

**High-Cost Alternative Financial Services  
Stakeholder Consultation - September 2016**

**Introduction:**

The B.C. Ministry of Public Safety and Solicitor General wants to understand the views of stakeholders regarding existing consumer protections for British Columbians who use high-cost alternative financial services. In addition to payday loans, these services include instalment and vehicle title loans, rent-to-own sales and cheque cashing services. The input we obtain from stakeholders will help inform the ministry's review of high-cost alternative services in the province.

More specifically, the Ministry is seeking your input to help determine:

- Stakeholder concerns with respect to high-cost financial services in British Columbia;
- Whether and what further regulation of these services may be warranted; and
- Stakeholder ideas, views, and support for consumer protection measures regarding these services including: education and awareness measures, community partnerships, and alternatives to payday loans and other high-cost loans.

We are seeking input from:

- Consumer advocacy groups;
- Agencies that work with British Columbians using these services (including government agencies);
- Alternative financial services providers, and their associations;
- Credit unions, banks, finance industry associations;
- Credit counsellors;
- Bankruptcy trustees; and
- Local governments.

The Ministry of Public Safety and Solicitor General welcomes your feedback. We invite you to send a written submission by email to [PSSG-CPPO@gov.bc.ca](mailto:PSSG-CPPO@gov.bc.ca) or by mail to the address below.

Corporate Policy and Planning Office, Ministry of Public Safety and Solicitor General  
PO Box 9283 STN PROV GOVT  
Victoria, BC  
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Another available option is to submit your responses using the online form posted here:

<https://forms.gov.bc.ca/justice/high-cost-alt-fin-serv-consultation/>

This consultation is open from September 21 2016 to October 20 2016. Please ensure your response is sent in on or before the closing date, October 20 2016.

Thank you in advance for your time and for your input.

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### **Background**

A growing number of high-cost alternative financial services outside of mainstream banks and credit unions are being offered to British Columbians. In addition to payday loans, high-cost services by this industry include cheque cashing, instalment and vehicle title loans, and rent-to-own sales.

Consumer protection legislation in British Columbia (B.C.) and other provinces provides a number of protections to consumers, including those who use high-cost alternative financial services. For example, in B.C., the *Business Practices and Consumer Protection Act (BPCPA)* prohibits unfair business practices in the marketplace and provides remedies for consumers. The Act sets out requirements for disclosure of the cost of consumer credit and has provisions prohibiting deceptive acts or practices.

In 2009, the Payday Loans Regulation came into force in B.C., requiring all payday lenders doing business in the province to be licensed with Consumer Protection BC and placing specific consumer protection requirements on payday lenders. B.C.'s payday lending law strikes a balance between protecting borrowers and allowing lenders to do business in B.C. Consumer Protection BC is an independent delegated authority that licenses payday lenders, monitors their compliance with the law, including through risk-based and random inspections, and investigates consumer complaints outside of the courts.

For more information:

*Business Practices and Consumer Protection Act (BPCPA):*

<http://www.bclaws.ca/civix/content/complete/statreg/1944036832/04002/?xsl=/templates/browse.xsl>

Consumer protections under the *BPCPA*:

<https://www.consumerprotectionbc.ca/consumers-alias/help-for-consumer-rights/bpcp-act>

Payday Loans Regulation:

[http://www.bclaws.ca/civix/document/id/complete/statreg/57\\_2009](http://www.bclaws.ca/civix/document/id/complete/statreg/57_2009)

#### 1. General – Alternative Financial Services

High-cost alternative financial services include but are not limited to payday loans, cheque cashing services, and other types of high-cost loans such as instalment, vehicle title loans and rent-to-own sales.

**Question 1:** Why do consumers use high-cost alternative financial services?

**Question 2:** What are some of the risks associated with using high-cost alternative financial services?

**Question 3:** Aside from payday loans, what other alternative financial services should be considered for legislative/regulatory reform? Why? Which of these financial services are adequately regulated today?

**Question 4:** Further regulatory requirements of the alternative financial services sector could result in some businesses leaving the market altogether. This could reduce consumer access to these services. How would the reduced availability of payday loans and other high-cost alternative financial services affect consumers and communities?

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2. Payday Lending

A payday loan is a loan of up to \$1,500 for a term of 62 days or less. British Columbia began regulating payday lending in 2009. The regulations contain provisions to protect consumers, including a maximum allowable charge for a payday loan. In most provinces, payday lenders are licensed and regulated. In B.C., payday lenders (including online lenders) are licensed and regulated by Consumer Protection BC. Borrowers typically have a bank account and a regular source of income. They provide a cheque or pre-authorized debit for the full amount of the loan, plus fees, to be repaid on their payday.

For more details see: <https://www.consumerprotectionbc.ca/consumers-payday-lending-home>

**Question 5:** What financial need do payday loans and other short term loans fill in the British Columbia marketplace?

**Question 6:** Why do borrowers use payday loans?

**Question 7:** Are there lower-cost alternatives for borrowers who use payday loans? If so, why don't borrowers use lower-cost alternatives? If not, why are there no/few alternatives?

B.C.'s payday lending laws require lenders to:

- Publicly display the cost of credit, including the equivalent annual percentage rate (APR), for easy comparison to other loan products.
- Provide a payday loan agreement outlining all charges, terms and conditions for every loan, of which a consumer must receive a copy at the time they enter into the loan.

**Question 8:** What information do borrowers need to make informed borrowing decisions regarding a payday loan? What additional resources could help borrowers make these decisions a) before considering a payday loan and b) at the time of application for a payday loan and c) how could this information be most effectively provided?

**Question 9:** What information do borrowers need to make informed decisions about ancillary payday loan products such as cash cards or optional insurance? What more could be done to help borrowers?

Under B.C.'s payday lending laws:

- The maximum allowable cost of borrowing is set out (\$23 per \$100 advanced, inclusive of all fees and charges).
- The maximum amount that can be loaned is 50% of the borrower's net pay for the period over which the loan is written (to a maximum of \$1500).
- Consumers have the right to change their mind and cancel the loan by the end of the following business day without paying any charges.
- Consumers can repay a loan any time before the due date and cannot be charged extra.
- Disclosure requirements (for example, what must be included in the agreement) are set out.
- All payday lenders (including online lenders) doing business with B.C. consumers must be licensed.
- Prohibited practices, borrower remedies and penalties for violations are set out in law and enforced by Consumer Protection BC.

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**Question 10:** What, if any, additional requirements, or changes to the existing requirements are needed to effectively regulate payday lenders operating in British Columbia?

B.C.'s payday lending law is intended to prevent lenders from engaging in practices that could cause significant social and economic harms to people who may want to borrow but can't really afford to borrow. Payday loans are a means for those with limited credit to address immediate financial needs. Access to payday loans may lower the risk of borrowers going to unlicensed lenders or loan brokers. However, if the consumer's expenses continue to exceed their income, they may have to take out a series of multiple loans and find themselves in a cycle of debt to finance the original cost of credit associated with the first payday loan.

To prevent this, the law requires lenders to:

- Set the terms of an extended re-payment plan to borrowers taking out a 3<sup>rd</sup> loan in a 2 month period. The phased repayment of the loan and cost of credit for these loans is over 2 or 3 pay periods.
- Dissuade borrowers from engaging in practices that encourage continued debt and dependence or other unfair practices. For example, a payday lender may not issue more than one loan to a borrower at the same time or roll over one loan into another loan with new charges – meaning they cannot extend or renew a loan at an additional cost to the consumer or give them a new loan to pay out an old loan.
- Issue a loan for no more than 50% of the borrower's net income to be received during the term of the loan.

These rules are in place to ensure that borrowers do not borrow more than they are reasonably able to pay back.

**Question 11:** What are your thoughts on additional requirements, or changes to existing requirements for borrowers who take out several loans in a short period of time?

**Question 12:** What additional requirements, or changes to existing requirements, if any, are needed to reduce borrowers' dependence on repeat borrowing in a short period of time?

As indicated above, B.C.'s laws already prohibit a lender from issuing more than one loan at a time to a borrower and they cannot "roll over" an existing loan into another. However, a borrower can get more than one loan at a time by going to different lenders. In order to prevent this, some U.S. jurisdictions have established a centralized system to track payday loans. The system records all transactions in a centralized database and the ongoing cost of administering the system is recovered by a fee paid by the payday lender for each transaction. No such system currently exists in Canada and the cost to implement such a system, how development costs would be paid for, and the amount of the fee to cover ongoing costs to maintain the system is not known.

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**Question 13:** What would be some consequences if B.C. laws:

- a) Restricted borrowers from seeking simultaneous loans from multiple payday lenders?
- b) Restricted the number of payday loans a borrower can take out per year?
- c) Required a central loan tracking system?
- d) Required longer duration extended repayment periods?

**3. Cheque Cashing Services (government cheques)**

Most consumers use a bank, trust company or credit union to cash their cheques. The federal government has indemnity agreements with financial institutions to cash federal government cheques for free for people with or without a bank account. Electronic funds transfer is also increasingly available, allowing for government payments to be directly deposited into a bank account. However, for various reasons, consumers sometimes choose to cash their cheques at cheque cashing businesses or in conjunction with the purchase of goods or services from businesses. Businesses often charge fees for this service to cover their administrative costs and allow for some profit. While most payday lenders will offer cheque cashing services as part of their business model, these services themselves are not regulated/overseen by Consumer Protection BC.

Cheque cashing fees also help compensate cheque cashing businesses for losses they may incur when cheques are dishonoured (for example, when cheques are stolen or fraudulent, or when the cheque issuer has insufficient funds to cover the cheque amount). The risks of dishonoured cheques are lower when government issues a cheque.

Manitoba has set maximum fees for businesses cashing government cheques at \$3.00 plus 2% of the face value of the cheque. Quebec prohibits fees for cashing federal, provincial or local government cheques.

**Question 14:** What is a reasonable fee for cashing government cheques services and how should the fee be calculated? As far as you are aware, how much money are companies charging to cash government cheques in B.C.?

**Question 15:** What approach or approaches would you support to ensure consumers have access to low-cost services for cashing government cheques? What is the anticipated benefit?

**4. Online Lending**

Through an online portal (via a website or a mobile application), a borrower provides personal information, including income and bank account information; the loan agreement is then reviewed and accepted; and the borrower authorizes loan repayment from their bank account through pre-authorized debits, with the loan amount usually being deposited directly into the borrower's bank account or by e-mail money transfer. Currently, payday loans are the predominant form of online high-cost credit available to Canadian consumers but other kinds of loans (instalment, lines of credit, title and rent-to-own) are thought to be increasingly available online in Canada. Lead generators use targeted advertising online and purport to offer payday loans but really sell consumer info ("leads") or broker on behalf of online payday lenders. Reliable information on how many lead generators operate in Canada is not currently available.

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**Question 16:** What, if any, additional requirements are needed for payday or other lenders who provide services by internet and telephone? Please explain your response and describe any requirements you think are necessary.

**Question 17:** What information do borrowers who use online loan services need to make responsible informed borrowing decisions? How should the information be presented on the website or mobile application?

5. Instalment Loans

These loans are for larger amounts than payday loans and can be paid back over a longer period of time through multiple payments. The advertised cost of a high-cost instalment loan is below that of payday loans and generally below the 60% maximum annual interest rate prescribed by the *Criminal Code of Canada*, but well above the cost of a similar unsecured loan from mainstream financial institutions or credit grantors.

**Question 18:** What, if any, additional protections, information or limits are needed for instalment loans? What would be the anticipated benefit for implementing changes? What would be the anticipated harm for not implementing changes? Should these businesses be licensed? Why or why not?

6. Vehicle Title Loans

A vehicle title loan is a short-term loan that uses the borrower's vehicle as collateral. The collateral is often more valuable than the value of the loan. If the loan is not repaid, the lender can take ownership of the vehicle and sell it to recoup their loan costs.

**Question 19:** What, if any, additional protections, information or limits are needed for vehicle title loans? What would be the anticipated benefit for implementing changes? What would be the anticipated harm for not implementing changes? Should these businesses be licensed? Why or why not?

7. Rent-to-Own Sales

These businesses offer consumers the ability to rent household goods such as appliances, electronics or furniture on a weekly or monthly basis with the possibility of ownership after a certain number of payments. The eventual total cost can be very high, and can amount to three or four times what it would cost to pay cash or finance the purchase on an instalment plan.

**Question 20:** What, if any, additional protections, information or limits are needed for rent-to-own sales? What would be the anticipated benefit for implementing changes? What would be the anticipated harm for not implementing changes? Should these businesses be licensed? Why or why not?

**Question 21:** Any additional feedback for us?

**Thank you for taking the time to provide your feedback.**