exclusion. These are credit unions with a mission to serve low and moderate income people and communities, providing services and benefits targeted to the needs of these communities. They effectively function as peer lenders, and are non-profit, tax-exempt and non-charity. Community development credit unions are fairly widespread in the United States, but less common in Canada, with VanCity Credit Union in Vancouver as the pre-eminent example.¹¹⁴

D. Direct Deposit and Benefit Cards

One way of ensuring low-cost access to government funds is by avoiding the use of cheques altogether. Most commonly this has been achieved through the use of direct deposit. Recently, some jurisdictions have been experimenting with reloadable benefit cards as an alternative or addition to direct deposit programs.

1. DIRECT DEPOSIT

Several jurisdictions actively encourage the use of direct deposit for social payments, whether through voluntary policies or more mandatory programs. Direct deposit is seen as beneficial for clients, as it increases use of mainstream financial institutions and avoids cheque cashing fees. It is also considered beneficial for government and taxpayers, as it reduces administrative costs and the risk of fraud.¹¹⁵ From the perspective of financial institutions, direct deposit reduces the number of lost or stolen cheques and unlike indemnification agreements, does not involve time-consuming processes for dealing with lost or stolen cheques.¹¹⁶ The Ministry of Community and Social Services noted that:

DBDs (Direct Bank Deposits) are cost effective for the Ministry, easier to reconcile, and enable the provision of financial assistance in times of emergency, such as a black-out or postal strike. DBDs are confirmed transactions, eliminating:

- *Potential fraud whereby clients may receive more than one social assistance cheque for the same period; and*
- *Stale dating of social assistance cheques, which expire after six months if not cashed.*

Since 1997, direct deposit has been mandatory in Alberta for payments to Income Support clients, unless they are specifically exempted.¹¹⁷ In practice, this means that direct deposit is the primary method of payment of funds, but that front-line workers have the discretion to exempt clients where they believe there are sound reasons for doing so (such as a lack of the appropriate identification to open a bank account). Currently, 63 per cent of those receiving Alberta Employment and Immigration benefits do so through direct deposit, while 78 per cent of those receiving the Assured Income for the Severely Handicapped receive direct deposit.¹¹⁸

An application for direct deposit is provided as part of the Intake Application package and clients are encouraged to have this completed by their bank prior to meeting with an Employment & Income Support Adviser. Direct deposit forms and information regarding the direct deposit policy are systemically included in mailings to users of various government services.

The Alberta direct deposit program was undertaken in the context of a number of other initiatives.¹¹⁹ The Alberta government already had an indemnification agreement with deposit-taking financial institutions and initiatives to ensure the populace had access to low-cost identification were in place. For example, health cards could be used as identification, and Alberta Registries provided alternative photo identification equivalent to a driver's license. As well, Alberta already had an extensive bank branch network across the province.

A 1998 study of the effectiveness of the Alberta initiative noted that it appeared to have the positive effect of increasing the number of banked people in Alberta. Major financial institutions adopted basic banking products that reduced the cost of banking services for direct deposit users, although the question remained as to whether some people who have very minimal banking needs are in fact disadvantaged by having to pay for such services. One troubling issue was the limits placed by some financial institutions on withdrawals through ABMs, which meant that some social assistance recipients were not able to access the full amount of their payments through an ABM. As well, some social assistance recipients had difficulty in evaluating the various pricing options at banks, and made financial service decisions based mainly on location. Initial hopes that social assistance case workers would help clients to open accounts proved difficult to implement due to the heavy workloads of case workers.¹²⁰

In Ontario, social assistance providers at both the provincial and municipal level have made efforts to encourage direct deposit among their clientele, mainly through education and assistance provided by front-line staff. In the early 1990s, initiatives were undertaken by the Ministry of Community and Social Services to encourage clients to use direct deposit.¹²¹ By 1997, approximately 83 per cent of the recipients of the provincially distributed Family Benefits and 44 per cent of the recipients of the municipally distributed General Welfare benefits were receiving payments through direct deposit.¹²²

The Ministry of Community and Social Services informed the LCO that both Ontario Works

For direct deposit programs to succeed, they must address the barriers preventing some individuals from obtaining and maintaining bank accounts, such as lack of identification.

and ODSP currently encourage clients to create bank accounts and receive their assistance through Direct Deposit. The Ministry provides over four million direct deposit payments for social assistance each year, as compared to three million payments via cheque. Use of direct deposit may vary depending on local circumstances. The Thunder Bay Social Services Administration Board (SSAB) indicated that although they have made efforts to encourage direct deposit, currently only 20 per cent of their Ontario Works clientele receive their benefits in this way; the remainder continues to receive payment via cheque. The Waterloo SSAB estimated that approximately half of their clientele receive benefits through direct deposit, a significant drop from a decade ago, again despite efforts to promote direct deposit. The reasons for this drop are unclear, although staff indicated that clients appeared to prefer to use the local indemnity agreement to cash cheques, rather than maintain a bank account for the purpose of receiving direct deposits.

City of Toronto Social Services has a long-standing and heavily promoted direct deposit program, as part of its overall objective to integrate clients into the mainstream. The City developed and maintained an integrated communication, education and assistance strategy to encourage clients to sign up for direct deposit, and where necessary, to assist them with obtaining accounts with mainstream financial institutions. At the present time, approximately two-thirds of Ontario Works clients receive their benefits through direct deposit, down slightly from a one-time high of around 70 per cent. The feeling of City staff was that there is a natural threshold to the utility of direct deposit: there will always be a significant percentage of the client base, likely around 25 to 30 per cent, for whom direct deposit does not provide a workable solution.

Central 1 Credit Union, which represents nearly 200 credit unions in the provinces of Ontario and British Columbia, suggested that given the administrative savings that accrue when benefit recipients select direct deposits, it might be possible to offer recipients who select this payment method a modest financial incentive to do so, noting that this would be both revenue neutral and a benefit to those who need it the most. It could also allow recipients to pay for the nominal costs of establishing and maintaining an account with a bank or credit union.

The Task Force on the Future of the Financial Services Sector recommended that governments increase the use of direct deposits for all government programs that offer regular benefits.¹²³ The Canadian Bankers Association has also publicly indicated its support for direct deposit programs.¹²⁴

While there was concern that mandatory direct deposit programs could act as a barrier to the receipt of benefits for low-income individuals who do not have identification or who are unbanked, LCO consultees generally supported voluntary direct deposit programs. ACORN stated:

We support increased use of direct deposit as a mechanism to ensure low income consumers retain the maximum amount of their entitlements. We would like to see a strongly encouraged voluntary direct deposit system.

However, for direct deposit programs to succeed, they must address the barriers preventing some individuals from obtaining and maintaining bank accounts, such as lack of identification. The Thunder Bay SSAB recommended that direct deposit programs be paired with efforts to remove barriers to banking for payment recipients.

Benefit cards can provide a solution for unbanked individuals, as they can essentially operate as an alternative to a bank account. For this reason, they are an appealing alternative in remote communities, where access to mainstream financial institutions is minimal and options are limited.

The Ministry emphasized that, practically speaking, it is in any case impossible to get all social assistance clients on direct deposits, whether because of the risk of garnishment of funds for some clients, or lack of physical access to a bank (for example, in remote areas). As well, it is difficult to distribute emergency funds via direct deposit. Direct deposit can therefore only provide a partial solution to the issue.

The Nishnawbe-Aski Legal Services Corporation noted that, because of the minimal presence of mainstream financial institutions in many First Nations communities, the practical utility of direct deposit programs is very limited in these locations.

2. BENEFIT CARDS

Another alternative to the use of cheques is to provide benefits through debit cards. The federal government, as well as Alberta and British Columbia, have been experimenting with the use of debit cards as a delivery mechanism for government benefits.¹²⁵ Debit cards have been used to deliver Social Security benefits in the United States, through a partnership with Master Card.¹²⁶

Alberta initiated its very recent benefit card program in addition to the direct deposit program discussed above at section IV.D.1. Reasons cited for entering into this program include:

- Ensuring that unbanked individuals were able to access funds without paying high fees to cheque cashing services,
- More effective payment method for emergency funds,
- Increased security for clients, who will no longer need to carry cash,
- Potential reduction in fraud, and
- Administrative efficiencies.¹²⁷

It was pointed out to the LCO that benefit cards essentially operate like bank debit cards; therefore, it may be a better long-term solution to encourage individuals to develop relationships to mainstream financial institutions, through which they could access debit card technology, than to simply provide them with benefit cards.

Benefit cards can provide a solution for unbanked individuals, as they can essentially operate as an alternative to a bank account. For this reason, they are an appealing alternative in remote communities, where access to mainstream financial institutions is minimal and options are limited.

However, benefit card programs would have to be very carefully designed with the needs of end users in mind. For example, since cash would generally be accessed through ABMs, and ABMs generally issue funds in units of \$20.00 or \$50.00, it may be necessary to adjust benefit levels to ensure that recipients are able to access all of the funds on their debit card each month (i.e., if the benefit amount was \$606.00, the recipient may not be able to withdraw the last \$6 from the card). As well, there are concerns about fees: if there are fees for loading the card each month and for each transaction, recipients could once again end up losing a significant amount of government benefits to fees.

Another consideration is that transient individuals will be at risk of having their benefit cards lost or stolen. Individuals who have difficulty maintaining a bank account may have

similar difficulty managing a benefit card, and those whose literacy issues make ABMs and mainstream financial services intimidating may experience similar concerns in using benefit cards. As one individual working with low-income individuals explained, bank cards will work well for those who “don’t lose stuff” and are comfortable with technology, but there are individuals for whom technology will never provide a solution, because what is needed is more human services, and not less.

The LCO heard that, given the significant social stigma that attaches to receipt of social assistance, and the negative treatment that social assistance recipients often receive, it would be essential that benefit cards be designed in a fashion that did not reveal the status of the card holder as a social assistance recipient.

It would be necessary both to take steps to ensure the privacy of card holders and to communicate those steps to benefit recipients, as there may be concerns that government would or could track expenditures through pinpointing where benefit cards were swiped.

Therefore, any implementation of benefit card programs would have to take into account concerns about stigma and privacy, include training and support for transition to the new technology, and ensure that the cards did in fact provide better and less expensive access to benefits.

E. Indemnity Agreements

Under an indemnity agreement, financial institutions that meet certain standards with respect to identification when cashing a cheque can be assured of payments from the agency issuing the cheque. Indemnity agreements may vary in their structure and terms of coverage. The federal government has a formal indemnity agreement with the major banks, as do the provinces of British Columbia, Alberta and Quebec. The province of New Brunswick has an informal indemnity agreement. Local governments in Ontario have also entered into informal indemnity agreements.

1. FORMAL INDEMNITY AGREEMENTS: THE FEDERAL INITIATIVE

The federal indemnity agreement is the most comprehensive Canadian example of a formal indemnity agreement.

As part of a broader strategy to increase access to banking services, the federal government has entered into a formal indemnity agreement with the major banks with respect to cheques for \$1,500 or less. As a result, non-bank customers can cash federal government cheques for amounts under \$1,500 at any bank, so long as they present the required identification. This indemnity agreement applies only to cheques to be paid to individuals, not business cheques.¹²⁸

The requirements for identification are set out in the *Access to Basic Banking Services Regulations*.¹²⁹ Ontarians seeking to cash a federal government cheque may present any two of the following documents issued by a Canadian government:

- Canadian driver’s license,
- Canadian passport,

- Certificate of Canadian Citizenship or of Naturalization,
- Canadian Permanent Resident card,
- Birth certificate issued in Canada,
- Social Insurance Number,
- Canadian Old Age Security card,
- Certificate of Indian Status,
- Employee identification card with photograph,
- A bank card issued by a member of the Canadian Payments Association,
- A credit card issued by a member of the Canadian Payments Association,
- A Canadian National Institute for the Blind card, or
- A foreign passport.

A person who cannot provide two of the above documents can present one of the above documents with photograph and signature, together with a confirmation of the identity of the individual by an individual of good standing in the community.

Financial institutions are not obliged to cash a cheque that:

- is not an item accepted under the rules of the Canadian Payments Association,
- the bank has reasonable grounds to believe is associated with illegal or fraudulent activity, or
- appears to be counterfeit or altered in any way.¹³⁰

Notably, while the indemnity agreement covers cheques that are counterfeit or fraudulently endorsed, it does not apply where a cheque has been fraudulently altered.¹³¹ If the bank's own processes do not detect the fraudulent alteration prior to cashing, the bank must bear the cost of the fraud.

Where a fraudulent cheque is returned, the bank branch where the cheque was cashed is initially responsible for attempting to recover the funds, prior to making a claim under the indemnity agreement.¹³²

Where a bank refuses to cash a federal government cheque, a written notice must be provided to the customer, setting out the reasons for the refusal, and outlining the right of the customer to file a complaint with the FCAC.¹³³ The FCAC regularly undertakes "mystery shopping" expeditions to monitor compliance with this requirement. The most recent of these surveys revealed a 91 per cent success rate in cashing a federal government cheque. The FCAC noted that the main reason for refusal to cash a federal government cheque was uncertainty on the part of bank employees about identification requirements, and in a number of instances, banks required identification in excess of what was required by the *Access to Basic Banking Regulations*. The FCAC noted very low levels of compliance with the requirement that banks provide written notice upon refusal to cash a cheque.¹³⁴

The indemnity agreement is paired with a statutory prohibition on bank charges for cashing federal government cheques.¹³⁵ This prohibition is discussed at further length in the following section below on Regulating Fees.

2. INFORMAL INDEMNITY AGREEMENTS

The province of New Brunswick has a long-standing informal indemnity agreement with the banks with respect to cheques issued by the Department of Social Development. This indemnity agreement is therefore more targeted than the federal indemnity agreement, covering only social assistance payments. The indemnification agreement requires the cheque-holder to present their health card to the bank teller; the Department ensures that benefit recipients have this identification. In order to facilitate the indemnification agreement, benefit cheques are colour-coded. Together with the fact that all cheques are issued at the same time each month, this makes it easy for the banks to know which cheques are covered by the indemnification agreement.

In Ontario, several local governments administering the Ontario Works social assistance program have entered into informal indemnity agreements. These agreements are entered into with a single branch of a bank or credit union; generally a branch near the service provider's offices, and where the service provider deposits its own funds. Because of privacy concerns, the service providers do not verify the identity of social assistance recipients, but will commonly issue a letter verifying that the named individual was issued the cheque in question. As noted elsewhere, social assistance providers also commonly provide assistance to clients in obtaining valid identification to assist in obtaining bank accounts and in cheque cashing.

The City of Toronto has an indemnity agreement with the Royal Bank that covers, not only social assistance cheques, but all cheques issued by the City. Through this indemnity agreement, social assistance recipients are able to cash their benefit cheques without fee at any Royal Bank branch (as well as the two Cash & Save outlets) upon presentation of appropriate identification.

3. EVALUATING INDEMNITY AGREEMENTS AS AN OPTION

Consultees were widely supportive of indemnity agreements as a method of improving the ability of low-income individuals to access government funds without cost. There was broad consensus that indemnity agreements are a very promising option. The Task Force on the Future of the Canadian Financial Services Sector recommended that governments that have not yet entered into indemnity agreements should do so¹³⁶ and the Canadian Bankers Association has indicated its support for these types of agreements.¹³⁷

Community Legal Services Ottawa pointed out that indemnity agreements with mainstream financial institutions will encourage low-income individuals to approach and develop relationships with these institutions and to view them as relevant to their needs, thereby also contributing to a broader objective of encouraging low-income individuals to become and remain banked.

However, indemnity agreements will only be relevant where the individuals in question have reasonably easy physical access to a branch of a mainstream financial institution. An indemnity agreement would therefore have little relevance in many remote Northern communities where mainstream financial institutions are non-existent. An indemnity agreement could therefore be only a partial remedy to barriers to accessing government benefits; it would have to be accompanied by measures that would address the needs of these communities.

Consultees were widely supportive of indemnity agreements as a method of improving the ability of low-income individuals to access government funds without cost.

Concerns have been raised that Ontario's method of delivery of the Ontario Works program may create an obstacle to a comprehensive indemnity agreement. In Ontario, unlike in other provinces, delivery of social assistance is a responsibility shared between the province and the municipalities. While payments to ODSP recipients are delivered by the province, cheques for recipients of Ontario Works are issued by the municipalities and District Social Service Administration Boards. The question has been raised as to whether an agreement between the province and mainstream financial institutions would cover cheques issued to Ontario Works recipients.

Under current cost-sharing agreements, the provincial Government funds 80 per cent of the benefit costs of the Ontario Works program and 50 per cent of its administrative costs. The provincial Government funds 100 per cent of the benefit costs of ODSP and 50 per cent of the administrative costs of that program.

The Ontario Works program is governed by provincial statute, the *Ontario Works Act, 1997*. This Act gives the Minister authority to designate delivery agents (including municipalities, bands and prescribed boards) to exercise powers and duties under the Act, within a specified geographic area. Delivery agents are responsible for receiving applications for assistance, determining eligibility, directing the provision of assistance, and carrying out other prescribed duties. Delivery agents are responsible for developing processes to prevent and control fraud, and otherwise prevent the misuse of social assistance. Section 45 permits delivery agents to enter into agreements with regard to any matter relating to the administration of the Act or the provision of assistance in the relevant geographic area. Presumably, section 45 is the authority under which delivery agents enter into local indemnity agreements.

The Director of Ontario Works, appointed by the Minister, is responsible for supervising the administration of the Act and the provision of assistance by the delivery agents, and determining how the payment of costs of administering the Act and providing assistance are to be allocated. The Director also has the power, parallel to that provided to delivery agents under section 45, to enter into agreements with regard to any matter relating to the administration of the Act or the provision of assistance. That is, it does not appear that the powers provided to delivery agents supersede the powers of the provincial government to enter into similar agreements.

There are four key considerations for ensuring the success of an indemnification agreement:

Identification Requirements: Indemnity agreements rely heavily on identification requirements as a method of preventing fraud and thereby controlling the costs of the agreement. In order to be successful, indemnity agreements should therefore be paired with initiatives to improve access to identification. Otherwise, individuals who are unable to open bank accounts due to lack of identification will for the same reason be unable to take advantage of the benefits of the indemnity agreement. The Public Interest Advocacy Centre's submission stated that "[T]he entire premise of these agreements hinges on the fact that the consumer will have the appropriate or acceptable identification to receive service from the banking institutions."

Consumer Awareness Initiatives: Consumers will only take advantage of indemnity agreements if they are aware of them: as noted earlier, a 2006 survey for the FCAC found that three-quarters of respondents did not know whether it costs something to cash a

federal government cheque, and only 22 per cent knew that it was free of charge.¹³⁸ A 2005 survey for the FCAC found that 26 per cent of respondents who had used a cheque cashing outlet had done so to cash a federal government cheque, although the survey did not ask whether or not these individuals were aware that they could have cashed the cheques without charge at a bank.¹³⁹ Social assistance providers could, for example, send inserts with information about the indemnity agreement with benefit cheques. It may also be effective to provide training and information for those who provide front-line services to recipients of government benefits.

Coverage of the Indemnity Agreement: The terms of the indemnity agreement should provide realistic coverage. The Ministry of Community and Social Services noted that an indemnity agreement should be based on an analysis of the actual cheques regularly issued – for example, the federal limit of \$1,500 would exclude a number of ODSP recipients.

Training for the Staff of Financial Institutions: The FCAC’s most recent “mystery shopping” expedition found that almost one in ten of the mystery shoppers attempting to cash a cheque under the federal indemnity agreement was inappropriately turned away.¹⁴⁰ It would therefore be important to ensure that front-line staff receives appropriate training and refreshers to ensure compliance with the indemnity agreement.

F. Regulating Fees

1. CHEQUE CASHING LEGISLATION ACROSS CANADA

While regulation and indemnity agreements can be used as distinctive strategies to deal with cheque cashing fees, they are often linked. In order to address the element of risk in cashing cheques, prohibition of cheque cashing fees is generally undertaken in tandem with indemnity agreements, and regulation will have a different effect depending on whether or not an indemnity agreement is in place.

Regulation of cheque cashing fees has been determined to fall within provincial competence to legislate, as a matter of consumer protection. The first provincial legislation dealing with cheque cashing fees, that of Quebec, was unsuccessfully challenged on constitutional grounds. Money Mart (operating in Quebec as INSTA-cheques), argued that Quebec legislation banning fees for cashing government cheques was not within provincial competence as it dealt with Bills of Exchange, a matter of federal competence under Canada’s constitution. The Quebec Court of Appeal, upholding judgments of the lower courts, rejected Money Mart’s argument. It determined that the legislation was within provincial competence, as its object was consumer protection and it touched only incidentally on Bills of Exchange.¹⁴¹

Regulatory schemes will differ in their impact depending on who is regulated, the type of cheques covered, enforcement mechanisms, and other measures taken in tandem. Five Canadian jurisdictions have regulated or are in the process of regulating fees for cashing government cheques. Each of these jurisdictions has taken a different approach.

The federal government prohibits banks from charging fees for cashing cheques of up to \$1,500.00, and has paired the prohibition with an indemnity agreement for these institutions.

Quebec prohibits anyone from charging a fee for cashing government cheques, and indemnifies mainstream financial institutions.

Manitoba has regulated the fees for cashing government cheques by setting maximum rates that may be charged.

British Columbia is in the process of regulating fees for government cheques, in tandem with an indemnity agreement for mainstream financial institutions.

Saskatchewan considers Money Mart and similar businesses financing corporations under its *Trust and Loan Corporations Act, 1997* and they are therefore required to be licensed under that Act. Section 30 of that Act applies federal prohibitions on cheque cashing fees to licensees. As a result, cheque cashing services in Saskatchewan may not charge a fee for cashing a federal government cheque.

Federal Regulatory Framework

There is a lengthy history to the federal prohibition on fees for cashing its cheques.¹⁴² The current prohibition is found in the *Bank Act*,¹⁴³ and it prohibits banks from making a charge for cashing any cheque or other instrument drawn on the Receiver General, or for cashing any other instrument issued as authority for payment of money out of the Consolidated Revenue Fund. Since 2001, the *Bank Act* has further required banks to cash without charge federal government cheques for up to \$1,500 for anyone who meets the required conditions, regardless of whether they are a customer of that bank.¹⁴⁴

This legislation is paired with an indemnification agreement that, as discussed in detail in the previous section, provides protection for banks against some of the risks of fraud for these types of cheques.

It is essential to note that both the prohibition on fees and the indemnification agreement apply **only** to institutions covered by the *Bank Act*. AFS institutions are not prohibited from charging fees for cashing cheques and are not indemnified for any fraudulent cheques they may cash. AFS institutions do in fact continue to cash federal government cheques and to charge their regular fees for doing so: a survey conducted by the FCAC in 2005 found that over one quarter of the respondents who had used a cheque cashing outlet had done so in order to cash a federal government cheque.¹⁴⁵

Quebec

Since 1978, Quebec has prohibited charges for cashing government cheques.¹⁴⁶ This prohibition applies to mainstream financial institutions, AFS enterprises, and all merchants, thereby also including businesses like pawnshops.¹⁴⁷ This legislation was considered a social justice measure, aimed at providing support to the economically disadvantaged.

The legislation extends not only to cheques issued by the Quebec government, but also to cheques issued by the federal government and the municipalities. It does not extend to cheques issued by other provincial governments. Unlike the federal legislation, Quebec places no limit on the size of the cheques covered.

The penalties for breach of the legislation range from \$600 to \$15,000 for a first offence, doubling in the case of subsequent convictions.¹⁴⁸

The Quebec government also has an indemnity agreement with mainstream financial institutions (although not with AFS businesses), which adopts the federal limit of \$1,500.

Quebec's legislation was initially challenged by Money Mart, after one of its INSTA-Cheques centres was charged with cashing two social assistance cheques for a fee. As noted above, INSTA-Cheques unsuccessfully argued that the statute did not apply to them, and was unconstitutional in that it was infringing on federal jurisdiction. The Quebec Court of Appeal found that the legislation fell within the scope of consumer protection frameworks, as it repressed a commercial practice considered to be oppressive, and emphasized the legitimacy of the legislative decision to ban a commercial practice deemed socially unacceptable, particularly because of the absence of risk in cashing government cheques.¹⁴⁹

Following the decision of the Court of Appeal, INSTA-Cheques announced that it would no longer cash federal, provincial or municipal government cheques and would restrict its cheque cashing to payroll cheques, and closed a number of its branches in Quebec.¹⁵⁰

Quebec's approach to this issue should be considered in light of its financial culture, in which a community-driven credit union movement has played a strong role. The *caisses populaires* have had a mandate to reach out to rural, francophone, and low-income consumers and small businesses and serve their needs. Today, the Mouvement Desjardins Group is the largest integrated cooperative financial group in Canada, with assets of \$144 billion.¹⁵¹ Quebec's low-income population is more likely to be banked than in other parts of Canada: in 2002, a study by the Public Interest Advocacy Centre estimated that only 2.5 per cent of adults in Quebec with incomes under \$25,000 did not have bank accounts, compared to 10.4 per cent in the rest of Canada.¹⁵² A 1996 study by the Montreal consumer protection group, Association Co-opérative d'Économie Familiale, drew a direct link between the flexible policies of the Mouvement Desjardins for opening accounts and cashing cheques, and lower levels of unbanked individuals in Quebec.¹⁵³

Manitoba

The province of Manitoba recently adopted legislation which enabled it to set maximum fees for any institution cashing government cheques.¹⁵⁴ The legislation applies to cheques issued by the federal, Manitoba or municipal governments, as well as any government agency designated by regulation. Non-compliance may result in a fine of between \$1,000 and \$5,000.¹⁵⁵ The combined effect of the federal and the Manitoba legislation is that federal government cheques may be cashed without fee at a bank, but are subject to the Manitoba maximum limits if cashed at a cheque cashing outlet. In theory, banks, like other service providers, could charge the maximum fees to cash provincial or municipal cheques.

The aim of this legislation was to ensure that consumers receive the maximum benefit from their government cheques, in light of complaints regarding the high fees charged for cheque cashing by AFS businesses.¹⁵⁶ Legislation regulating payday loans was introduced at about the same time, evincing a general concern with the regulation of AFS businesses.¹⁵⁷

Manitoba's legislation empowers the Public Utilities Board to set maximum fees, taking into consideration the business operating requirements of those who cash cheques for a fee, the risks associated with cashing government cheques, and any other factors or data that are relevant or in the public interest. The Board Order must be set via public hearing, and must be reviewed every three years, or where there are changed circumstances or new evidence.

The province of Manitoba has not entered into any indemnity agreements. During legislative debates on the Bill, some members expressed concerns that banks and other mainstream financial institutions that had not previously charged fees for cheque cashing would do so under the new legislation.¹⁵⁸ The Public Utilities Board urged institutions that had previously not charged fees or had charged lower fees to continue to do so.¹⁵⁹

The Manitoba Public Utilities Board made its first order on May 28, 2007.¹⁶⁰ The maximum rate has been set at \$3.00 plus two per cent of the face value of the cheque, unless:

- A hold is placed on the cheque, in which case the maximum fee is the lesser of \$5.00 or the sum of \$3.00 plus two per cent of the face value of the cheque; or
- The cheque is cashed with a requirement that the person purchase goods or services adding up to ten per cent or more of the value of the cheque, in which case no fee may be charged.

This fee is considerably less than that currently charged by Money Mart or CashMoney in Ontario of \$2.99 plus 2.99 per cent of the face value of the cheque. For example, a \$500 cheque would cost \$17.94 to cash at Money Mart or Cash Money in Ontario, compared to \$13.00 under the Manitoba PUB order. A lone mother of two receiving her Ontario Works and Ontario Child Benefit cheques amounting to \$1,510 per month would pay \$577.57 per year to cash her cheques at the current rate, and \$398.40 per year to cash her cheques in Manitoba, a difference of \$179.17.

The Board placed its mandate to set fees for the cashing of government cheques in the broader context of access to financial services, and in its order made several recommendations aimed at ensuring that Manitobans have the necessary tools to access mainstream financial services, thereby reducing reliance on AFS outlets. The Board recommended that:¹⁶¹

- The provincial government provide social assistance recipients with:
 - free photo identification;
 - counseling regarding financial issues, including cheque cashing costs;
 - assistance in opening bank or credit union accounts; and
 - encouragement to use direct deposit to receive their government payments.
- Banks and credit unions offer low-cost accounts for social assistance recipients.
- Government and mainstream financial institutions enter into an indemnity agreement for cheques of a value of \$1,000 or lower.
- AFS businesses be required to obtain licenses.
- The Consumers' Bureau develop a Code of Conduct for cheque cashers, as well as information for the general public on cheque cashing.

As this legislation is so recent, its long-term impact remains to be determined.

British Columbia

Bill 27, the *Business Practices and Consumer Protection (Payday Loans) Amendment Act, 2007*, passed in the fall of 2007, but has not yet come into force. Part 6.2 of that Act prohibits the charging of fees for cashing cheques issued by the federal, British Columbia, or municipal governments, except as permitted by regulation.

As in Manitoba, the regulation of cheque cashing fees occurred in the context of a move to regulate payday loans. The Bill which will regulate cheque cashing fees has as its main focus the regulation of payday lenders, and response to the Bill has largely focused on the issues surrounding payday loans.

Public consultations on the rates for cheque cashing fees were held during the winter of 2007/2008, and the results are expected shortly.

Unlike Manitoba, British Columbia does have an indemnity agreement with the major banks. Therefore, consumers will have a choice of cashing their cheques without charge at a bank, or cashing them at an AFS business for a regulated fee.

2. THE AMERICAN EXPERIENCE

As is highlighted elsewhere in this Report, the American cheque cashing industry is larger, older, and more mainstreamed than that in Canada. Cheque cashing outlets not only cash cheques and issue money orders and wire transfers, they also are often a service centre for municipal services such as public transportation fares, motor vehicle titles, public assistance benefits and food stamp distribution.

Cheque cashing outlets and services are more heavily regulated in the United States than in Canada. Of the fifty-one jurisdictions in the United States, only 15 do not regulate cheque cashing.¹⁶²

Some states require cheque cashing businesses to be registered and licensed. They may also have requirements for disclosure and posting of information, advertising, recordkeeping and other business practices.¹⁶³ Ohio's *Check Cashing Act* provides a comprehensive example of such legislation. Licenses are required for the main business office and each business location where cheque cashing is conducted. Records must be kept for two years after the date of final entry for each business location and be readily available for inspection by the Department of Consumer Finance. These regulations are aimed at increasing transparency and limiting fraud and potential money laundering. As well, cheque cashing outlets are required to provide receipts for cheque cashing transactions, to clearly state their identity as cheque cashing businesses in any advertisements and to refrain from using unqualified superlatives in such advertisements. Failure to comply with requirements can lead to the suspension or refusal to renew the license to operate.

Some states regulate fees for all cheques, with different rates for government cheques, payroll cheques and personal cheques.¹⁶⁴ Others cap rates for all cheques at a maximum percentage and flat fee.¹⁶⁵ Illinois regulates fees based on monetary categories, with a rate of 1.4 per cent plus a nine cent service charge for cheques under \$500, and a 1.84 per cent rate for cheques over that amount. Some states provide for a higher rate for cheques cashed without identification, presumably so that undocumented workers can cash their employment cheques.¹⁶⁶ Rhode Island requires banks and credit unions to cash government cheques for \$750 or less without fee for the unbanked, provided proper state identification is presented.

Several states provide for one-time account set-up, membership or new customer fees, of between \$5.00 and \$10.00.¹⁶⁷

3. EVALUATING REGULATION AS AN OPTION

In its submission, National Money Mart opposed regulation of fees for cashing government cheques:

Government should focus on broadening access to encashment of government cheques. In consideration for the rights granted by the government to banks, credit unions and trust companies, these institutions are required to provide this service for free up to \$1500.00 per cheque. Yet, notwithstanding statements of good intentions, they have taken no effective steps or outreach programs to allow low income Ontarians to quickly and easily cash their cheques. If they in fact do this, low income Ontarians will not feel compelled to pay for this service. That is the problem, and therefore that is where the solution is to be found. It is not a solution to restrict fees of independent cheque cashers because banks have created obstacles to accessing free services. [Emphasis in the original]

Central 1 Credit Union also felt that the solution was to increase access to mainstream financial services through programs such as direct deposit, rather than to impose fee caps. Generally, however, other stakeholders agreed that while broadening access to low-cost cashing of government cheques was essential, whether through indemnity agreements, direct deposit, or removing barriers to the use of mainstream services, regulation is still the most effective means of ensuring low-cost access to government payments, and indeed is an essential step.

There was however, a significant division of opinion as to whether the most appropriate regulatory approach was to prohibit fees altogether, or to cap them:

[L]egislative approaches to managing cheque cashing fees are the strongest option available today. Through these legislative schemes, Ontario could set a ceiling on the fees applicable and it can have administrative bodies set these standards through public hearings. However, this approach should only come secondary to that followed in Quebec, where there is an outright prohibition on the charging of any fee for a cheque issued by a provincial, federal or municipal government. On its own, this latter approach stands as the most effective and most stable to accommodating the needs of vulnerable consumers in Ontario.

Public Interest Advocacy Centre

We are of the view that cheque cashing agencies are here to stay. We therefore support the introduction of legislation similar to that introduced in Manitoba. This legislation would establish maximum rates these agencies could charge for cashing cheques.

Community Legal Services Ottawa Centre

Many consultees representing a variety of perspectives raised concerns that with a prohibition on fees, AFS businesses would cease to offer this service.

If the government chooses to tamper with the marketplace the necessary result is withdrawal or restriction of access to financial services to some individuals. [T]he Consultation Document sets out an example of a single

mother saving \$11.53 on a cheque of \$1,166.00 under the Manitoba rates. What the Paper fails to consider is the number of individuals that will be unable to cash their cheque because of more restrictive identity requirements and less risk tolerance of companies and fewer locations available to access service because of consolidation or companies withdraw their service from their suite of financial products.

National Money Mart

In the view of these organizations, some individuals will always be unbanked; and the withdrawal of AFS businesses from cheque cashing could cause some significant difficulties or hardship. This is particularly true for those in remote communities, where there is little or no access to mainstream financial institutions.

Others felt that the incomes of those on social assistance are so very low that any fee at all to access their benefits is unduly burdensome. In this view, the risks associated with the cashing of government cheques should not be borne by low-income individuals: this is bad social policy.

Further, a prohibition on fees would harmonize well with the federal regime. A regime where some cheques could be cashed for a fee and others could not would likely be a source of confusion, some thought.

If rate-setting legislation for cheque-cashing fees is paired with an indemnity agreement with mainstream financial institutions, as in British Columbia, this would offer a range of options to consumers. On the other hand, it was pointed out to the LCO that generally one regulates the *service*, not the institution: to have different regimes for AFS businesses and mainstream financial institutions would be incoherent, and again may be confusing for consumers. However, while both mainstream and alternative financial service providers offer services that enable consumers to access funds transferred by cheque, they do so in fundamentally different ways. Mainstream financial institutions provide access to such funds in a relatively low-risk environment, in the context of a set of services related to their deposit-taking functions; while AFS businesses provide a simpler service, but in a relatively higher risk environment.

Rate-setting for fees would require a complex regulatory structure: as the Ministry of Community and Social Services points out:

Legislation may require the creation of a licensing scheme for cheque cashing businesses, a mechanism to determine maximum rates, and inspection and enforcement methods.

However, such a regulatory regime is now being sent up to regulate payday loans services, which are generally provided by the same businesses that provide cheque cashing services. It may therefore be possible to take advantage of the regulatory regime being set up to monitor payday loans in order to regulate cheque cashing services. On the other hand, the impact of the regulation of payday loans on the economics of these businesses should be taken into account when considering capping cheque-cashing fees.

V. CONCLUSIONS AND RECOMMENDATIONS

The issues raised by cheque cashing fees, although simple on the surface, raise complex considerations of law and social policy. The use of cheque cashing services has roots in poverty and marginalization, rapid technological change, and shifting dynamics in the financial services sector. Therefore, in order for law reform to be effective, it must be supported by complementary government initiatives to broaden options, provide information and increase access to financial services for recipients of social benefits. The LCO's recommendations are therefore divided into two sections: the first focuses on legislative amendments, and the second focuses on complementary initiatives by government and other stakeholders.

- The LCO recommends a coordinated strategy for ensuring that recipients of government benefits have improved access to their funds, including:
- Introduction of legislation to regulate the cheque cashing industry, including the imposition of licensing requirements, mandatory fee disclosure and maximum fee rates;
- Passage of legislation to improve access to identification for low-income Ontarians;
- Initiatives to increase education and access to information for consumers;
- Development of an indemnity agreement between the Government of Ontario and mainstream financial institutions to improve access to low-cost cheque cashing;
- Exploration of alternatives to the use of cheques in providing government benefits to remote communities; and
- Long-term initiatives to reach out to communities that have historically had difficulty accessing mainstream financial services.

The recommendations are interdependent, recognizing that the complexity of the issue requires a multi-pronged approach. These recommendations aim to combine both short-term practical improvements and long-term strategies for addressing the underlying causes of the use of cheque cashing services.

A. Legislative Initiatives

1. REGULATING THE CHEQUE CASHING INDUSTRY

The payment of fees in order to cash government cheques has a significant impact on many of Ontario's poorest and most vulnerable citizens. The Ministry of Community and Social Services issues approximately three million cheques to social assistance recipients each year. While it is not possible to know with any certainty how many of those cheques are cashed for a fee, the municipal delivery agents and community organizations with whom the LCO consulted suggested that the number is substantial. A survey conducted by the Thunder Bay Social Service Administration Board for the month of March 2008 found that over 40 per cent of the cheques it issued were cashed for a fee. Given the very low incomes of those on social assistance, the impact of cheque cashing fees on their ability to obtain the necessities of life may be substantial. Since expressed concerns have been focused on low-income recipients of government benefits, it is not necessary that regulation cover cheques issued to businesses.

Financial services are vital to the well-being of the individuals who use them... Low-income consumers who primarily access their financial services from AFS businesses are entitled to the same basic protections as consumers who obtain their financial services from banks and credit unions.

Mainstream financial institutions include banks, credit unions, trust companies and loan companies. Low-income individuals face a complex set of barriers to accessing mainstream financial services. Barriers may include cheque hold policies, attitudinal barriers, and lack of information and financial capability. In some remote Northern communities, there are no mainstream financial institutions. As well, some low-income urban neighbourhoods may lack convenient access to mainstream financial institutions

Removal of these barriers is not simple: it requires concerted action over time by government, mainstream financial institutions and community organizations. The LCO has developed recommendations to address these underlying issues. However, for the foreseeable future, there will continue to be individuals who are unbanked or underbanked, and have little option but to resort to AFS businesses to cash their government cheques.

Regulation of cheque cashing services is therefore a necessary protection for vulnerable consumers.

The LCO does not recommend a prohibition on fees for cashing government cheques. Cheque cashing services will continue to play a vital role in some communities so long as barriers to accessing mainstream financial institutions continue to exist. Given the current situation, a prohibition would, for example, risk leaving some remote Northern communities without any services whatsoever, and leave many low-income urban individuals with fewer options to meet their urgent need to access their government benefits, for a variety of reasons discussed in this Report.

However, users of AFS businesses are entitled to basic consumer protections. Financial services are vital to the well-being of the individuals who use them: this is one of the reasons why banks and credit unions have always been subject to significant regulation and superintendence. Low-income consumers who primarily access their financial services from AFS businesses are entitled to the same basic protections as consumers who obtain their financial services from banks and credit unions.

Ontario (and other jurisdictions) has already begun to move in this direction with initiatives to regulate payday lenders. Bill 48, the *Payday Loans Act, 2008*, which received Royal Assent in June 2008 but has not yet come into force, provides both a precedent and a model for regulation of the cheque cashing industry, particularly since most cheque cashing businesses also offer payday loans and will fall under the new legislation when it comes into force. For greater efficiency and effectiveness, the LCO recommends that legislation regulating cheque cashing be harmonized with payday lending legislation.

The LCO recommends that cheque cashers, like payday lenders, be required to obtain a license to operate and to provide fair and full disclosure of their fees, and be subject to effective complaint mechanisms where they fail to comply. Given that the vast majority of cheque cashing businesses in Ontario will be subject to the licensing and complaint mechanisms of Bill 48 when it comes into effect, neither government nor AFS businesses should find such regulation excessively costly or onerous.

The question as to whether to cap fees for cashing government cheques is a difficult one. The other initiatives recommended by the LCO, if implemented, will over time widen the options available to low-income individuals and reduce the barriers to use of mainstream

As most individuals cashing government cheques at AFS businesses are likely to be low-income and otherwise marginalized, compliance mechanisms that focus on complaints are unlikely to be effective, as these individuals are less likely to be aware of their rights and, being preoccupied with survival are less likely to enforce them.

financial institutions. On balance, however, given the immediate needs of low-income recipients of government benefits, and the considerable challenges inherent in ensuring full access to mainstream financial services for all Ontarians, the LCO recommends that the government pass legislation to set fair and reasonable rates for cashing government cheques. The aim of such legislation is to ensure that vulnerable recipients of government benefits can access their funds at reasonable rates, taking into account their low incomes, while ensuring that cheque cashing services are fairly compensated for their risks and costs. Manitoba and some American jurisdictions have set more than one maximum rate for cheque cashing fees. In Manitoba, the rate varies depending on whether the consumer is expected to purchase goods through the business cashing the cheque, and in some American states the rate differs depending on the size of the cheque cashed.

Given its nature, informal cheque cashing is very difficult to regulate. However, this does not mean that such services should be exempted from regulation. While most informal cheque cashing may be benign, there is certainly a potential for abuse, and individuals who are victims of abusive practices should not lose the opportunity for recourse.

The LCO considered whether it would be reasonable to set a limit on the size of the cheques covered by legislation. Most government cheques issued to individuals are for relatively small amounts (under \$2,000), but under unusual circumstances, cheques for larger amounts may be issued. The compensation recently provided to Aboriginal survivors of residential schools provides an example of the circumstances under which cheques for substantial sums may be issued. Based on the results of that experience, the LCO has concluded that legislative limits on the size of cheques protected could be the source of considerable injustice.

There are a variety of models for setting maximum rates for cheque cashing fees. In British Columbia, the government will set maximum rates for cheque cashing fees by regulation, based on public consultation. In Manitoba, the Public Utilities Board was given the authority to set maximum rates for cheque cashing, based on public hearings. This may be more cumbersome than the British Columbia process, but has the advantage of placing the responsibility for rate-setting at arm's length from the government, enabling open debate and public participation, and establishing a process for regular review of the maximum rate. Under Ontario's Bill 48, the Government will establish an independent expert advisory board to make recommendations on limits for the total cost of for payday loans, with any limits to be subsequently imposed through regulation. This approach provides the Government with expert advice as well as flexibility; however, there is no provision for regular review or adjustment for the cost-of-borrowing limits.

In the LCO's view, it is preferable that a rate-setting process be arm's length, expert, and open to public debate. However, since Bill 48 has established a viable process for a rate-setting exercise similar to that required for cheque cashing fees, the simplest and most efficient solution may be to use the same process for setting maximum rates for cheque cashing fees.

As most individuals cashing government cheques at AFS businesses are likely to be low-income and otherwise marginalized, compliance mechanisms that focus on complaints are unlikely to be effective, as these individuals are less likely to be aware of their rights and, being preoccupied with survival are less likely to enforce them. The Financial Consumer Agency of Canada's (FCAC) model, which focuses on proactive measures such as "mystery shopping", may be a more effective compliance model in these circumstances.

Regulation is still the most effective means of ensuring low-cost access to government payments, and indeed is an essential step.

The LCO recommends that:

1. Legislation be enacted to regulate cheque cashing services. The LCO recommends that this legislation be modeled on and harmonized with the *Payday Loans Act, 2008*, and specifically that this legislation:
 - A. Require cheque cashing businesses to obtain a license to operate;
 - B. Require cheque cashing businesses to provide full and fair disclosure of their fees;
 - C. Include a mechanism for setting maximum fees for cashing cheques issued by provincial or municipal government to individuals. Ideally, this process is arm's length, expert and open to public input; however, the process adopted under *Payday Loans Act* offers a viable practical solution;
 - D. Apply to all institutions, including both formal and informal cheque cashing services;
 - E. Fairly reflect the costs and risks associated with cashing government cheques, ensuring that cheque cashing services continue to receive a fair return for their services; and
 - F. Include provisions for a compliance mechanism.

2. INFORMATION AND EDUCATION

Informing Consumers

The provision of adequate accessible information is essential to ensuring that Ontarians have a meaningful choice in deciding how to access the funds from their government cheque. The FCAC surveys highlighting low levels of public awareness related to the federal indemnity agreement, and the significant numbers of individuals cashing federal government cheques at AFS outlets despite the existence of the indemnity agreement highlight the importance of ensuring that consumers are well-informed about their choices.

Consumer education can be provided through a variety of mechanisms. There are simple and relatively low-cost steps that can be taken, such as providing written information along with benefit payments. Train the trainer programs can also be effective and relatively low-cost. Training and education programs will be most effective if developed in consultation with organizations that have experience in working with low-income consumers.

Training and Education for Service Providers

The LCO heard from several stakeholders that information and education should be provided, not only to individuals receiving government cheques, but also to those who provide services and advice to these individuals, such as front-line staff in financial institutions and social services organizations.

Several organizations that work with low-income individuals emphasized the value in financial institutions and social service providers sharing knowledge and skills in order to provide better

service and assistance to low-income consumers. Social service providers are very knowledgeable about the needs and circumstances of their clients, but often have only scanty information on financial issues; the opposite is generally the case for staff in financial institutions.

As well, low-income individuals have unique financial needs and issues, and the LCO heard that financial institutions and social service providers are frequently ill-equipped to provide advice on financial services and products that addresses these needs.

The Ontario Payday Lending Education Fund

Given the close relationship between cheque cashing and payday loans, the creation of a consumer education fund under Bill 48, the *Payday Loans Act, 2008*, offers opportunities for public education.

Section 66 of that Act establishes the “Ontario Payday Lending Education Fund”, which will be funded by payments made by businesses that are licensed as payday lenders under that Act. The purpose of the Fund is:

[T]o promote the education of persons respecting the rights and obligations of persons and entities under this Act and respecting financial planning, where the education is done through the use of publications, training, advertising, and similar initiatives, including by making grants and transfer payments;

as well as other objectives consistent with the purposes of the Act and prescribed by the Minister.

Given the demonstrated need for initiatives related to financial literacy and for specific attention to the issues related to cheque cashing, the LCO recommends that consumer financial education address itself beyond the specific issues related to payday lending. The general reference in section 67 to education “respecting financial planning” may be broad enough to include initiatives that would increase the financial capability of low-income consumers and address issues related to cheque cashing. However, for greater clarity and certainty, the LCO recommends that this provision be amended to specifically include such initiatives.

The LCO recommends that:

- 2. The Government of Ontario amend the provisions of the *Payday Loans Act, 2008* with respect to the Ontario Payday Lending Education Fund to specify that education initiatives may address issues related to cheque cashing, as well as broader needs related to financial capability.**

3. ACCESS TO IDENTIFICATION

The LCO strongly recommends that the Government of Ontario take steps to ensure improved access to identification for low-income individuals. Lack of identification, together with cheque-hold policies, was the barrier most frequently identified by stakeholders. Indeed, concerns regarding identification were virtually universal. Not only does the lack of identification form a barrier to accessing mainstream financial institutions,

Not only does the lack of identification form a barrier to accessing mainstream financial institutions, it is a precondition for the success of potential reforms such as indemnity agreements.

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To improve access to financial services for low-income individuals, the LCO recommends that identification initiatives ensure that:

- identification is reasonably easy to obtain, both in terms of administrative requirements and geographic location,
- costs are minimal for low-income individuals, and
- information about the accessibility of identification and how to obtain it is widely disseminated.

Considering the very low incomes of social assistance recipients, their particular difficulties in obtaining and maintaining identification, and the fact that social assistance recipients currently often access identification through payments from discretionary social assistance funds, a fee waiver for social assistance recipients makes sense.

A number of jurisdictions provide greater leeway than does Ontario for the use of health cards as identification. Health cards provide an appealing identification option: they are free, they already exist, they are relatively easy to obtain, and as they are a requirement for accessing an essential service, most Ontarians already carry one with them at all times. On the other hand, restrictions on the use of health cards are intended to protect the privacy of medical information, which is in itself an important social policy objective, and one that may be particularly important for some marginalized groups, such as persons with mental health issues.

As is outlined in Appendix E, most provinces have taken steps to provide access to low-cost identification as an alternative to the driver's license. The Ontario Government's recent introduction of Bill 85, the *Photo Card Act, 2008*, which will provide an alternative photo identification to the driver's license, is a positive step, and one which the LCO supports. However, the anticipated cost of the new photo identification card, \$35.00, will pose a barrier to many low-income individuals, and the LCO recommends that steps be taken to ensure that low-income individuals can obtain this card at minimal or no cost.

The LCO recommends that:

3. Legislation be enacted, whether through Bill 85 or otherwise, to provide a form of photo identification that is an alternative to the driver's license and that:

- A. is available to all Ontarians who do not have a driver's license;**
- B. will qualify as identification under the federal *Access to Banking Regulations*;**
- C. is low cost for all low-income Ontarians, and that is free of charge for persons in receipt of social assistance benefits; and**
- D. is reasonably simple to obtain in terms of administrative requirements.**

Better methods of addressing the risk of fraud must be found, as the current system places the cost of those risks on the shoulders of low-income individuals.

B. Complementary Government Initiatives

1. INDEMNITY AGREEMENTS

At the present time, some recipients of government benefits have little in the way of reasonable alternatives for ensuring low-cost and speedy access to their funds. For example, given the very low incomes of social assistance recipients, it is not reasonable to expect that these individuals can wait for a cheque hold to clear in order to access their funds. While in the longer term, it may cost less to deposit funds into an account and wait for the cheque to clear, realistically, this is not a viable alternative for a person trying to make ends meet on, for example, \$560 per month (the maximum amount under Ontario Works for a single person).

This is not to suggest that cheque holds are improper: they are the financial institution's method of addressing the risk of fraud. However, it does suggest that better methods of addressing the risk of fraud must be found, as the current system places the cost of those risks on the shoulders of low-income individuals.

There was strong support among stakeholders for indemnity agreements as a means of increasing the opportunity for low-cost and rapid access to government funds. These essentially transfer the risk of fraud to the government, which has greater capacity to bear that risk. Indemnity agreements provide government benefit recipients with cost-free, rapid and fairly simple access to their funds. They also can potentially encourage low-income individuals to develop relationships with mainstream financial institutions and view them as providing services relevant to their needs.

However, the success of indemnity agreements depends on the type of coverage provided, access to appropriate identification, and provision of identification and training to benefit recipients and frontline staff at both financial institutions and social service organizations.

Local informal indemnity agreements, while positive developments, by their nature create a patchwork of coverage. Further, given that there are 147 delivery agents for the Ontario Works program, the creation of a comprehensive network of local indemnity agreements presents considerable administrative and organizational challenges. A formal provincial indemnity agreement is to be strongly preferred.

A possibility which does not appear to have been explored either in Canada or in the United States is that of including AFS institutions in indemnity agreements. This could have the benefit of widening access and options for low-income individuals, particularly given the proven ability of AFS businesses to attract this clientele. However, AFS institutions differ from other financial institutions in vital respects. They are not subject to the same level of regulation and public monitoring as banks and credit unions. Nor do they have either the quasi-public role of banks or the community-driven mandate of credit unions. Further, it is unlikely that AFS businesses would be able or willing to offer services at zero profit: at most an indemnity agreement would reduce the costs of cheque cashing at AFS outlets. Finally, such an arrangement would be at odds with any broader attempts to encourage low-income individuals to develop relationships with mainstream financial institutions. Therefore, the LCO does not recommend extending indemnity agreements to AFS businesses.

The LCO requested, but was unable to obtain information on the costs of existing indemnity programs. Based on the information the LCO was able to obtain from service providers, cheque fraud with respect to social assistance benefits is relatively rare, and so the costs of an indemnity program covering such benefits is unlikely to be high. However, given that taxpayers will be assuming the risk of fraud, it is reasonable for an indemnity agreement to place limits on the size of the cheques covered, so long as those limits cover the cheques generally issued by government to social benefit recipients.

The LCO recommends that:

4. The Government of Ontario enter into an indemnity agreement with mainstream financial service providers that will allow both bank and non-bank customers to cash government cheques immediately upon presentation of appropriate identification. The LCO recommends that this indemnity agreement:

- A. Provide coverage for cheques issued by the Provincial Government, and specified service delivery agents, such as the delivery agents for the Ontario Works program.**
- B. Indemnify cheques for up to \$2,000, in order to encompass the range of benefits received by social assistance recipients.**
- C. Ensure that training on the indemnity agreement is provided to front-line staff at participating financial institutions and front-line government staff providing services to low-income individuals.**

2. ALTERNATIVE FORMS OF PAYMENT

One method of reducing the number of benefit recipients who pay a fee in order to cash their government cheque is to reduce the number of benefit payments made via cheque. The rise of electronic banking has made it possible to effectively transfer benefit payments through direct deposit, or more recently, through benefit cards.

Direct Deposit

Direct deposit considerably reduces the risk of fraud, encourages low-income individuals to use mainstream financial institutions, and provides administrative savings for government. For these reasons, direct deposit has long been encouraged for social assistance recipients in Ontario, with some success.

However, the utility of direct deposit programs is limited by the current barriers to the use of mainstream financial institutions, such as location, identification requirements, and confusion and anxiety regarding costs and fees associated with bank accounts. Until such barriers are addressed, a significant proportion of low-income recipients of government benefits will continue to be reluctant to use direct deposit. In Alberta, which has extensively promoted the use of direct deposit, use of the program is at about two-thirds for the general social assistance program and three-quarters for the program targeting persons with disabilities. This indicates that there are inherent limits to the extent of direct deposit programs.

While the current program should by no means be abandoned, given current levels of direct deposit in Ontario, extensive new investment in further promoting this program is unlikely to produce large returns.

Benefit Cards

Benefit card programs are new in Canada, and still at an early stage of development. Like direct deposit, benefit cards may result in administrative savings for service providers, as well as reducing fraud and potentially providing easier access to benefits for some recipients.

While stakeholders responded to the notion of benefit cards with initial interest, there were strong concerns regarding stigma, privacy and fees. These concerns, while significant, could be addressed by a well-designed benefit card program. More seriously, those social assistance recipients who are least likely to have bank accounts and are therefore most likely to be targeted for benefit cards are also the ones who are most likely to face technological or educational barriers to using the cards, or to lose the cards due to their transient lifestyles. Most stakeholders therefore viewed benefit cards as ultimately having limited utility.

The exception is in remote communities. There are unique challenges in ensuring that members of remote Northern communities can access their benefits at a reasonable cost. Many communities have no mainstream financial service providers at all, and given economic realities, this is unlikely to change. This means that many solutions applicable in urban communities, such as direct deposit programs and indemnity agreements, are of limited or no utility in these communities.

Given that most of those affected are Aboriginal individuals, the lack of financial services in these communities and the resultant disproportionate costs for accessing basic financial services raises serious equity and human rights issues.

The LCO recommends that in the long-term, measures be taken to facilitate access to financial services in these communities. This requires sustained effort and creativity. It has been suggested that government assist in facilitating the development of community financial institutions (such as credit unions). Alternatively, efforts could be made to develop relations between these communities and mainstream financial providers, through regular visits and outreach efforts.

When considering effect of regulating the fees that are currently being charged for cashing government cheques, the particular circumstances of these communities must be taken into account. Financial services are generally provided solely by the Northern Stores, and both communities and individuals are highly dependent on the continuance of these services. Regulation that set fees at a rate below the level considered economic by these providers, and that resulted in the withdrawal of services would have a significant detrimental effect on these communities. Further, given the level of dependence on these services, individuals are unlikely to complain about non-compliance with regulations, making the law very difficult to enforce. Providing alternative methods of receiving government payments therefore becomes very important.

In the short-term, the most promising option is the use of benefit cards. As the Northern Stores provide access to funds through gift cards, many residents of these communities are already familiar with the technology. The use of benefit cards may provide residents with some options with respect to accessing and spending their funds.

Given that most of those affected are Aboriginal individuals, the lack of financial services in [remote] communities and the resultant disproportionate costs for accessing basic financial services raises serious equity and human rights issues.

The LCO recommends that:

5. The Ministry of Community and Social Services and its delivery agents continue with the current voluntary direct deposit program.
6. The Ministry of Community and Social Services work with Northern communities to develop a pilot project exploring the use of benefit cards as a means of providing funds to remote communities that do not have mainstream financial institutions. The LCO recommends that this program ensure that:
 - A. Recipients are able to easily access their funds;
 - B. The fees for accessing funds from such benefit cards do not exceed the fees paid when accessing funds through a bank account;
 - C. The privacy of recipients is protected and respected;
 - D. Consideration is given to the risks of exploitation of benefit card recipients; and
 - E. Recipients receive appropriate training and support to enable them to effectively use the cards.

3. OUTREACH

Given the multiple benefits to individuals of developing a relationship with a mainstream financial institution, it can be argued that the ultimate goal should be the promotion of more effective access to mainstream financial services by low-income individuals. Certainly, there are significant long-term benefits for low-income individuals in developing relationships with mainstream financial institutions. Arguably, if all low-income individuals had a functioning relationship with a bank or credit union, the concerns giving rise to this Report would not exist or would be minimal.

Pragmatically, however, such a goal is not likely to be fully achieved, at least not in the near future. There are, for example, very substantial practical difficulties in achieving access in remote areas of Ontario: the difficulties have been repeatedly studied and acknowledged, and a number of potential solutions have been identified, none of which has proved easy to implement.

This is not to say that efforts should not be made – they should – only that efforts to promote mainstream financial services for low-income individuals should be paired with initiatives to protect consumers who cannot or do not use such services.

Some of the barriers to the use of mainstream financial institutions are challenging to address. Aboriginal individuals may face a complex mix of linguistic, cultural, historic and geographic barriers, depending on their particular circumstances and residences. Newcomers, as well as individuals with addictions or mental health issues, or other types of disabilities also face a range of unique barriers.

In developing programs and services addressing the needs of low-income communities, it

Efforts to promote mainstream financial services for low-income individuals should be paired with initiatives to protect consumers who cannot or do not use such services.

is important to keep in mind that there is significant social stigma associated with the receipt of social assistance benefits. As a result, recipients of social assistance are often singled out for negative treatment. Programs must therefore be designed to maximize the privacy of social assistance recipients, and appropriate training and education must be provided to front-line service providers.

The LCO recommends that:

- 7. Mainstream financial institutions, including banks and credit unions, take additional steps to reach out to low-income and marginalized communities and to encourage access to and use of their services, including:**
 - A. Providing no-fee accounts for social assistance recipients similar to those that some financial institutions currently provide for students and older adults;**
 - B. Working with community groups to provide services targeted to specific needs of marginalized communities, modeled on the initiatives undertaken by RBC through its Cash & Save outlets or PACU's partnership with CAMH; and**
 - C. Working with community groups to raise the profile of their institutions and services in Aboriginal, newcomer, disability and low-income communities.**
- 8. The Government of Ontario work in partnership with the Canadian Bankers Association, credit unions, and First Nations communities to explore means of improving access to financial services in remote communities.**

4. MONITORING

A variety of measures have been taken across Canada to improve low-cost access to funds for recipients of government benefits. One of the difficulties in evaluating the relative strengths and weaknesses of these various approaches has been the lack of available data. Initiatives will be more effective if data regarding their costs, benefits and impact are collected and monitored, and acted upon.

The LCO recommends that:

- 9. The Government of Ontario collect data to monitor the success of initiatives related to cheque cashing fees.**

VI. SUMMARY OF RECOMMENDATIONS

The LCO recommends that:

1. Legislation be enacted to regulate cheque cashing services. The LCO recommends that this legislation be modeled on and harmonized with the *Payday Loans Act, 2008*, and specifically that this legislation:
 - A. Require cheque cashing businesses to obtain a license to operate;
 - B. Require cheque cashing businesses to provide full and fair disclosure of their fees;
 - C. Include a mechanism for setting maximum fees for cashing cheques issued by provincial or municipal government to individuals. Ideally, this process is arm's length, expert and open to public input; however, the process adopted under *Payday Loans Act* offers a viable practical solution;
 - D. Apply to all institutions, including both formal and informal cheque cashing services;
 - E. Fairly reflect the costs and risks associated with cashing government cheques, ensuring that cheque cashing services continue to receive a fair return for their services; and
 - F. Include provisions for a compliance mechanism.

2. The Government of Ontario amend the provisions of the *Payday Loans Act, 2008* with respect to the Ontario Payday Lending Education Fund to specify that education initiatives may address issues related to cheque cashing, as well as broader needs related to financial capability.

3. Legislation be enacted, whether through Bill 85 or otherwise, to provide a form of photo identification that is an alternative to the driver's license and that:
 - A. Is available to all Ontarians who do not have a driver's license;
 - B. Will qualify as identification under the federal *Access to Banking Regulations*;
 - C. Is low cost for all low-income Ontarians, and that is free of charge for persons in receipt of social assistance benefits; and
 - D. Is reasonably simple to obtain in terms of administrative requirements.

4. The Government of Ontario enter into an indemnity agreement with mainstream financial service providers that will allow both bank and non-bank customers to cash government cheques immediately upon presentation of appropriate identification. The LCO recommends that this indemnity agreement:
 - A. Provide coverage for cheques issued by the Provincial Government, and specified service delivery agents, such as the delivery agents for the Ontario Works program;
 - B. Indemnify cheques for up to \$2,000, in order to encompass the range of benefits received by social assistance recipients; and
 - C. Ensure that training on the indemnity agreement is provided to front-line staff at participating financial institutions and front-line government staff providing services to low-income individuals.

5. The Ministry of Community and Social Services and its delivery agents continue with the current voluntary direct deposit program.
6. The Ministry of Community and Social Services work with Northern communities to develop a pilot project exploring the use of benefit cards as a means of providing funds to remote communities that do not have mainstream financial institutions. The LCO recommends that this program ensure that:
 - A. Recipients are able to easily access their funds;
 - B. The fees for accessing funds from such benefit cards do not exceed the fees paid when accessing funds through a bank account;
 - C. The privacy of recipients is protected and respected;
 - D. Consideration is given to the risks of exploitation of benefit card recipients; and
 - E. Recipients receive appropriate training and support to enable them to effectively use the cards.
7. Mainstream financial institutions, including banks and credit unions, take additional steps to reach out to low-income and marginalized communities and to encourage access to and use of their services, including:
 - A. Providing no-fee accounts for social assistance recipients similar to those that some financial institutions currently provide for students and older adults;
 - B. Working with community groups to provide services targeted to specific needs of marginalized communities, modeled on the initiatives undertaken by RBC through its Cash & Save outlets or PACU's partnership with CAMH; and
 - C. Working with community groups to raise the profile of their institutions and services in Aboriginal, newcomer, disability and low-income communities.
8. The Government of Ontario work in partnership with the Canadian Bankers Association, credit unions, and First Nations communities to explore means of improving access to financial services in remote communities.
9. The Government of Ontario collect data to monitor the success of initiatives related to cheque cashing fees.

ENDNOTES

1. Bill 48, the *Payday Loans Act, 2008*, S.O. 2008, c. 9, received Third Reading on June 9, 2008, and Royal Assent on June 18, 2008. At the time of writing, Bill 48 had not yet been proclaimed into force, although this was expected to occur shortly.
2. For example, a single person receiving assistance through Ontario Works currently receives a maximum of \$560 per month (\$6720 annually). The 2007 Low Income Cutoff for a single person was \$14,914 for rural areas and \$21,666 for large urban areas.
3. For more information on the Government's anti-poverty initiative, see the Government of Ontario's website, www.ontario.ca/GrowingStronger.
4. The most recent figures are those provided by the Financial Consumer Agency of Canada. See Les Études de Marché Créatec, *General Survey on Consumer Financial Awareness, Attitudes, and Behaviours* (Ottawa: Financial Consumer Agency of Canada, 2006) at page 4. 96 per cent of those responding to this survey reported holding a bank account. Extrapolated to population figures, it was estimated that nearly 1 million adult Canadians do not hold a bank account.
5. R. Morissette, "On the Edge: Financially Vulnerable Families", *Canadian Social Trends* (Statistics Canada: Winter 2002) at 13.
6. The poverty rate for First Nations households is 34 per cent. (Statistics Canada, *Selected Income Characteristics*, 35). A 2000 Report by the Ontario Federation of Indian Friendship Centres reported that over 50 per cent of Aboriginal children growing up off-reserve in Ontario are poor (*Ontario Federation of Indian Friendship Centres, Urban Aboriginal Child Poverty: A Status Report on Aboriginal Children and their Families in Ontario* (Toronto:2000), available online at www.ofifc.org/ofifc.home/page/Document/UP_FILE/20070723101231NVN.pdf
7. For a very thorough and recent discussion of the phenomenon of low-income among racialized communities, including newcomers, see Michael Ornstein, *Ethno-Racial Groups in Toronto 1971 – 2000: A Demographic and Socio-Economic Profile* (Institute for Social Research, January 2006).
8. Ontario Association of Food Banks, *Our Choice for a Better Ontario: A Plan for Cutting Poverty in Half by 2020* (Toronto: 2008), at 7, available online at www.oafb.ca.
9. These initiatives also discussed in detail in Part IV. As examples, Quebec has longstanding legislation prohibiting any charge for exchanging or cashing a cheque issued by the federal, provincial or any municipal government; the provinces of Manitoba and British Columbia have undertaken legislative initiatives to regulate the fees charged for cashing government cheques; and the federal government, in conjunction with an indemnity agreement with the banks, prohibits banks from charging a fee to non-account holders for cashing a federal government cheque in an amount less than \$1,500.
10. Also see, Financial Consumer Agency of Canada, *What You Should Know About Low-Cost Accounts*, available online at http://www.fcacacfc.gc.ca/eng/publications/LowCostAccounts/LowCostAccounts_TOC_e.asp.
11. Acceptable identification includes a driver's license, social insurance number, Canadian birth certificate, current passport (either Canadian or from another country), debit or bank cards, credit cards, Old Age Security cards, Certificate of Indian Status, Certificate of Canadian Citizenship or Naturalization, or Permanent Resident card. This arrangement is dealt with in more depth at section IV.E.1.
12. *Bank Act*, S.C. 1991, c. 46, s. 458(4); *Access to Basic Banking Regulations*, S.O.R./2003-184, ss. 6-10.
13. As these arrangements are local and informal, it is difficult to assess how common they are. Often, they also involve initiatives on the part of the social service agency to provide verification of the cheque as some protection against fraud.
14. The Canadian Payday Loans Association, which represents 21 payday loan businesses, has adopted a *Code of Best Business Practices* which prohibits members from providing payday loans to social assistance recipients. The Code is available online at <http://www.cplacps.ca/english/consumercode.php>. The practice of providing payday loans to social assistance recipients was referenced during Committee hearings on Bill 48: see Ontario Legislative

- Assembly, *Official Report of Debates (Hansard), Standing Committee on General Government*, (26 May 2008) at 1430 (Honourable Ted McMeekin).
15. Ipsos-Reid, *Public Experience with Financial Services and Awareness of the FCAC* (Ottawa: Financial Consumer Agency of Canada, 2005) at page 10.
 16. Wendy Pyper, "Payday Loans", *Perspectives* (Statistics Canada: Ottawa, April 2007).
 17. Les Études de Marché Créatec, cited above at note 4, at page 5.
 18. Les Études de Marché Créatec, cited above at note 4, at page 5.
 19. Manitoba Public Utilities Board, Transcript of Proceedings, "To Determine Allowable Fee for Cashing Government Cheques" (Manitoba: March 8, 2007) at 286. Available at: <http://www.pub.gov.mb.ca/transmisc.html>
 20. Figures on government cheques in this section are based on information provided through the Office of the Provincial Controller.
 21. The Ontario Child Benefit was launched in July 2008. This is a monthly benefit to low-income families with children under the age of 18, payable both to families that are employed and those in receipt of social assistance. Families in receipt of social assistance will have their social assistance rates adjusted to take into account the new Ontario Child Benefit and the National Child Benefit Supplement. For more information on the Ontario Child Benefit see <http://www.gov.on.ca/children/english/programs/ocb/index.html>.
 22. For a general overview, see Human Resources and Social Development Canada, *Social Assistance Statistical Report: 2005*.
 23. Ministry of Community and Social Services, *Ontario Social Assistance Quarterly Report* (Toronto: Social Policy Development Division, March 2008).
 24. Statistics Canada, *Low Income Cut-offs for 2007 and Low Income Measures for 2006* (Ottawa: Ministry of Industry, 2008).
 25. See Les Études de Marché Créatec, cited above at note 4, at 1.
 26. See Les Études de Marché Créatec, cited above at note 4, at 8.
 27. Jerry Buckland, *Strengthening Banking in Inner Cities: Practices & Policies to Promote Financial Inclusion for Low-Income Canadians* (Canadian Centre for Policy Alternatives: Ottawa, March 2008).
 28. Centre Francophone de Toronto - Nos clients doivent donc, surmonter plusieurs obstacles dont la barrière linguistique, le choc culturel et surtout sur le plan économique, l'intégration est de plus en plus difficile le marché du travail leur étant inaccessible. La plupart ne peuvent compter que sur le chèque d'aide sociale et l'aide financière qu'ils reçoivent du gouvernement. Et comme ils ne peuvent pas ouvrir facilement un compte bancaire soit par ignorance de leurs droits ou des exigences des banques ils se tournent vers des services d'une société de prêt sur salaire ou d'encaissement de chèques
 29. For information on the activities of the FCAC, visit their website at www.fcac-acfc.ca.
 30. See www.fin.gc.ca/toce/2003/cu_e.html.
 31. According to a recent survey conducted for the FCAC, almost half of all Canadians surveyed reported using the Internet to do some of their everyday banking activities. Over 90 per cent of Canadians are estimated to have debit cards. See Les Études de Marché Créatec, cited at note 4, at pp. 4 and 7.
 32. See Les Études de Marché Créatec, cited at note 4, at pp. 12, 15, and 16.
 33. Task Force on the Future of the Canadian Financial Services Sector, *Background Paper #4: Change, Challenge, Opportunity: Canadian's Expectations and Corporate Conduct* (Ottawa: Department of Finance, 1998) at 11.
 34. This is the definition adopted by the federal government's Policy Research Initiative: See Policy Research Initiative, *Why Financial Capability Matters* (Government of Canada: Ottawa, 2005) at page 6.

35. See note 4 above.
36. In the United States, conservative estimates of the proportion of the population that is unbanked hover around 10 per cent. See Jean Ann Fox, and Patrick Woodall, *Cashed out Consumers Pay Steep Premium to “Bank” at Check Cashing Outlets* (Consumer Federation of America: November 2006) at 16.
37. Policy Research Initiative, cited above at note 34, at pp. 7-12.
38. Task Force on the Future of the Canadian Financial Services Sector, cited above at note 33, at page 21.
39. Manitoba Public Utilities Board, see note 19, above.
40. Task Force on the Future of the Canadian Financial Services Sector, cited above at note 33 at page 22.
41. Tavia Grant, “Sharia compliant finance is increasingly popular”, *Globe and Mail* (7 May, 2007). The South Asian Legal Clinic noted that as a result of the lack of appropriate services, some of their clients are operating in a cash economy.
42. Jerry Buckland, *Social and Economic Factors to Consider in Setting Government Cheque Cashing Fees in Manitoba* (Winnipeg: Manitoba Public Utilities Board, 2006) at page 9.
43. Task Force on the Future of the Canadian Financial Services Sector, cited above at note 33, at page 22.
44. Michael Grant, *Canada’s Social Payment Disbursement System and the Financial Services Sector* (Ottawa: Task Force on the Future of the Canadian Financial Services Sector, 1998) at page 12.
45. Financial Consumer Agency of Canada, cited at note 10 above. Also see Appendix E.
46. *Access to Basic Banking Regulations*, cited at note 12.
47. Financial Consumer Agency of Canada, 2004-2005 FCAC *Mystery Shopping Results*, available online at www.fcac-acfc.gc.ca/eng/Publications/SurveyStudy
48. *Access to Basic Banking Regulations*, cited above at note 46, at s. 4.
49. Erika Khandor and Kate Mason, *The Street Health Report 2007* (Toronto: Street Health, September 2007), available at: <http://www.streethealth.ca/Downloads/SHReport2007.pdf>.
50. See, for example, Jerry Buckland, cited above at note 42 at page 15; Michael Grant, cited above at note 44, at page 28.
51. Bill 85, *Photo Card Act, 2008*, at section 3. Bill 85 received first reading on June 3, 2008 and second reading on June 11, 2008.
52. Ministry of Transportation, *Enhanced Driver’s License (EDL), Photo Card, and Photo Comparison Technology, Frequently Asked Questions*, June 3, 2008.
53. S.O. 2004, c. 3, Sched. A.
54. Ontario, Legislative Assembly, *Official Report of Debates* (Hansard) (December 13, 1990) (Hon. E. Gigantes).
55. Canadian Bankers Association, “Taking a Closer Look: Access to Basic Banking Services” (August 2006), available online at [http://www.cba.ca/en/content/stats/fastfacts/ABBS2006_UpdateEN\(1\).pdf](http://www.cba.ca/en/content/stats/fastfacts/ABBS2006_UpdateEN(1).pdf).
56. S.O.R./2002-39.
57. Cheque imaging technology will allow financial institutions to exchange electronic cheque images rather than physical cheques.
58. Les Études de Marché Créatec, cited above at note 4, at page 6.
59. Jerry Buckland and Thibault Martin, *Fringe Banking in Winnipeg’s North End* (Canadian Centre for Policy Alternatives: March 2005) at 24.
60. Jerry Buckland et al, *Choosing Financial Services Where the Options are Limited* (May 2008), available online at: <http://io.uwinnipeg.ca/~buckland/>.

61. As of July 2008, the fee for cheque cashing was 1.4 percent, with no additional transaction fee.
62. Les Études de Marché Créatec, cited above at note 4, at pp. 4 and 7.
63. *Kaufman v. Royal Bank of Canada*, [1994] O.J. No. 4162 (Small Claims Court)
64. *Richer v. Ubdegrove*, [1989] O.J. No. 73 (Small Claims Court).
65. *Ontario Works Act*, 1997, S.O. 1997, c. 25, Schedule A., s. 23(1).
66. *Ontario Disability Support Program Act*, S.O. 1997, c. 25, Sched. B, s. 18.
67. Ontario Works Policy Directive 53.0, “Protection from Seizure and Garnishment”.
68. “White label” ABMs are usually privately owned, and are often found in convenience stores. While ABMs operated by mainstream financial institutions offer a range of basic banking services, such as deposits, withdrawals, bill payments, and transfers, white label ABMs offer only cash withdrawal services. As well, they charge a fee in addition to regular banking fees of approximately \$1.25 per withdrawal. Angie Barrados, *Banking in Rural Canada: Ensuring that Rural Consumers Have Adequate Service* (Ottawa: Public Interest Advocacy Centre, 2000) at page 25.
69. Jacquie McNish, “The Dark Side of Class Action Settlements” *The Globe and Mail* (18 June 2005).
70. Angie Barrados, cited above at note 68, at page 14.
71. *Notice of Branch Closure (Banks) Regulation*, SOR/2002-104, ss. 4-6.
72. S.C. 1991, c. 48, ss. 375(a) and 375.1, as amended by S.C. 2001, c. 9, ss. 306 and 307.
73. Canadian Rural Partnership, “Rural Action Plan Report Card” (Government of Canada: November 2002), available at www.rural.gc.ca/conference/documents/card_e.phtml#2.
74. ACORN Canada, *Protecting Canadians’ Interest: Reining in the Payday Lending Industry* (Vancouver: ACORN Canada, November 2004), available at: http://acorn.org/fileadmin/International/Canada/Reports/Payday_Lending_Report.pdf; United Way of Greater Toronto, *Losing Ground: The Persistent Growth of Family Poverty in Canada’s Largest City* (Toronto: November 2007); Jerry Buckland and Bruce Guenther, “There are No Banks Here”: *Financial & Insurance Exclusion in Winnipeg’s North End* (September 2005).
75. Iain Ramsay notes the existence of this form of cheque cashing, without further comment in his paper *Access to Credit in the Alternative Consumer Credit Market* (Office of Consumer Affairs and Ministry of the Attorney General: February 2000) at footnote 29. When questioned, the organizations serving low-income individuals that the LCO spoke with were aware that some clients occasionally cashed cheques at, for example, convenience stores, but did not believe it to be a very widespread practice.
76. In 1976, approximately 1.5 billion cheques were cleared through the chartered banking system, and it was anticipated that that number would exceed 2 billion by 1980 (see www.fin.gc.ca/toce/2000/ccu_e.html). However, according to the Canadian Payments Association, the number of cheques cleared in 2007, excluding large value cheques, was just over 1 billion (see http://www.cdnpay.ca/publications/acss_ann.asp).
77. Katherine Turner and Andrew Bolter, “Submission to the Task Force on the Future of the Canadian Financial Services Sector” (LIFE*SPIN, 1997), available at: <http://www.fin.gc.ca/taskforce/pdf/lifesp1n1.pdf>.
78. Les Études de Marché Créatec, cited at note 4 above, at page 5.
79. Manitoba Public Utilities Board, Transcript of Proceedings, cited above at note 19, at page 55 (North West Company).
80. See <http://www.moneymart.ca/about.asp>.
81. Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, No. 1102-A (19 December 1991) (G. Morin).
82. Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, *Standing Committee on General Government*, (28 May 2008) at 1450 (B. Whitelaw).
83. The Canadian Payday Loans Association has developed a *Code of Best Business Practices* for its members (see note 14 above), and has an Ethics Commissioner who monitors compliance.
84. See Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, *Standing Committee on General Government*, (28 May 2008) at 1450 (B. Whitelaw). Also see Joanna Smith, “New rules Attract U.S. Lenders” *Toronto Star* (11 April 2008), available at: www.thestar.com
85. Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, No. 1015 (5 April 1984) (R.F. Johnston).
86. Bill 210, *An Act to Prohibit the Charging of Fees for the Cashing of Government Cheques*, introduced January 26, 1989.
87. Ontario, Legislative Assembly, cited above at note 81.
88. Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, No. 1068 (19 October 1992), (Honourable M. Boyd, Minister of Community and Social Services).
89. Ipsos-Reid, cited above at note 15, at page 11.
90. Pollara, *Payday Loan Customer Survey – Ontario* (Canadian Payday Loan Association: November 2007).
91. Submission to the LCO from National Money Mart Canada, June 2008.
92. Environics Research Group, *Understanding Consumers of Canada’s Payday Loan Industry* (Canadian Association of Community Financial Service Providers, 2005) at 11.
93. The Manitoba Public Utilities Board, in its hearings into setting rates for fees for cheque cashing services, concluded that cheque cashing was now a secondary source of revenue

- for AFS businesses: Manitoba, the Public Utilities Board Act, *Maximum Fees for Cashing Government Cheques*, Order 72/07, May 28, 2008 at 11. Available at: <http://www.pub.gov.mb.ca/pdf/misc/072.07.pdf>.
94. R.S.C. 1985, c. C-46, s. 347.
95. The Canadian Payday Loans Association mandate explicitly includes working with government towards a regulatory framework: see <http://www.cpla-acps.ca/english/home.php>.
96. See note 1, above.
97. Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, (31 March 2008) (Hon. T. McMeekin, Minister of Government Services).
98. In his submission to the Standing Committee on General Government in its review of Bill 48, the *Payday Loans Act, 2008*, the Executive Vice-President of Cash 4 You Corp, Amir Mahmoudzadeh stated that his stores charged 59% interest for a payday loan, and in addition charged a cheque cashing fee of approximately \$20 per \$100. (Ontario Legislative Assembly, *Official Report of Debates (Hansard)*, *Standing Committee on General Government*, (26 May 2008) at 1530).
99. See Les Études de Marché Créatec, cited above at note 4, at page 5.
100. Ipsos-Reid, cited above at note 15, at page 15.
101. The Canadian Payday Loan Association's *Code of Best Business Practices* (see note 14 above) states that "A Member shall not grant payday loans to customers on the basis of social assistance payments received by that customer."
102. Ontario Legislative Assembly, *Official Report of Debates (Hansard)*, *Standing Committee on General Government*, (26 May 2008) at 1430 (Hon. T. McMeekin).
103. Cheque cashing businesses have been a feature of the American financial landscape since the 1930s, although they grew very rapidly in the 1980s, following the passage of the *Bank Deregulation Act* (see <http://www.fisca.org/NavigationMenu/AboutFISCA/FISCA.htm>). It is estimated that there are over 26,000 cheque cashing centres in the United States, serving over 30 million customers (Matt Fellowes and Mia Mabanta, *Banking on Wealth: America's New Retail Banking Infrastructure and Its Wealth-Building Potential*, available at <http://www.fisca.org/pr106.htm>). The cheque cashing industry in the United States processes more than 180 million cheques annually worth more than \$55 billion, generating \$1.5 billion in fees (Michael S. Barr "An Inclusive, Progressive National Savings and Financial Services Policy", 1 *Harv. L. y Rev.* 161 (2007) at 163).
104. Ernst & Young, *The Cost of Providing Payday Loans in Canada* (Tax Policy Services Group, October 2004) at 37.
105. Professor Jerry Buckland, cited above at note 59, at page 17.
106. Manitoba Public Utilities Board, cited above at note 93, at page 11.
107. Michael S. Barr "An Inclusive, Progressive National Savings and Financial Services Policy", 1 *Harv. L. y Rev.* 161 (2007) at 163.
108. Michael S. Barr, *Banking the Poor: Policies to Bring Low-Income Americans into the Financial Mainstream* (The Brookings Institute: September 2004) at 2.
109. Gerald Goldman and James R. Wells, *Check Cashers are Good Bank Customers* (Financial Service Centers of America, Inc.: 2002) at 2.
110. Jerry Buckland, cited above at note 42, at page 27.
111. Les Études de Marché Créatec, cited above at note 4, at page 8.
112. Les Études de Marché Créatec, cited above at note 4, at page 8.
113. The Social Research and Demonstration Corporation is a registered charity that researches policy innovations through practical demonstrations. Further information may be accessed at www.srdc.org.
114. Ontario Association of Food Banks, cited above at note 8, at page 51.
115. The Alberta Works Manual states that: The direct deposit method of payment is **mandatory** for Income Support (IS) clients, unless specifically exempted, as it:
- Is less costly and more efficient resulting in increased savings to taxpayers in administrative costs and fewer phone calls to workers.
 - Provides cost savings to clients (who may otherwise pay fees at cheque cashing agencies).
 - Encourages client financial responsibility.
- (Alberta, Employment and Immigration, *Alberta Works Policy Manual*, Expected to Work/Not Expected to Work/Administrative Procedures, Payment Methods and Processes, Direct Deposit Section at 1, available online at <http://employment.alberta.ca/hre/awonline/reg/Display.asp>).
116. Michael Grant, cited above at note 44, at page 14.
117. A thorough explanation of the operation of the Alberta program can be found in the Alberta Works Policy Manual: Alberta, Employment and Immigration, *Alberta Works Policy Manual*, Expected to Work/Not Expected to Work/Administrative Procedures, Payment Methods and Processes, Direct Deposit Section, available online at <http://employment.alberta.ca/hre/awonline/reg/Display.asp>.
118. Communication from Alnoor Rajan, Director of Financial Operations, Alberta Employment and Immigration, July 31, 2008.
119. A thorough review and analysis of the implementation of the Alberta direct deposit program may be found in Michael Grant, cited above at note 44.
120. See Michael Grant, cited above at note 44, at page 17.
121. Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, No. 1102-A (19 December 1991) (Hon. M. Boyd).
122. Michael Grant, cited above at note 44, at page 16.

123. Task Force on the Future of the Canadian Financial Services Sector, cited above at note 33, at 31.
124. Canadian Bankers Association, cited above at note 55.
125. Jonathan Fowlie, “B.C. to Put Welfare Payments on Government Debit Cards” *Vancouver Sun*, (December 6, 2007); *Ministry of Employment and Income Assistance, 2008/09 – 2010/11 Service Plan* (February 2008) at 16; Tara Perkins, “RBC looks to market prepaid benefits cards, The Globe and Mail (26 March 2008) B3.
126. For example, MasterCard provides a DirectExpress debit card for payments to Social Security recipients in a number of American states.
127. Communication from Alnoor Rajan, Director of Financial Operations, Alberta Employment and Immigration, July 31, 2008.
128. Canadian Payments Association, *Rule G8: Procedures/Criteria Pertaining to the Encashment of Government of Canada Payment Items for Non-Customers* (Implementation Date, May 21, 2001), s. 6
129. *Access to Basic Banking Services Regulations*, cited at note 12, at ss. 8, 11.
130. *Access to Basic Banking Services Regulations*, cited at note 12, s. 6(1).
131. Canadian Payments Association, cited above at note 128, at s. 3(b).
132. Canadian Payments Association, cited above at note 128, at s. 8.
133. *Access to Basic Banking Services Regulations*, cited at note 12, s. 10.
134. Financial Consumer Agency of Canada, cited above at note 47.
135. See note 12, above.
136. Task Force on the Future of the Canadian Financial Services Sector, cited above at note 33. at 31.
137. Canadian Bankers Association, cited above at note 55.
138. Les Études de Marché Créatec, cited at note 4 above, at page 8. Ipsos-Reid, cited above at note 15, at page 16.
140. Financial Consumer Agency of Canada, cited above at note 47.
141. *127097 Canada Ltd. v. Quebec* (A.G.) (1991) R.J.Q. 2526 (C.A.). For a recent case in which the Supreme Court of Canada considered the constitutionality of provincial legislation regarding insurance that affecting the activities of banks, see *Central Western Bank v. Alberta*, [2007] 2 S.C.R. 3, 2007 SCC 22.
142. The prohibition dates back to the 19th century. See *Banks and Banking Act*, R.S.c. 1890, c. 31, s. 103, which states that “The bank shall not charge any discount or commission for cashing any official cheque of the Government of Canada, or of any department thereof, whether drawn on itself or another bank”.
143. *Bank Act*, cited above at note 12, at s. 458(4).
144. *Bank Act*, s. 458.1(1); *Access to Basic Banking Services Regulations*, s. 7, citations at note 12 above.
145. Ipsos-Reid, cited above at note 15, at 16.
146. *Consumer Protection Act*, R.S.Q., c. P-40.1, s. 251.147. June 28, 1996) B.11.
147. Letter from Me Johanne Renaud, Agente de recherche en droit, Office de la protection du consommateur, to the Law Commission of Ontario (8 May 2008) at 1.
148. *Consumer Protection Act*, cited at note 146, s. 278.
149. *127097 Canada Ltd. v. Quebec* (A.G.) (1991) R.J.Q. 2526 (C.A.) at 5.
150. Gillian Wansbrough, “Firm stops cashing government cheques: Service Charges Weren’t Legal, Consumer Protection Office Says”, *The Gazette* (Dec 31, 1991) A4.
151. See http://www.desjardin.com/en/a_propos/qui-nous-sommes/index.jsp.
152. Sue Lott and Michael Grant, *Fringe Lending and “Alternative” Banking: The Consumer Experience* (Ottawa: Public Interest Advocacy Centre, November 2002) at 61-62.
153. “Poor Canadians bounced from banks: Despite having proper ID, welfare recipients refused opportunity to open account”, *Edmonton Journal* (June 28, 1996) B.11.
154. *Consumer Protection Amendment Act* (Cheque Cashing Fee), S.M. 2006, c. 17.
155. *Government Cheque Cashing Fees Regulation*, (Man. Reg. 15), S.M. 2006, c. 17. i (June 28, 1996) B.11.91/2006), s. 4.
156. Manitoba Legislative Assembly, *Hansard*, No. 75 (May 24, 2006) at 2504 (Hon. G. Selinger, Minister of Finance).
157. *Consumer Protection Amendment Act (Payday Loans)*, S.M. 2006, c. 31. The Act has not yet fully come into force as it involves a licensing process.
158. Manitoba Legislative Assembly, cited above at note 156, at 2743.
159. Manitoba Public Utilities Board, cited at note 93, above.
160. See above.
161. Manitoba Public Utilities Board, cited at note 93, at pp. 19-20.
162. The fifteen unregulated states are Alabama, Alaska, Colorado, Idaho, Kansas, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Mexico, Oklahoma, South Dakota, Texas and Wyoming.
163. Ohio provides a comprehensive example of such regulation.
164. This is the form of regulation in Arkansas, Connecticut, Ohio and Pennsylvania.
165. Delaware, New York and West Virginia.
166. California, Florida and Maine.
167. Arkansas, Maryland, California, Hawaii, Pennsylvania, Tennessee and Vermont.

APPENDIX A

ORGANIZATIONS PROVIDING INPUT

The LCO wishes to recognize the following organizations and individuals, which provided either submissions or substantial information during the course of this project.

1. Alberta Finance and Enterprise, Government of Alberta
2. Alberta Works, Government of Alberta
3. Alterna Savings Credit Union
4. Association of Community Organizations for Reform Now (ACORN)
5. Canadian Bankers Association
6. Central 1 Credit Union
7. Centre for Addictions and Mental Health (CAMH)
8. Centre for Community Based Research
9. Centre for Mental Health, Grand River
10. Centre francophone de Toronto
11. City of Toronto Social Services
12. Community Legal Services Ottawa Centre
13. Consumer Council of Canada
14. Department of Social Development, New Brunswick
15. Front commun des personnes assistées sociaux du Québec
16. Homelessness & Housing Umbrella Group
17. Income Security Advocacy Clinic (ISAC)
18. Jerry Buckland, Professor, University of Manitoba
19. Lutherwood
20. Kitchener Downtown Community Health Care Centre
21. Manitoba Consumers' Bureau
22. National Money Mart Company
23. Neighbourhood Legal Services (London and Middlesex)
24. Nishnawbe-Aski Legal Services Corporation
25. Office de la protection du consommateur, Government of Québec
26. Ontario Federation of Indian Friendship Centres
27. Ontario Ministry of Community and Social Services
28. Opportunities Waterloo
29. Peel Social Service Administration Board
30. Public Interest Advocacy Centre (PIAC)
31. Region of Waterloo, Social Services, Employment and Income Support
32. St. Christopher House
33. Susan Kasprzak, Research Associate, Children's Hospital of Eastern Ontario (CHEO)
34. Thunder Bay Social Service Administration Board
35. Union des consommateurs
36. Yonge Street Mission

APPENDIX B

Bill 48

A. BACKGROUND

A payday loan is a short-term small principal loan made to the borrower upon the guarantee of a post-dated cheque or pre-authorized debit.

In April 2007, following several years of intergovernmental consultation, the federal government amended the *Criminal Code* to permit provincial regulation of the payday loans industry. Section 347.1 of the Code exempts payday lenders from the criminal interest rate provisions if the loan is made in a designated province. A designated province is one which has taken legislative measures to protect recipients of payday loans and limit the cost of borrowing. British Columbia, Manitoba, Saskatchewan and Nova Scotia have passed payday lending legislation that meets the requirements for federal designation, and others are in the process of developing such legislation.

In 2007, the Ontario government put in place regulations under the *Consumer Protection Act, 2002* requiring additional disclosure on the part of payday lenders. The regulations require all payday lenders to prominently display point of sale disclosure posters detailing the total cost of borrowing, expressed as total dollars and as a cost-per-hundred borrowed. The regulations also require fuller disclosure of the cost of borrowing in payday loan contracts.

As well, Ontario's Ministry of Government Services launched a public consultation on consumer protection in the payday lending sector. The consultation asked four questions:

1. whether additional consumer protections were needed with respect to the payday loans industry,
2. whether Ontario should consider a licensing regime for payday lenders,
3. whether Ontario should seek designation under the new federal legislation, and
4. if Ontario were to seek designation, what the appropriate mechanism for setting limits on the total cost of borrowing would be.

Subsequent to this consultation, the Ontario government introduced Bill 48, the *Payday Loans Act, 2008*, on March 31, 2008. The Bill received Royal Assent on June 18, 2008, and will come into effect following proclamation. As the Bill sets up a separate mechanism to set limits on the total cost of borrowing, these limits have yet to be determined.

B. KEY FEATURES

Bill 48 includes six key components:

1. **Licensing:** All payday lenders and loan brokers must hold a license issued by the Registrar.
2. **Predatory Lending:** Concurrent and "back-to-back" loans (rollovers) are banned. No new payday loan agreement may be entered into until at least seven days have passed since the previous loan has been fully repaid. There are also restrictions on extensions of payday loan agreements.
3. **Loan Charges:** Default charges are restricted, and borrowers are entitled to pay the full outstanding balance under the agreement at any time without charge or penalty. Payday lenders may not demand payment for the cost of borrowing until the end of the agreement.

4. **Limits on Cost of Borrowing:** A maximum cost-of-borrowing cap will be introduced. An independent expert advisory board will develop recommendations to government on the appropriate rate cap.
5. **Enforcement Mechanisms:** The provisions of the legislation will be enforced by the Ministry's Consumer Protection Branch, which will conduct inspections, and respond to consumer complaints. Violations of the Act may result in administrative monetary penalties, or license suspensions.
6. **Public Education:** Payday lenders are required to contribute to a public education fund. The purpose of the fund is to educate the public regarding rights and responsibilities under this Act, as well as with respect to financial planning in general.

These provisions will bring Ontario within the requirements for federal designation.

APPENDIX C

RELEVANT CANADIAN INITIATIVES

A. FEDERAL

1. Improving Access to Banking

Between 1998 and 2003, the federal government made a number of legislative changes that have improved access to bank services:

- A reduction in the number of pieces of identification needed to open an account and an accompanying increase in the types of identification that were acceptable,
- A requirement for banks to provide low fee bank accounts and reduce the other requirements needed to open an account. Minimum balances, bad credit reports and bankruptcy can not be used as reasons to deny the opening of an account.
- A requirement, through the *Cheque Holding Policy Disclosure (Banks) Regulations*, that banks disclose their cheque holding policies to their customers.

2. Regulation of Fees

Since the 1980s the *Bank Act* has prohibited banks from charging a fee to cash a federal government cheque. In 2001, section 458.1(1) was added to the Act. This stipulates that a bank must cash a federal cheque of up to \$1,500 without a fee for anyone, including individuals that are not customers of the particular bank.

3. Indemnity Agreements

In 1997 the federal bank negotiated a new indemnity agreement with the banks. This agreement covers banks for cheques up to \$1500 that are cashed pursuant to section 458.1(2)(b) of the *Bank Act*.

B. BRITISH COLUMBIA

1. Regulation of Fees

The government of British Columbia has passed Bill 27, the *Business Practices and Consumer Protection (Payday Loans) Amendment Act*. This stipulates that a person cannot charge a fee to cash a government cheque unless prescribed by regulation. The legislation covers federal, provincial and municipal cheques. This has not yet come into force.

2. Indemnity Agreements

The British Columbia government has had an indemnity agreement since 1997.

3. Options for Receiving Benefits

The Ministry of Employment and Income Assistance has been working on providing debit cards to social assistance recipients who do not have bank accounts. This initiative is meant to complement the direct deposit program for assistance recipients.

C. ALBERTA

1. Indemnity Agreements

Alberta has an indemnity agreement that dates back to 1998. It is between the social services department, the banks, credit unions and Alberta Treasuries. The agreement covers benefit cheques and stipulates that cheques that are

“fraudulently negotiated” will be indemnified, provided the institution practiced due diligence when cashing the cheque. Currently the agreement is being amended so that it will be with the Ministry of Finance rather than social services.

2. Options for Receiving Benefits

Since 1997, the government has had a mandatory direct deposit program in place for social assistance recipients. There are exceptions to the mandatory direct deposit, which are left to the discretion of the Employment and Income Support Adviser/ Supports and Financial Services Coordinator.

Alberta has worked with the Royal Bank of Canada and Pay Linx Financial Corporation to provide prepaid benefit cards to individuals on social assistance without bank accounts. During the pilot project, individuals are able to use the cards at cash dispensing machines as well as at retail locations without fee.

D. SASKATCHEWAN

1. Regulation of Fees

Saskatchewan’s *Trust and Loan Corporations Act, 1997* allows for the licensing of a “financing corporation”, the definition of which encompasses businesses that do not take deposits but do lend money. Section 30 of the provincial Act allows for the application of sections 249 and 443 of the federal *Trust and Loan Companies Act, 1991*. As a result of section 443(4) of the federal Act, institutions registered under the provincial Act are not permitted to charge a fee for the cashing of federal government cheques. Money Mart has been captured by this legislation; as a result, it may not charge a fee for cashing a federal government cheque.

E. MANITOBA

1. Regulation of Fees

In June 2006, Manitoba amended its *Consumer Protection Act* to allow for the setting of maximum limits for fees on the cashing of government cheques. The Manitoba Public Utility Board is in charge of determining the maximum fees to be set. Rates were set in May 2007 at \$3.00 per cheque plus two per cent of its face value, with exceptions for circumstances where a hold is placed on the cheque or the cheque casher requires the person receiving funds to purchase goods valued at ten per cent or more of the cheque.

F. QUEBEC

1. Regulation of Fees

Since 1978, as a result of an amendment to Quebec’s *Consumer Protection Act*, no fees may be charged when cashing government cheques. The legislation applies to all government cheques, including federal, provincial and municipal cheques, and to both mainstream and alternative financial services.

2. Indemnity Agreements

Quebec has also negotiated an indemnity agreement with the banks and other major financial institutions. This agreement adopts the federal limit on the size of cheques covered of \$1,500.

G. NEW BRUNSWICK

1. Indemnity Agreements

The Department of Social Development has had an indemnification agreement with the banks covering social assistance cheques for twenty-five to thirty years. The agreement can be called upon provided the bank takes down the recipient’s health card number and any other information stipulated by the agreement. The agreement also provides that all social assistance recipients must have a health card.

APPENDIX D

LOCATIONS OF MAINSTREAM FINANCIAL INSTITUTIONS & CHEQUE CASHING OUTLETS IN TORONTO

In the summer of 2008, the LCO undertook an analysis of the locations of cheque cashing businesses and mainstream financial institutions in the city of Toronto, as a means of understanding the reasons for the use of cheque cashing services, and the relationship between these services and low-income.

To complete the location analysis, cheque cashing businesses, bank branch institutions, bank branch closures and certain social services agencies were indicated on a map of Toronto.

A. CHEQUE CASHING BUSINESSES

Cheque cashing outlets were found by searching through the online Yellow Pages. There are approximately 100 cheque cashing businesses in Toronto. However, it is likely that many cheque cashing outlets may not be listed. Additionally, the location analysis does not include small businesses that may cash cheques, such as pawnshops. As such, the cheque cashing outlets represented in the location analysis are best classified as “formal” cheque cashing outlets. The cheque cashing businesses represented on the map are:

B. BANKS

- | | | | |
|------------------------------|-------------------|--------------------------------|-------------------------------------|
| • Ark Capital Inc. | • Cash A Cheque | • Consolidated Financial Corp. | • Money Mart |
| • Babcock International Inc. | • Cash Days Inc. | • Crown Cash Mart | • Money Solutions |
| • Berks | • Cash Inc. | • Digital House Inc. | • Money Spot Inc. |
| • Call Cash Centre | • Cash Now | • E T S Financial Services Inc | • Money to Go Inc. |
| • Canada Cash Express | • Cash Point | • Fast Cash Now | • Simply Cash |
| • Canadian Money Express | • Cash Quest | • Friendly Cash | • TGI Payday Inc. |
| • Canafri Cash Express Inc. | • Cash Rapido Inc | • Intercapital Financial Corp. | • The Cash House |
| • Cann Cash Chek | • Cash Shop | • It's Payday Inc. | • The Cash Store |
| • CashMoney | • Cash Zone | • Jane Cash Booth | • Unicash |
| • Cash 3420 | • Cheques Cashed | | • Union Atlantic Financial Services |
| • Cash 4 You | • Cheque Cashing | | • Your Money Store |
| | • Cheque & Save | | |

The search for bank branch institutions was restricted to branch locations, as opposed to automated bank machine (ABM) locations. Additionally, the bank search was limited to the Royal Bank of Canada (RBC), Toronto Dominion Bank (TD) and the Canadian Imperial Bank of Commerce (CIBC). These banks are the three largest banks in Canada. The location analysis did not include other bank branches as a clear pattern had already emerged after mapping out the three largest banks and the location of cheque cashing outlets.

C. BANK BRANCH CLOSURES

The Financial Consumer Agency of Canada (FCAC) website lists bank closures from 2002 until the present. A search for closures in Toronto covered the same regions where banks were located.

D. SOCIAL SERVICES AGENCIES

The social services agencies located on the map are the Yonge Street Mission, the Yonge Street Mission's Evergreen branch, City of Toronto social services offices and the location of the Ministry of Community and Social Services (MCSS).

E. MAPPING INCOME LEVELS

Income areas were mapped out according to J. David Hulchanski's study on income polarization at the University of Toronto Centre for Urban and Community Studies. This 2007 study divides Toronto according to Statistics Canada census tracts,¹ and maps individual income as measured in 2000. Very low to very high levels of income are delineated by using the average Toronto Census Metropolitan Area income as a benchmark for what would be considered high or low income. Importantly, the income levels mapped in Hulchanski's study largely correspond with the United Way's 2004 Poverty by Postal Code study. The United Way's study maps income according to family income trends and uses the federal government's Low Income Cut-offs to define poverty, while Hulchanski's method compares neighbourhood incomes to the area average.²

F. FINDINGS

Overall, the Royal Bank, TD and CIBC bank branches are dispersed throughout Toronto. Both high to low income neighbourhoods have physical access to banks (banks within one mile). However, there are noticeable clusters along the Yonge subway line, especially in high income areas. Moreover, the highest density of bank branches is undoubtedly in the Bay Street area, Toronto's business district.

From the Macdonald-Cartier Freeway (the 401) down to Front Street, reaching east-west from Bathurst to the Don Valley Parkway and Leslie Street, are high to very high income regions. Despite being identified as a high income region, the highest density of cheque cashing businesses is located between Yonge Street and Wellesley and Yonge Street and College. This may reflect Hulchanski's and the United Way's observation that the highest concentration of low-income neighbourhoods are located in Toronto's "inner suburbs," while central downtown Toronto contains the most social services for low-income people.³ Indeed, in downtown Toronto, one can find the Yonge Street Mission, the Yonge Street Mission's Evergreen branch, and a City of Toronto social services office. Corroborating Hulchanski's and the United Way's observation is the fact that the only cheque cashing outlets in the high income area reaching from Bloor Street to the 401 are three cheque cashing outlets at the Yonge and Eglinton intersection – located among another City of Toronto social services office, and a short walk to the Ministry of Community and Social Services. The only other cheque cashing businesses in sight are those on the border of this high income area.

It is evident that while there is a general dispersal of cheque cashing businesses, many are clustered in very low to low and medium income neighbourhoods. Aside from the cluster in the core of downtown Toronto, other noticeable clusters are in low-income areas such as Parkdale, the surrounding Junction, Crescent Town and the Weston region. Furthermore, there are noticeable clusters along main traffic corridors of low-income areas, especially along the Bloor subway line.

Bank branch closures are not concentrated in any one particular area, with very low to medium incomes areas experiencing approximately the same amount of bank branch closures as high to very high income areas. Wherever there is a bank branch closure, there is at least one bank within approximately one mile. In most low-income areas, there is approximately one mile or less between a bank branch closure and a cheque cashing business. The one area that does not demonstrate this pattern is the low to medium income Steeles/L'Amoreux region.⁴ Similarly, this region only has one cheque cashing outlet. Consequently, this region, which has been classified as a priority area, is underbanked and underserved by not only mainstream financial institutions, but also the alternative financial sector.

¹ J. David Hulchanski, *The Three Cities Within Toronto: Income polarization among Toronto's neighbourhoods, 1970-2000*, Research Bulletin #41 (Toronto: Centre for Urban and Community Studies, December 2007) at 10, available at: www.urbancentre.utoronto.ca/pdfs/researchbulletins/CUCSRB41. As explained by Hulchanski, the census tracts cover "neighbourhood-like" areas. As such, Hulchanski uses the terms census tract and neighbourhood interchangeably.

² Hulchanski, at 10.

³ Hulchanski, at 10.

⁴ This region, along with 12 other regions in Toronto and the GTA, were identified as "priority neighbourhoods" by the Strong Neighbourhood Task Force, a United Way-City of Toronto collaboration. The goal is to strengthen both the infrastructure and social services in at-risk communities. See: The United Way, "Building Strong Neighbourhoods," available at: www.uwgt.org/whoWeHelp/neighbourhoodStrategy/strongNeighbourhoods.php

APPENDIX E

PROVINCIAL IDENTIFICATION INITIATIVES

| Province/Territory | Name of Card/Issuer | Cost* | Type of ID |
|---------------------------|---------------------------------------------------------------------------------------------------------------|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Alberta | Identification Card, issued by Alberta Registries | \$39.45 | Photo. Available for those without a valid driver's license. Must be of 12 years of age or older. |
| British Columbia | B.C. Identification (BCID), issued by Insurance Corporation of British Columbia (ICBC) | \$35 | Photo. Available for those without a valid driver's license. Must be of 12 years of age or older. |
| New Brunswick | Photo Identification Card issued by Services New Brunswick | \$9.20 | Photo. Available for those without a valid driver's license. |
| Newfoundland and Labrador | Photo Identification Card, issued by Motor Registration Division. | \$25 | Photo. Available for those with or without a valid driver's license. |
| Northwest Territories | General Identification Card, issued by Department of Transportation | \$33.48 | Photo. Available for those without a valid driver's license, passport, or other government-issued photo identification. Must be 12 years of age or older. |
| Nova Scotia | Nova Scotia Identification Card, issued by Registry of Motor Vehicles | \$15.49 | Photo. Available for those with or without a valid driver's license. |
| Nunavut | General Identification Card, issued by Motor Vehicles Division or through the local Municipal Liaison Officer | Free | Photo. Available for those with or without a valid driver's license. |
| Prince Edward Island | Voluntary Identification, issued by Motor Vehicle Branch | \$15 | Photo. Available for those without a valid driver's license. |
| Saskatchewan | Identification Card, issued by Saskatchewan Government Insurance | \$10 | Photo. Available for those with or without a valid driver's license; free of charge for those with a driver's license. |

* Cost refers to first time charges; there may be renewal costs.

APPENDIX F

FEES FOR BASIC BANKING SERVICES

Bank service charges differ depending on the plan chosen by an individual. Most banks offer a discounted plan for seniors and students. Most banks, including the big five, have plans based on the number of transactions an individual can perform on a monthly basis. There are many plans available at each bank, so choosing the plan that best suits individual needs can be complex. There are usually charges for transactions such as issuance of cheques, bill payments, transfers, and cash withdrawals from ABMs. The following is a breakdown of service charges at five different banks, three of which are of the big five. This summary is based on information publicly available as of August 2008.

A. MONTHLY SERVICE CHARGES FOR PLANS

All plans come with one free statement. Additional statements and the new cheque imaging statements cost the account holder between \$2.00 and \$5.00.

See Table on Page 94

FEES FOR CASHING GOVERNMENT CHEQUES

| Bank | Plan | Monthly Fee | Notes |
|-----------------|-------------------------------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CIBC | Unlimited Chequing Account | \$12.95 | |
| CIBC | Everyday Chequing Account | \$3.90 for 10 transactions | \$0.60 for additional transactions. The monthly fee is waived if the account holder maintains a \$1000 minimum balance. |
| CIBC | Advantage for Students | No fee | The discount applies for 12 months and then the student must reapply. |
| CIBC | 60 Plus Advantage | No fee | This account is for adults aged 60 or over. |
| CIBC | Premium Service Account | \$24.50 | You must qualify for this account. It includes unlimited transactions as well as a credit card and line of credit. It includes 4 free transactions at a non-CIBC ABM. |
| RBC | Student Banking | No fee for 25 transactions | Additional transactions are \$0.50 |
| RBC | No Limit Banking for Students | \$10.95 | |
| RBC | Day to Day Banking | \$4.00 for 15 transactions | Additional transactions are \$0.50 |
| RBC | No Limit Banking | \$10.95 | The monthly fee goes down to \$6.95 after the rebate for seniors |
| RBC | Signature No Limit Banking | \$13.95 | The fee is reduced to \$9.95 after the senior rebate or a multiproduct rebate. 3 Interac uses at a non-RBC ATM are refunded. There are additional services such as 2 free Interac email money transfers, 2 free cross border debits, and the cheque imaging statements are free. |
| RBC | VIP Banking | \$30.00 | The fee is reduced to \$22.50 after the senior rebate or a multiproduct rebate. Includes a credit card and additional products including money orders, certified cheques, stop payments, and overdraft protection. |
| TD Canada Trust | Value | \$3.95 for 10 transactions | Monthly fee is waived for a minimum balance of \$1,000. Each additional transaction is \$0.65. |
| TD Canada Trust | Value Plus | \$8.95 for 25 transactions | There is no monthly fee for students on this account. Monthly fee is waived for a minimum balance of \$2,000. Each additional transaction is \$0.65. |
| TD Canada Trust | Infinity | \$12.95 | There are an unlimited number of transactions on this account. Monthly fee is waived for a minimum balance of \$3,000. |
| TD Canada Trust | Select Service | \$24.95 | There are an unlimited number of transactions on this account. Monthly fee is waived for a minimum balance of \$5,000. There is no cost for cheque imaging statements or passbooks. Includes other services such as travellers cheques, certified cheques, and personalized cheques. |
| TD Canada Trust | Plan 60 | No Fee | There are an unlimited number of transactions on this account. There is no cost for cheque imaging statements or passbooks. Includes other services such as travellers cheques, drafts, and basic personalized cheques. |
| Manulife Bank | Advantage Account | No Fee | There does not appear to be a monthly fee. All fees are calculated on a per transaction basis. Deposits of all forms, client initiated transfers, pre-authorized payments and withdrawals by cheque appear to be free. |
| Manulife Bank | Manulife One Account | \$14.00 | The fee is reduced to \$7.00 for seniors. Includes ABM transactions in Canada, bill payments, and monthly statements for free in addition to the services offered for free for the Advantage Account. |
| PC Financial | No Fee Bank Account | No Fee | Includes all basic services – deposits, cheque withdrawals, ABM transactions at CIBC and PC Financial ABMs, bill payments, debit card transactions, and transfers. Overdraft protection costs extra. |

B. SERVICE CHARGES BASED ON TRANSACTION

Bill Payments

| Bank | CIBC | RBC | TD | Manulife | PC |
|------|--------|------|--------|----------|------|
| Cost | \$0.60 | Free | \$0.65 | \$0.50 | Free |

- In-branch bill payments are free for CIBC customers, \$3.00 for non-CIBC customers. Other bill payments are free for unlimited accounts and \$0.60 for account holders exceeding monthly allowable transactions.
- Free on unlimited plans and \$0.65 after the account holder exceeds the number of free monthly transactions.

Writing Cheques

| Bank | CIBC | RBC | TD | Manulife | PC |
|------|--------|--------|--------|----------|------|
| Cost | \$0.60 | \$0.50 | \$0.65 | Free | Free |

Non-Bank owned ABM Transactions (in Canada)

The amounts quoted on the bank websites seem to be in reference to cash withdrawals only. It may be assumed that each transaction is subject to the same fee. Banking done at approved or bank owned ABM machines are free for customers unless it exceeds their transaction limits, in which case the additional transaction fees will apply.

| Bank | CIBC | RBC | TD | Manulife | PC |
|------|--------|--------|--------|----------|--------|
| Cost | \$1.50 | \$1.50 | \$1.50 | \$1.25 | \$1.50 |

- For Manulife One Account holders, these transactions are free.

Transfers

| Bank | CIBC | RBC | TD | Manulife | PC |
|------|------|------|--------------------------------|----------|------|
| Cost | Free | Free | Cost dependent on account type | Free | Free |

- For Manulife customers, client initiated transfers are free while bank initiated transfers cost \$5.00.

Debit Card Transactions

| Bank | CIBC | RBC | TD | Manulife | PC |
|------|------|------|------|----------|------|
| Cost | 0.60 | 0.50 | 0.65 | 0.50 | Free |

- The cost for CIBC, RBC and TD is only there if the account holder exceeds transaction limits.

White Label ATMs

This section is calculated using a transaction cost which assumes that the account being used is not unlimited and the individual has used all transactions allotted for the month. The disloyalty fee is for using another bank’s ABM machine. There is also the white label fee, which can range from 1.25 to a few dollars. Not all white label machines provide different services; some are just cash dispensing machines.

| Bank | CIBC | RBC | TD | Manulife | PC |
|------------------|---------------|---------------|---------------|---------------|---------------|
| Transaction cost | 0.60 | 0.50 | 0.65 | Free | Free |
| Disloyalty fee | \$1.50 | \$1.50 | \$1.50 | \$1.25 | \$1.50 |
| White label fee | \$1.25 | \$1.25 | \$1.25 | \$1.25 | \$1.25 |
| Total | \$3.35 | \$3.25 | \$3.40 | \$2.50 | \$2.75 |

- For Manulife One account holders, there is no disloyalty fee.

Telephone Banking

This service includes checking account balance, reviewing transactions, transferring money, and paying bills.

| Bank | CIBC | RBC | TD | Manulife | PC |
|-------------|------|------|--------------------------------|----------|------|
| Cost | Free | Free | Cost dependent on account type | Free | Free |

Online Banking

This service includes all the same features as telephone banking.

| Bank | CIBC | RBC | TD | Manulife | PC |
|------------------------------|--------|--------|--------------------------------|----------|------|
| Interac Email Money Transfer | \$1.50 | \$1.50 | \$1.50 | N/A | N/A |
| Internet Banking | Free | Free | Cost dependent on account type | Free | Free |

- An Interac Email Money Transfer is a process whereby an individual through online banking can transfer money to other individuals’ accounts.
- It does not appear that Manulife or PC Financial have joined the Interac Email Money Transfer network.

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