

EXHIBIT 2

**ILLINOIS DEPARTMENT OF FINANCIAL & PROFESSIONAL REGULATION
THE DIVISION OF FINANCIAL INSTITUTIONS**

IN RE: PETITION OF COMMUNITY)
CURRENCY EXCHANGE ASSOCIATION)
OF ILLINOIS, INC. AND COMMUNITY)
CURRENCY EXCHANGE LICENSEES TO)
INCREASE THE MAXIMUM RATE FOR)
CASHING CHECKS)

**VERIFIED PETITION TO INCREASE THE MAXIMUM ALLOWABLE
CHECK-CASHING RATE FOR COMMUNITY CURRENCY EXCHANGES**

Dean N. Panos
Carter H. Klein
JENNER & BLOCK LLP
353 North Clark Street
Chicago, IL 60654-3456
(312) 222-9350

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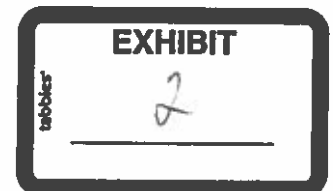


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**VERIFIED PETITION TO INCREASE THE MAXIMUM ALLOWABLE
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I. INTRODUCTION AND BACKGROUND.

a. Hearing and Rate Increase Request. The Community Currency Exchange Association of Illinois, Inc. (the “Association”) through its counsel Jenner & Block LLP, and the community currency exchange owners who join in this Petition (collectively referred to as the “Petitioners”), submit this verified Petition to increase the maximum check-cashing rate which may be charged by community currency exchanges in Illinois.¹ As demonstrated by this Petition, there are ample grounds for increasing the maximum check-cashing rate. Indeed, in the past 30 years, there has been only two rate increases, the last one having been granted in May of 2007, over nine and a half years ago, and effective December 21, 2007, over nine years ago. These rate increases have not cured the decline and moribund financial performance of Illinois currency exchanges (the “Industry”). Accordingly, Petitioners request that pursuant to Section 19.3 of the Currency Exchange Act, 205 ILCS 405/19.3, the Secretary (the “Secretary” and previously, the “Director”) of the Illinois Department of Financial & Professional Regulation

¹ This Petition is supported by the verified signatures of the duly designated representatives of over 188 community currency exchange licensees in Illinois, comprising over 47% of the community currency exchanges currently licensed in Illinois. Some of the verifications are signed on behalf of multiple currency exchange licensees. The verifications are submitted collectively in under Tab 1 of the Appendices filed herewith.

(the “Department”) convene public hearings to consider the matters set forth in this Petition and authorize an increase in the existing maximum check-cashing rate from 2.25% to 2.50% for cashing checks up to \$1250.00², and an increase in the existing maximum check-cashing rate from 2.25% to 3.00% for cashing checks of \$1250.01 or more.

b. Legislative Mandate Supporting Illinois Currency Exchanges. The Illinois General Assembly, in enacting the Currency Exchange Act (“the Act”) declared that “community currency exchanges provide important and vital services to Illinois citizens,” and that “it is in the public interest to promote and foster the community currency exchange business and to insure the financial stability thereof.” (205 ILCS § 405/4.1.) Stressing the importance of community currency exchanges, the General Assembly further recognized that currency exchanges “transact extensive business involving check-cashing and the writing of money orders in communities in which banking services are generally unavailable.” *Id.* The Act further provides that the Secretary shall determine and set the maximum rate that currency exchanges may charge for check-cashing by considering, among other things, a “reasonable profit for a currency exchange operation” (205 ILCS 405/19.3(B)(1)(f)), and whether “the need exists for an increase in the fees mandated by this Act to maintain the Currency Exchange Section at a fiscally self-sufficient level.” (205 ILCS 405/19.3(A)). The evidence presented in and with this Petition clearly demonstrates that such a need exists.

c. 25% Requirement. The CCEA Act requires that at least 25% of the currency exchanges in the State of Illinois petition for a rate increase. 205 ILCS 405/19.3(B)(2)(c)(ii). Attached under Tab 1 of the Appendices to this Petition are copies of signatures of owners of more than 188 currency exchanges representing over 47% of all community currency exchanges

² Checks cashed by currency exchanges of \$100 or less would still carry a \$1.00 charge in addition to the percentage charge. The CCEA is not requesting the \$1.00 charge be increased.

licensed in the State of Illinois by the Department -- well over 25% of all currency exchanges in the State of Illinois required to verify and join in this Petition. The owners and operators of these currency exchanges request that the rate increase sought be granted by the Department. The joinder of the currency exchanges in this rate increase Petition satisfies the 25% condition and requirement for filing a rate petition increase set forth in the Act. See 205 ILCS 405/19.3(B)(2)(c)(ii).

d. Timeliness Requirement. The Act provides that a petition for a rate increase may not be submitted more frequently than nine months from the date of promulgation of the last schedule of rates posted by the Department. 205 ILCS 405/19.3(B)(2)(c)(i). It has been nine years since the last rate increase was adopted by the Department,³ so this requirement of the Act for filing a rate increase petition has been met by the Petitioners.

e. Previous Increases Granted to Illinois Currency Exchanges. In 1979, the General Assembly authorized the Director to establish maximum rates for cashing checks and selling money orders. Ill. Rev. Stat. 1979 ch. 17, para. 4801 *et seq.* In only a handful of proceedings thereafter, the Director has held public hearings to consider the maximum check-cashing rates charged by currency exchanges. In 1981, the Director adopted the first maximum rate schedule. The Director, after conducting a public hearing, established the maximum rate for cashing checks and selling money orders to be 1.1% of the check amount, plus a \$0.75 transaction fee.

In 1985, the currency exchange industry (hereinafter "the Industry") petitioned the Director to increase the maximum rate for check-cashing to 1.25% of the check amount plus a \$1.00 transaction fee. After conducting public hearings, Director Michael E. Fryzel increased

³ The decision of the Department through its then acting Director Gina M. DiCiana was entered May 16, 2007, nine years and nine months ago. The rate increases became effective December 21, 2007, over nine years ago. See 38 IL. Admin. Code. 130.30.

the maximum check-cashing rate that Illinois currency exchanges could charge for check cashing to the rate of 1.2% of the check amount plus a \$0.90 transaction fee. (1985 Statement of Findings, Tab 2.) The new rate became effective on July 1, 1986.

On July 10, 1991, the Industry petitioned the Director to increase the maximum check-cashing rate to 2.1% plus a \$1.00 transaction fee. On August 23, 1991, Director Gilbert Ruiz rejected the Industry's petition without conducting hearings. One year later, on August 19 and 25, 1992 and on September 30, 1992, Director Ruiz convened public hearings on his own motion to determine whether an adjustment of the existing check-cashing rate was appropriate. On April 19, 1993, Director Ruiz issued a written "Statement of Findings" wherein he proposed a bifurcated maximum rate schedule which set a different maximum check-cashing rate for public aid checks than for all non-public aid checks. See Tab 3 – 1993 Statement of Findings.

In 1995, the Industry filed a petition for a rate increase, and the Director convened public hearings on the Industry's petition. Following those hearings in 1996, and 11 years after the Industry had last obtained a rate increase, the Director set the maximum rate that Illinois currency exchanges could charge for check cashing at 1.4% of the face amount of the check plus a service charge of \$0.90 on all checks of \$500 or less, and 1.85% of the face amount of checks above \$500. (1996 Statement of Findings, Tab 4)

On November 6, 2006, over 10 years ago and 11 years after the last check-cashing rate increase was authorized by the Director of the Department, the Industry led by the CCEA filed a petition for a rate increase. The Industry's petition requested a rate increase of a base rate of \$1.00 per check plus 1.4% of the check amount for checks up to \$100 and 2.75% of the check amount for checks over \$100. In addition, the Industry requested these rates be adjusted annually upward based on increases in the Consumer Price Index (CPI). The Director convened

public hearings on the Industry's petition, took evidence, submissions and testimony from the CCEA, various currency exchange owners, Bernard Ford of Navigant and others. The Director granted some but not all of the increase sought by the CCEA and its members. The CPI adjustment factor was not adopted and the rate increase requested by the Industry of 2.75% of the face amount of checks over \$100 was limited to an increase of up to 2.25% of the face amount of the check. Following those hearings in 2007, on May 6, 2007, the Director determined that the maximum rate that Illinois currency exchanges could charge for check-cashing would be set at 1.4% of the face amount of the check for checks \$100 or less plus a \$1.00 charge and 2.25% of the face amount of checks above \$100. These rates became effective December 21, 2007 and remain in effect today. (2007 Statement of Findings, Tab 5).

II. THERE IS GOOD CAUSE TO INCREASE CHECK-CASHING RATES BASED ON INDUSTRY PERFORMANCE IN TWELVE MAJOR CATEGORIES SINCE THE LAST RATE INCREASE

Financial and Operating Measures of Industry Performance. The section of the Act that provides for hearings to support check-cashing rate increases only requires a finding of "reasonable cause" to justify the increase. 205 ILCS 405/19.3(B)(2)(b). Based on an analysis of the statutory criteria to be used by the Secretary in setting check-cashing rates and the moribund and declining state of the Industry, there is a desperate need to increase the maximum check-cashing rates in Illinois to sustain the Industry. The maximum check-cashing rate was last increased and became effective over nine years ago. Since that time, based on the Department's annual consolidated financial reports for all Illinois currency exchanges for the eight-year period 2008-2015, the Industry has suffered greatly or stagnated in just about every category of performance:

- (a) the number of currency exchange stores still in business;

- (b) the total number of checks cashed each year;
- (c) aggregate check cashing revenue;
- (d) check cashing revenue per currency exchange;
- (e) total dollar amount of checks cashed;
- (f) average check size;
- (g) check cashing revenue per check;
- (h) total revenue per store;
- (i) total expenses for all currency exchanges;
- (j) expenses per store;
- (k) net revenue for all currency exchanges;
- (l) net revenue per store; and
- (m) net revenue plus owner officer salaries for all currency exchanges and per store.

Tables A-M under Tab 6 (the “Tables”) are derived from the Department’s annual consolidated reports of financial information reported by all Illinois currency exchanges for the years 2008-2015. See Tab 6. These Tables show that over the eight-year period from 2008 through 2015, since the last rate increase took effect, and without consideration of inflation, a picture of the Industry in serious decline and stagnation in twelve important categories of financial and operating performance relating to their Industry’s check cashing business. Each of these categories are discussed below.

a. Number of Currency Exchanges. The number of currency exchanges still in business has decreased by 159 currency exchange stores from 580 in 2008 to 421 in 2015 – a 27% decline. (Table A) Stated another way, there were 37% more Illinois currency exchanges in existence in 2008 than they were eight years later in 2015.

The loss in the number of currency exchange businesses in Illinois continues through the present. By the latest count of the Department, the number of currency exchanges in business at the end of 2016 is down to 393.⁴ That is a decrease of 187 currency exchanges from the 580 that existed in 2008. That is a decrease of over 32%. Stated another way, there were 47.5% more currency exchanges in business in 2008 than there are today.

The huge loss in the number of currency exchanges strongly points to a serious problem in the Industry – the inability of currency exchanges to make a reasonable profit or a profit at all in light of competitive pressures, decreasing revenues and an inability to reduce expenses, as discussed below.

b. Number of Checks Cashed. The number of checks cashed in 2015 is 7,346,563 less than the number of checks cashed by Illinois currency exchanges in 2008 – a decline of over 40%. Said another way, there were 67% more checks cashed in 2008 by the Industry than there were in 2015. (Table B) Check cashing is the largest component of revenue for currency exchanges. According to the Department's 2015 Consolidated Financial Report for Illinois Currency Exchanges, check cashing revenues constitute over 50% of all revenues received by currency exchanges. Unlike grocery stores, big box retailers and banks that cash checks, currency exchanges are limited by statute to providing a handful of services for which they can charge.⁵

⁴ Email of December 22, 2016, from Thomas Micun of the Department, responding to a request of Rita Ekstrom of the CCEA requesting the number of licensed currency exchanges currently operating in the State of Illinois.

⁵ Besides check cashing, currency exchanges derive revenue from selling money orders, receiving utility bill payments, selling city stickers, license plates and other government permits or records, transferring car titles, loading or selling third party gift, phone, debit, credit and stored value cards, issuing transit cards, faxing, photocopying and notarizing, selling postage, providing ATM services, sending money through third party transmitters, facilitating travel

c. Aggregate Check Cashing Revenues. Aggregate check cashing revenues for the Industry have dramatically declined -- from \$130,443,602 in 2008 to \$73,299,270 in 2015. That is a decline in check cashing revenues of \$57,144,322 since the last rate increase. Check cashing revenues over that period have thus declined by 43%. Said another way, check cashing revenues for the Industry were almost 78% higher in 2008 than there were in 2015. Moreover, as can be seen from the Table C, the decrease has been steady and significant in each year over the eight-year period. (Table C)

(d) Check Cashing Revenue Per Currency Exchange. Even though the number of currency exchanges in Illinois has significantly decreased, check cashing revenue per currency exchange store has also decreased significantly since the last rate increase. The consolidation of the number of currency exchanges in the State of Illinois has not materially increased the check cashing revenues per store for the remaining currency exchanges. Check cashing revenues per currency exchange store were \$50,794 less in 2015 than they were in 2008. Check cashing revenues per currency exchange store in 2008 were over 29% higher in 2008 than they in 2015. (Table D)

(e) Total Dollar Amount of Checks Cashed. The total dollar amount of checks cashed by the Industry has decreased dramatically over the period from 2008 through 2015. Check cashing dollar volume handled by Illinois currency exchanges has decreased by over \$3.75 billion -- \$3,751,686,342 according to the Department's annual consolidated reports. (Table E) That is a 45% decline in check cashing dollar volume over the eight-year period in question. Said another way, the dollar volume of checks cashed in 2008 was over 80% higher than the dollar volume of checks cashed eight years later in 2015 by Illinois currency exchanges.

reservations and ticketing, pay phones, selling rolled coins and currency, and selling candy, soft drinks and gum through vending machines. 205 ILCS 405/3.

(f) *Average Check Size.* While the number of checks and their dollar volume have decreased dramatically for the industry, consistent with point (g) below identifying average check cashing fees charged per check, the average check size for checks cashed by Illinois currency exchanges has not increased, but remained relatively stagnant over the eight-year period from 2008 to 2015. (Table F)

(g) *Check Cashing Revenue Per Check.* Despite recovery from the great recession, check cashing revenues per check have not increased, but stagnated. In the eight year period from 2008 to 2015 the average check cashing revenue per check has decreased slightly from \$7.11 per check to \$6.66 per check in 2015. This means that even though the number of checks cashed at Illinois currency exchanges has decreased dramatically, the average check size cashed has remained about the same, thereby not providing currency exchanges additional revenues from check cashing to make up for loss of the number of checks cashed. (Table G)

(h) *Total Revenue Per Currency Exchange Store.* Even though there has been a consolidation of currency exchanges in the Industry and even though Illinois currency exchanges have gained a few new sources of revenue from the legislative grant of several new services (see footnote 4 above), the total revenues per currency exchange store over the eight-year period in question have remained stagnant, even without considering any depreciating effect of inflation. Total currency exchange revenues per store in 2008 were \$338,167. In only two of the seven full years since then were currency exchange total revenues per store greater than that amount, and then by less than a few thousand dollars or about 2.3% more than 2008 total revenues per currency exchange store. (Table H)

(i) *Total Expenses for All Currency Exchanges.* While as expected, total expenses for the Industry have decreased with the dramatic decrease in the number of currency exchanges

over the 8-year period in question, the decrease has not kept pace with the decrease in the number of currency exchanges. Total expenses for the Industry decreased by 23.2% from 2008 to 2015. As seen from Table A, the number of currency exchanges decreased by 27% in the same period and by 32% through 2016. That means that expenses per currency exchange store actually increased over these periods, as shown on the next Table.

(j) Expenses Per Currency Exchange Store. Expenses per currency exchange store have increased over the eight-year period by about 6%. (Table J) While this is not a dramatic increase in expenses, what is troubling is that expenses have not decreased with the decrease in revenues per currency exchange. This means that currency exchanges have not benefited from consolidation in the Industry; other factors have caused currency exchanges to incur expenses to offset other savings they may have achieved. These factors include the increasing burden of regulatory and compliance costs, and the inability to reduce certain costs such as rent, utilities, property taxes, overhead, reporting and compliance costs and even personnel costs commensurate with a decrease in gross revenues. See Department's March 26, 2007 Hearing Transcript ("2007 Hearing Tr.") of Larry Slonina at 64-72; of Jerome Gagerman at 79; and of John Iberl at 90. The net result is stagnation and loss of net revenues.

(k) Net Revenues for All Currency Exchanges. One of the most dramatic statistics is the decrease in net revenue for the Industry as a whole over the eight year period in question. Net revenues of all currency exchanges in 2008 were \$10,581,415. In 2015, net revenues for the Industry were \$4,203,968, a decrease of \$6,397,447. This is a 60% decline in earnings for the Industry over the period 2008-2015. Said another way, aggregate earnings for all Illinois currency exchanges were an astounding 150% higher in 2008 than there were just eight years later in 2015. (Table K)

(l) Net Revenue Per Currency Exchange Store. Over the eight-year period in question, net revenue per currency exchange store has been significantly lower per store in four of the seven years since 2008, slightly lower in one of those years and not much higher in other two years. The last full year for which consolidated statistics are available from the Department shows net revenue per store decreasing from \$18,244 per currency exchange store in 2008 down to \$9,986 in 2015, a 45% decline. Stated another way, earnings per store were almost 83% higher in 2008 than they were eight years later. (Table L) When factoring in inflation, Navigant calculated that the average currency exchange's net income in 2015 is 51.4% lower than net income in per store in 2008.

(m) Net Revenue plus Owner-Officer Salaries for All Currency Exchanges and Per Store. Even if net revenues per currency exchange are combined with owner-officer salaries, there has been a decrease in these totals for the Industry and for each currency exchange over the eight-year period since the last rate increase. (Table M) Considering risks of the business, its declining prospects, the amount of time an owner has to put into his currency exchange to operate it, the owner's capital investment in his currency exchange store and the low net revenues per store, Currency exchange owners are simply not earning a fair or compensable rate of return from their currency exchanges. (See discussion and analysis in Part V(f) of this Petition.) In fact, Table M shows that even after combining all officer/owner salaries with each currency exchange's net revenue, the total compensation yielded per currency exchange works out to a fairly low level of income and compensation – especially considering that it includes both a return on investment as well as the owner's time and effort in operating his or her currency exchange.

III. CHECK-CASHING RATES IN OTHER STATES, BY OTHER BUSINESSES AND BY BANKS EITHER ARE NOT COMPARABLE OR SHOW THAT THERE IS A BASIS TO INCREASE ILLINOIS CHECK-CASHING RATES.

a. *Check-Cashing Rates in Other States.* Appended at Tab 7 is a chart summarizing the rates in states that license and regulate check cashers. Of the 32 jurisdictions other than Illinois (31 other states and the District of Columbia) which license and regulate check cashers, 27 of those jurisdictions have established maximum check-cashing rates which substantially exceed those currently in effect in Illinois. (Tab 7) The table below and under Tab 7 also shows that check-cashing rates allowed to be charged by licensed check cashers for cashing nongovernmental checks (e.g., other than public assistance, social security checks) substantially exceed Illinois' maximum rates currently in effect *and* the rate increase requested by this Petition of 2.5% for checks of \$1,250 or less and 3.0% for checks larger than \$1250.

	Jurisdiction	Personal Checks	Payroll Checks/ Money Orders (if indicated)
1.	Arizona	No cap	No cap
2.	California	12% of check amount	3% with ID 3.5% without ID or \$3 if greater
3.	Florida	10% or \$5 if greater	5% or \$5 if greater 10% or \$5 if greater for money orders
4.	Georgia	10% or \$5 if greater	5% or \$5 if greater 10% or \$5 if greater for money orders
5.	Hawaii	10% or \$5 if greater	5% or \$5 if greater 10% or \$5 if greater for money orders
6.	Indiana	10% or \$10 if greater	5% or \$5 if greater

7.	Kentucky	No cap	No cap
8.	Louisiana	10%	10%
9.	Maine	10% or \$5 if greater	5% with ID 6% w/o ID or \$5 if greater 10% or \$5 if greater for MO's
10.	Maryland	10% or \$5 if greater	4% or \$5 if greater
11.	Massachusetts	No cap	No cap
12.	Minnesota	No cap	No cap
13.	Mississippi	10% or \$5 if greater	5% or \$5 if greater
14.	Nevada	No cap	No cap
15.	North Carolina	10% or \$5 if greater	5% or \$5 if greater
16.	Ohio	No cap	No cap
17.	Oregon	10% or \$5 if greater \$100 maximum	3% or \$5 with ID 3.5% or \$5 w/o ID 10% or \$5 if greater with \$100 cap for all other nonpublic checks
18.	Pennsylvania	10%	3%
19.	Rhode Island	10% or \$5 if greater	5% or \$5 if greater
20.	South Carolina	7% or \$5 if greater	7% or \$5 if greater for all non-preprinted non-public checks; 2% or \$3 for elec. printed payroll checks
21.	Tennessee	10% or \$5 if greater	5% or \$5 if greater
22.	Utah	No cap	No cap
23.	Vermont	10% or \$5 if less	5% or \$5 if greater;

			10% or \$5 if less for MO's
24.	Virginia	No cap	No cap
25.	Washington	No cap	No cap
26.	Washington D.C.	10% or \$5	4% or \$5 10% or \$5 for MO's
27.	Wisconsin	No cap	No cap

What Tab 7 and the above listing of check-cashing rates shows is that Illinois' maximum rates allowed for check cashing are far below and out of step with the rates allowed by the vast majority of states that license check cashers. Even if the modest rate increases requested by this Petition are granted, Illinois' allowable check-cashing rates will still be lower than the rates allowed by most states that license check cashers. In fact, 10 states that have enacted statutes and/or regulations related to check cashers have no limits on how much check cashers can charge for cashing nongovernmental issued checks: Arizona, Kentucky, Massachusetts, Minnesota, Nevada, Ohio, Utah, Virginia, Washington and Wisconsin.

For public assistance and other government checks, the percentage rates for cashing checks are 2.5% to 3% or higher (and also allow a fee authorized to be charged of \$5 on smaller checks) in the following states that license and regulate check cashers:

1. Arizona 3%
2. California 3% with ID; 3.5% without ID
3. Florida 3%
4. Georgia 3%
5. Hawaii 3%
6. Indiana 5%

7.	Kentucky	No cap
8.	Maine	3.0% with ID; 4.0% without
9.	Massachusetts	No cap
10.	Minnesota	No cap (but rates filed for approval)
11.	Mississippi	3%
12.	Nevada	No cap
13.	North Carolina	3%
14.	Ohio	3%
15.	Oregon	2-2.5% for in-state and 3-3.5% out of state checks
16.	Pennsylvania	2.5%
17.	Rhode Island	3%
18.	Tennessee	3%
19.	Utah	No cap
20.	Vermont	3%
21.	Virginia	No cap
22.	Washington	No cap
23.	West Virginia	No cap
24.	Wisconsin	No cap

As with the chart for nongovernmental check-cashing rates, the above listing shows again that of the 32 jurisdictions other than Illinois that license check cashers, the large majority allow higher maximum check cashing charge rates for public assistance and other governmental checks than does Illinois currently, or would Illinois were the rate increases of this Petition granted for checks of \$1250 or less, which covers almost all of these types of checks.

Besides the 33 jurisdictions that license check cashers, another 18 states do not regulate currency exchanges or check cashers. In most of these states, the state legislature has not established any maximum rates for the cashing of checks and the marketplace instead establishes rates that are charged. The unregulated states' check-cashing rates are as follows:

Alabama	No cap on check-cashing rates
Alaska	No cap
Arkansas	5% for public checks, 10% for personal checks; 6% for all others
Colorado	No cap
Idaho	No cap
Iowa ⁶	No cap
Kansas	No cap
Michigan	No cap; credit unions can charge 5% for government, pension and payroll checks, 7% for insurance company checks and 10% for personal checks or money orders
Missouri	No cap
Montana	No cap
Nebraska	No cap
New Hampshire	No cap
New Mexico	No cap
North Dakota	5% for personal, payroll and other checks; 3% for government checks
Oklahoma	No cap

⁶ Iowa appears to regulate check cashers through its money transmitter laws and requires them to be licensed, but does not impose a cap on check-cashing rates. Iowa Code §529.1(9)(c). A call to the Iowa Department of Banking confirmed this to be the case.

South Dakota	No cap
Texas	No cap
Wyoming	No cap

Accordingly, a review of the rates permitted in states that do not license currency exchanges or check cashers reveals that the maximum check-cashing rates in Illinois are below the maximum rates that can be charged in these other states that do not license check cashers. In fact, all but two states that do not regulate check cashers allow any rates or fees to be charged for cashing checks, i.e., their rates are uncapped, and in the two states that do limit the rates that check cashers can charge, the rates allowed are substantially higher than the maximum rate increase that the CCEA proposes for Illinois. Presumably, competitive forces and the free market keep rates from being an issue in the states that do not impose check cashing charge limits or license requirements for check cashers.

In summary, 26 states have no rate caps imposed on check cashers and another 18 states have check-cashing rates for payroll checks of at least 3% regardless of size and most of those 18 states allow for check-cashing rate limits substantially higher than those proposed by this Petition. In total 44 states – the vast majority of the 49 states other than Illinois – have or allow for uncapped or higher check-cashing rates than does Illinois and have or allow for equal or higher rates than those that are being requested by this Petition for cashing payroll and personal checks. In other words, Illinois is out of step with the vast majority of states on its check-cashing rate limitations. As was testified to at the last rate hearing held by the Department in March of 2007 by Michael Levitt, a currency exchange operator in a number of states since 1970:

“The situation in Illinois is repressive to business growth in this area. Actually, it has a detrimental effect on a significant portion of our potential customer base. By restricting the rate charged for . . . irregular or one time checks, the state has

disenfranchised many of these customers. Typical are personal checks. You don't cash a personal check for 2 percent, you simply don't. There is no way to develop a certainty as to whether it's going to clear. It's just impossible. Out-of-state, typically we charge as much as 10 percent, and this is under state supervision. Why? Because it's a rate commensurate with the risk incurred. We tell the customer what he's being charged. He has the latitude, he has the freedom of choice, but that's what we charge." (March 26, 2007 Department Hearing Transcript at 58-59.)

b. Check-Cashing Rates and Fees Charged by Banks.

i. Banks Do Not Have Limits on Fees They Can Charge Noncustomers for

Cashing Checks. The Office of the Comptroller of Currency ("OCC") which charters and regulates national banks, states on its webpage: "There is no federal law or regulation that requires national banks to cash checks for noncustomers. Most banks have policies that allow check cashing services only for customers who have an account with them in order to protect both themselves and their customers from forgeries. Once a national bank cashes a check that has been forged by a noncustomer, they may lose money if they cannot collect from the person who cashed the check. Also, if a national bank agrees to cash a check for a noncustomer, it may legally charge the presenter a fee."⁷ The amount that a national bank can charge for cashing a noncustomer's check is in effect unlimited. "There are no limitations on the fee amount. If you think the fee is excessive, you may want to open an account with the bank or cash your check at another institution with a lower fee."⁸ Thus, we have thousands of banks in this country that can charge whatever fee they want to a noncustomer for cashing their checks.

ii. Some Banks Fees for Cashing Non-Customer Checks Are Higher Than What Currency Exchanges Can Charge. Many banks in Illinois and in all other states charge fees to

⁷ OCC's Help with My Bank.gov "Answers about Cashing Checks – Why doesn't a national bank have to cash a check drawn on them?"

⁸ See Dr. Don Taylor, "That Darn Bank Charges Check-Cashing Fees." Bankrate.com online article posted April 2, 2012.

noncustomers to cash a check. When banks do cash checks for noncustomers, their rates can be higher than the current rates allowed to be charged by Illinois currency exchanges for most common size of checks cashed. i.e., checks of \$500 or less.

Several of the big banks with many locations in Illinois charge flat fees which equate to high rates for cashing checks of noncustomers of \$500 or less. BMO Harris Bank (\$60 billion in assets and 206 branches in Illinois) and PNC Bank (\$300 billion in assets and 194 branches in Illinois) charge a flat fee of \$10 per check cashed. On a \$200 check, that is 5% of the face amount of the check. Wells Fargo Bank (\$1.75 trillion in assets and 25 branches in Illinois) charges \$7.50 per check. Chase Bank (\$2.4 trillion in assets and 372 branches in Illinois) charges \$8 to cash checks of noncustomers and Bank of America (\$2.1 trillion in assets and 165 branches in Illinois) charges \$8 per check to cash checks of noncustomers.⁹ On smaller checks these rates are substantially higher than what Illinois currency exchanges are allowed to charge and higher than what Petitioners are requesting the Department to allow Illinois currency exchanges to charge. These are some of the largest banks in the United States, and combined, they have thousands of branches cashing checks at these rates for noncustomers.

Independent banks in Illinois rates of charge for cashing noncustomer checks vary. For example, Central Bank Illinois charges a flat fee of \$15.89 for cashing checks of noncustomers. For cashing a \$200 check that equates to a rate charge of almost 8%. See Tab 9. First Illinois Bank & Trust charges 5% of the check amount for noncustomers, with a minimum of \$10.00 for

⁹ See Katherine Muniz, "Why Cashing a Check at Someone Else's Bank May Leave You Feeling Robbed," May 6, 2016 On-Line Article surveying check cashing fees for noncustomers at 20 top banks at www.mybanktracker.com/news/check-cashing-fees-top-banks copied at Tab 8. When contacted, JPMorgan Chase Bank and Bank of America branches in Illinois actually were found to charge \$8 per check for cashing checks of noncustomers even though the on-line mybanktracker article pegged their charge at \$6 per check for noncustomers.

all checks except social security, SSI and disability checks where the check cashing charges for a noncustomer is \$5.00 if the check is under \$500 and \$10.00 if it is over. See Tab 10. MB Financial Bank (\$19.3 billion in assets and 102 branches in Illinois) charges noncustomers \$7.50 for cashing their checks of \$500 or less. For a \$200 check that equates to a 3.75% check cashing charge. See Tab 11. The Petitioners' request for an increase in rates is within the realm of what major and local banks charge for cashing checks of noncustomers in Illinois as well as in all other states. The fact that banks can and do charge as much or more than what currency exchanges charge for check cashing shows that the request for an increase is not out of line with the competition. Moreover, as noted below, in most cases, Illinois banks take a lot less risk than currency exchanges in cashing checks of noncustomers, particularly since most of them do not cash checks not drawn on them. Also, because of the competition from banks, big box retailers, grocery stores and other currency exchanges for check cashing business, in many cases currency exchanges will not be able to charge maximum rates, especially on larger checks where the customer is more likely to comparison shop.

Even where banks charge less than currency exchanges for cashing checks of noncustomers, they do so for reasons that do not apply to currency exchanges – as an enticement for noncustomers to become customers so they can issue them credit cards, loans, and provide account services for which they charge. Unlike the currency exchange business, cashing checks for noncustomers is only a miniscule portion of a bank's total revenues. Banks make money from account fees and services and from extending credit, such as credit cards, auto loans, mortgages and other types of credit. Currency exchanges cannot use check cashing as an enticement to check cashers to avail themselves of these types of services. Check cashing is the main business activity of currency exchanges.

iii. Currency Exchanges Take on More Risk than Banks in Cashing Checks. Banks that cash checks of noncustomers frequently limit that service to checks payable to the noncustomer but drawn on the bank where the check is being cashed, except for certain types of government benefit checks. This means that, at the time a noncustomer of a bank cashes a check drawn on that bank, the bank knows by viewing its computer screen, that (i) the account is open, active and valid, (ii) the check is one of the types that the drawee bank issues to its customer, (iii) there are sufficient funds in the drawer's account to cover the check, (iv) no stop payment has been issued on the check, and (v) no garnishment, citation or attachment is affecting the drawer's account on which the check is drawn. Once the bank cashes that check, by computer entry, the available balance in the drawer's account at the cashing bank will be reduced or debited for the amount of the check cashed at the bank, so that the cashing bank is assured that it will not be honoring an NSF check.

Currency exchanges have none of these advantages to avoid check cashing losses when someone walks through their door to cash a check payable to them. It is a much more risk-laden business for currency exchanges to cash checks than it is for banks. Currency exchanges do not have a direct connection to the drawer's account; rather, they take the risk that checks they honor will be returned for insufficient funds, account does not exist, account closed, the check is forged, etc. By the time a check cashed by a currency exchange reaches the bank on which it is drawn, is processed, is returned to the currency exchange's bank and that bank then notifies the currency exchange of its return, the customer which cashed the check will be long gone. In addition, it is a federal crime to present a forged check to a bank for cashing. Most people know this and that deters forgers from targeting banks. The same cannot be said for currency exchanges.

The bottom line is that currency exchanges take greater risks and are more likely to be targeted by check forgers for cashing forged or stolen checks than are banks. Therefore currency exchanges should be allowed to charge more for check cashing for undertaking a greater risk. The Comptroller of the Currency has noted this risk when authorizing banks to charge noncustomers fees for cashing their checks:

When a non-customer presents a check to be cashed by the drawee bank, the noncustomer expects immediate payment in cash. Cash payments are final in the strictest sense. These final transactions pose substantial risk to banks, such as the possibility of overdraft, forgery or fraud. Should one of these occur, the bank is left with no recourse after a final cash transaction.¹⁰

For the reasons noted above, the statement of the OCC applies even more persuasively to currency exchanges, which as noted above, do not have a screen in front of them showing a sufficient balance in the account of the drawer of the check they are about to cash, whether the account is open and valid, free of stop payments and legal process and whether the signature of the drawer on the check presented for cashing matches that of the account holder at the bank on which it is drawn.

iv. Most Banks Do Not Cash Checks for Noncustomers Which Are Not Drawn on Them. Most Illinois banks simply do not cash checks payable to noncustomers if not drawn on the cashing bank. Citibank with \$1.77 Trillion in assets, is a good example; it will not cash checks payable to noncustomers unless the check is drawn on Citibank. Tab 12 contains a survey performed by Navigant of branches of several of the largest banks in Illinois and a few other banks on their terms for cashing checks of noncustomers. In total, 27 of the 30 banks and

¹⁰ OCC Interpretive Letter 933 (May 2002) at 3-4 (quoting *Batten v. Bank One, N.A.*, 2000 WL 1364408 (N.D. Ill. Sept. 15, 2000)).

branches contacted would only cash checks drawn on the bank.¹¹ These banks stated that they will not cash other types of checks, including government-issued checks. For the reasons stated above why currency exchanges take on more risk than banks in cashing checks, most Illinois banks will not cash checks for noncustomers that are not drawn on the cashing bank.

v. *Customers That Open Accounts at Banks to Cash Checks Are Charged in Other Ways.* Where banks actually take in customers, the customer can deposit and collect checks payable to him or her without direct correlated charge and then withdraw the cash. However, banks in Illinois and all other states impose an array of charges and fees on their customers for checking account services, to the point where instead of a deterrent, it becomes a major profit center for the bank. This is particularly true for account holders of limited means who live near the margin and frequently overdraw their account or have their checks returned. These account holders are charged premium rates for these events. For example, most banks charge around \$30 for overdrafts per item. See Tab 13 – Illinois PIRG Education Report (surveying overdraft charges of Illinois banks and finding the average to be \$32); Tab 14 – Consumer Financial Protection Board White Paper on Overdraft Fees (finding that banks made over \$40 billion in account fees, that the vast majority of those amounts were from overdraft fees, and that those least able to pay them were the customers that most frequently were subjected to overdraft fees); and Tab 15 – Bankrate’s Checking Survey (Dec. 12, 2016) (finding that the average bank NSF fee in the 25 largest cities is over \$33 and is almost \$32 per check for Chicago). Some banks also charge a daily overdraft fee as well as an initial charge.

¹¹ Navigant surveyed branches of Chase, US Bank, Bank of America, BMO Harris, Fifth Third, First Midwest, First American Bank, First Bank and Trust, and MB Financial in the Chicago, Rockford, Quad Cities, central Illinois, and East St. Louis markets. Only Fifth Third bank would cash noncustomer checks not drawn on the bank itself (3 branches contacted in Chicago, South Chicago Heights, and Rockford).

There are other charges as well that banks impose on customers of limited means. These include monthly maintenance fees, minimum balance fees, balance inquiry fees, statement fees, research fees, fees for use of nonproprietary ATMs, and check printing charges, among others. See, e.g., Central Bank Illinois, First Midwest Bank and MB Financial Schedules of Fees and Charges at Tabs 9, 10 and 11. Many cases can be cited where bank customers have had to pay hundreds of dollars in overdraft charges and other charges imposed each year by their bank. Some would undoubtedly have been better off cashing their checks at currency exchanges.

Banks use check cashing as an adjunct to their main services of selling services and extending credit. Currency exchanges do not have this ability as their main activity is cashing checks. As former Director Casillas observed, "the differences between currency exchanges and these businesses prevent a reliable comparison." (1996 Statement of Findings at 8, Tab 4.) Director Ruiz made the same observation in 1993. (1993 Statement of Findings at 7, Tab 3.) Director Casillas concluded that although some banks and grocery stores may charge less than currency exchanges for cash and checks, "the cashing of checks is not intended to produce profits and is merely offered as an accommodation to its customers." (1996 Statement of Findings at 8, Tab 4.) Acting Director Gina M. DiCiani relied on this finding in her Statement of Findings in granting a rate increase in 2007. (2007 Statement of Findings at 7, Tab 4.)

There are significant differences between banks and currency exchanges which prevent a meaningful comparison of the check-cashing rates charged by these different businesses. The principal business of banks and other depository institutions is to gather cash from customers and use that cash to make loans to other customers and to sell them account services for which they charge fees. The cashing of checks for non-customers, if it is undertaken by banks, is an ancillary service at best. Banks in Illinois are not required to cash checks for non-customers.

c. *Other Business Entities.* Other businesses such as grocery stores and big box retailers charge for check cashing. In the past, when considering other business entities in Illinois which cashed checks, the Director has primarily confined his analysis to grocery stores. Navigant surveyed 45 grocery stores and big box retailers throughout Illinois to determine the following: (1) whether the store would cash a check; (2) the terms under which the store would cash the check; and (3) the rates charged for check-cashing services.¹² It is important to note that the Check-Cashing Act prevents grocers and retailers from charging more than \$0.50 or 1% of the face value of a check, whichever is greater. *See* 815 ILCS 315/2.

The survey indicates that only 17 out of 45 grocery and retail stores (38%) cashed checks for noncustomers. The terms by which these grocers will cash checks varies considerably. All of the stores surveyed which cashed customer checks allowed government and payroll check cashing without a purchase. However, all of these stores limit the value of the checks they will cash. For example, the four Meijer stores surveyed will only cash checks under \$2,000 and require the customer to enroll in the store's check cashing program prior to cashing a check. The stores surveyed charge a check-cashing fee ranging from \$3 to 1% of the face amount of the check.¹³

¹² The survey collected information from December 2016 and January 2017 for 20 Chicago-area stores plus 25 stores in the central Illinois, East St. Louis, Moline and Rockford markets. The complete results of the survey as well as a list of the names and addresses of the stores that were surveyed are set forth in Tab 16.

¹³ Walmart will cash checks of less than \$1,000 for a \$3 fee and a \$6 fee for checks larger than \$1,000. Meijer stores charge a \$4 flat fee once a customer is enrolled in the company's check cashing program. Jewel Osco charged \$0.50 for every \$50, or 1% of the check amount. The Ruler Foods stores only stated they charge up to \$3. It is important to note these stores risk profiles differ significantly from currency exchanges, retailers can refuse to cash checks for any number of reasons to further limit risk exposure to fraudulent checks, and that check cashing is incidental to their main business of selling goods at retail.

Grocery stores and major retailers cash checks for customers as a convenience and inducement to customers to come to their stores to purchase their goods. Check cashing is incidental to their main business of selling goods at retail. In fact, check cashing must be incidental to their business to comply with the Illinois Check Cashing Act. 815 ILCS 315/2 (merchant may offer check cashing services only as an incident to its main business). As noted above, currency exchanges are restricted in what services and other items they can sell; cashing checks is their main source of revenue. Their business and the fees that they must charge to remain viable and in business, of necessity, must be greater than the maximum rates and charges allowed by law to grocery stores and other retailers. Accordingly, the rates charged by grocery stores and big box retailers are not a fair comparison of rates and charges currency exchanges should be allowed to charge. Grocery stores and retailers are, however, a source of competition that currency exchanges must recognize. Currency exchanges will frequently lose lower risk customers to the big box retailers and grocery stores and not be able to realize revenues from them.

IV. THE RATE INCREASE REQUESTED WILL HAVE ONLY A MINOR EFFECT ON THE VAST MAJORITY OF CHECKS CASHED BY CURRENCY EXCHANGES

a. Number of Checks Cashed over \$1250 vs. Number of Checks Cashed up to \$1250.

The CCEA has selected and requested a greater rate increase for checks cashed for \$1250.01 or more (3.0% of the face amount of the check) versus checks for up to and including \$1250.00 (2.5% of the face amount of the check) for two reasons: First, with larger checks comes greater risks. It takes a lot of check-cashing fees to make up for one forged \$2000 check. (See Testimony of Michael Leavitt, multi-state owner of currency exchanges since 1970; 2007 Hearing Tr. at 62; Written Testimony of Richard Barr, owner of largest number of currency exchanges in Illinois, 2007 Hearing Tr. at 85.)

Second, the vast majority of checks written and cashed by currency exchange customers at Illinois currency exchanges are under \$1250.00, so that the greater rate increase requested by Petitioners will not apply to these checks. Most consumers, especially those of limited means, cash checks for less than \$1250.00. The average size of all checks cashed by Illinois currency exchanges is about \$550. (See Tab 17) Benefits are no longer issued in check form so recipients of public assistance or social security benefits will not be affected by the rate increase. As a result, the CCEA's proposed rate increase to 3.00% of the face amount of the checks cashed for \$1250.01 or more, will not affect the average check casher nor those consumers of limited means.

With the cooperation of MB Financial Bank and Republic Bank of Chicago, the two primary banks that handle check collections and clear and settle checks for Illinois currency exchanges, the CCEA was able to obtain anonymized aggregated check cashing data for about 90% of all checks cashed by currency exchanges on a monthly basis by amount for the twelve month period July 1, 2015 through June 30, 2016. The data totals showed that for that period, Illinois currency exchanges deposited for collection to the two banks 5,567,439 checks totaling almost \$3,155,000,000. (Tab 17) This represents checks deposited by the great majority of currency exchanges operating in the State of Illinois. The collated data under Tab 17 shows checks cashed by Illinois currency exchanges and deposited for collection by dollar amounts and total number of checks in \$100 increments except running totals for checks between \$1200 and \$1300 are shown at the \$1250 level. The results show that of the total number of 5,567,439 cashed checks processed for the twelve month period analyzed, 5,196,181 were for an amount under \$1250.01 That translates to 93.33% of the total of all checks cashed and deposited for collection at the two Illinois banks in question.

b. How Requested Rate Increase Will Impact Currency Exchange Customers

i. The Vast Majority of All Checks Cashed at Currency Exchanges after the Requested Rate Increase Is Granted Will Experience at Most an Increase of 25¢ Per \$100. Based on the collated data from the two main check processing banks for Illinois currency exchanges, the Petitioners' proposed rate increase on large checks, i.e., checks for \$1250.01 or more, providing for a new rate of 3.0% will apply to only 6.67% of all checks cashed. (See Tab 17) Under the proposed requested rate increase, checks with a face amount for up to \$1250.00, which currently constitute about 93.33% of all checks cashed by Illinois currency exchanges, will experience only a \$0.25 per \$100 rate increase from 2.25% to 2.50% of the face amount of the check cashed. (Id.) Petitioners' request maximum rates be increased on larger checks which carry the potential for bigger losses and greater risk of loss, up to 3.00% of the face amount of the check cashed. Thus Petitioners' requested maximum rate increase will minimally affect the vast majority of checks cashed, and will not have a material impact on those currency exchange customers that have limited means.

In addition, the rate increase is modest – only 0.25% for checks up to \$1250, which accounts for over 93% of all checks cashed at Illinois currency exchanges. The check-cashing rate increase will increase charges by only pennies rather than dollars on smaller checks which make up the majority of all checks cashed at Illinois currency exchanges. For example, the charge for cashing a \$100 check will increase by only \$0.25. For a \$200 check the increase will be only \$0.50 and for a \$350 the check cashing charge will only be \$0.87 more if the increase proposed by the CCEA is adopted. (See Tab 18, showing the effect on check-cashing rates from the present rate to the proposed 2.5% rate on checks up to \$1250.00.)

ii. Competition Will Limit the Effective Rates Currency Exchanges Will Charge. With so much competition from banks, grocery stores, big box retailers, and currency exchanges themselves, and an ever increasing array of electronic payment systems, cards and services, Illinois currency exchange operators are not likely to be able charge maximum rates authorized by the Secretary, especially on larger checks. Thus, even if Petitioners' increased rates requested are authorized by Secretary, Illinois currency exchanges will not in many cases be able to charge them. A rate increase will help, but competition will keep them from being fully realized. Consumers who cash checks now have an array of alternatives, including banks, big box retailers, grocery stores, prepaid debit and credit cards, payroll and benefit cards and other ways to access cash or make purchases. Consumers cashing larger checks at currency exchanges are likely to comparison shop the costs of cashing their checks, again leaving the currency exchanges with more risky checks to cash that grocery stores and big box retailers will not cash.

iii. Bracketing Limits Realization by Currency Exchanges of Full Rates. As the Department has recognized in the past, currency exchanges are unable to charge the maximum available rate for all checks. This is so, in significant part, due to the statutory requirement that currency exchanges must create brackets for all checks of \$500 or less. *See* 38 Ill. Admin. Code, § 130.50(b). As a result of bracketing, currency exchanges obtain the maximum rate only for those checks which are at the lowest point of each bracket. For all other checks within each bracket, the check-cashing rate is below the maximum allowable rate. The effect of the bracketing restriction was recognized by Directors Casillas, Ruiz and Fryzel in 1996, 1993 and 1985, respectively. (1996 Statement of Findings at 6, Tab 4; 1993 Statement of Findings at 7, Tab 3; 1985 Statement of Findings at 5, Tab 2.) Further, as all three of these Directors observed, currency exchanges cannot set small intervals within brackets (such as \$1.00 intervals) because it

“would not be cost-effective and would also be extremely ambiguous to the customers.” *Id.* Indeed, Director Ruiz concluded in connection with the 1992 rate hearings that, based upon the “effect of mandatory bracketing of fees,” the average currency exchange in Illinois effectively recovered only 79.6% of the total check-cashing fees which would have been generated if every check was cashed at the maximum allowable rate. (1993 Statement of Findings at 15, Tab 3.)

V. APPLYING THE FOREGOING FACTS TO THE STATUTORY CRITERIA FOR A RATE INCREASE SHOWS THAT A RATE INCREASE IS JUSTIFIED.

The Act sets forth certain criteria which must be considered when evaluating a verified petition to increase the maximum check-cashing rate. The statutory criteria are as follows:

1. Rates charged in the past for the cashing of checks and the issuance of money orders by community and ambulatory currency exchanges;
2. Rates charged by banks or other business entities for rendering the same or similar services and the factors upon which those rates are based;
3. The income, cost and expense of the operation of currency exchanges;
4. Rates charged by currency exchanges or other similar entities located in other states for those same or similar services and the factors upon which those rates are based;
5. Rates charged by the United States Postal Service for the issuing of money orders and the factors upon which those rates are based; and
6. A reasonable profit for a currency exchange operation.

[205 ILCS § 405/19.3(B)(1)(a)-(f)]

As detailed below, an analysis of each of the statutory criteria demonstrates the need to increase the maximum check-cashing rate in Illinois. In addition, Petitioners will be presenting before the hearing a report by Navigant supporting and confirming the conclusions of this Petition, including results of findings of interviews of currency exchange operators, a review of check cashing rates in other states, its findings concerning check cashing by banks and other businesses, analysis of revenues, expenses and profits of Illinois community currency exchanges

and an analysis of its whether Illinois currency exchanges are earning a comparable rate of return when compared to similar businesses after considering the risks of their business.

a. Rates Charged in the Past for Cashing Checks. The history of the maximum check-cashing rates established by the Director is chronicled in Part I(e) of this Petition. It shows that the Industry has received only two rate increases in the past 30 years, since the small rate increase in 1985 that went into effect in July of 1986.

In 1981, as previously noted, the first maximum rate in Illinois for check-cashing was set at 1.1% of the check amount, plus a \$0.75 transaction fee. This rate lasted until 1986. In July 1986, a new rate of 1.2% plus \$0.90 became effective. This rate remained in effect for 11 years.¹⁴ In 1995, the Industry filed a petition to increase the maximum check-cashing rates. On March 21, 1996, following public hearings on the Industry's petition to increase the maximum check-cashing rate, Director Frank C. Casillas issued a Statement of Findings in support of his decision to increase the maximum check-cashing rate to 1.4% of the face amount of the check plus a transaction fee of \$0.90 on all checks of \$500 or less; and 1.85% on checks above \$500. (1996 Statement of Findings, Tab 3).

The Industry's petition requested a rate increase in November 2006 of a base rate of

¹⁴ On July 10, 1991, the Industry petitioned the Director to increase the maximum check-cashing rate to 2.1% plus a \$1.00 transaction fee. On August 23, 1991, Director Gilbert Ruiz rejected the Industry's petition without conducting hearings. One year later, on August 19 and 25, 1992 and September 30, 1992, Director Ruiz convened public hearings on his own motion to determine whether an adjustment of the existing check-cashing rate was appropriate. On April 19, 1993, Director Ruiz issued a written "Statement of Findings" wherein he proposed a bifurcated maximum rate schedule which set a different maximum check-cashing rate for public aid checks than for all non-public aid checks. See Tab 3. Pursuant to statute, Director Ruiz initiated rule-making procedures before the Joint Committee on Administrative Rules ("JCAR") in order to effectuate the new proposed rate. JCAR concluded that the Director did not possess authority to establish a differential maximum rate schedule based upon the type of check presented and therefore expressed its opposition to the Director's proposed rates. Director Ruiz withdrew the proposed rates on April 18, 1994.

\$1.00 a check plus 1.4% of the check amount for checks up to \$100 and 2.75% of the check amount for checks over \$100. In addition, the Industry requested these rates be adjusted annually upward based on increases in the Consumer Price Index (CPI). The Director determined that the maximum rate that Illinois currency exchanges could charge for check-cashing would be set at 1.4% of the face amount of the check for checks \$100 or less plus a \$1.00 charge and 2.25% of the face amount of checks above \$100. These rates became effective December 21, 2007 and remains in effect today. The Industry's request for a larger increase in rates and adjustment for increases in the CPI were not adopted.

Because the Petitioners are not requesting a rate increase for the sale of money orders, that part of the statutory criteria for a rate increase is inapplicable to the review of the Petition.

The past history of rate increases shows a measured approach over long periods of time by the Industry. Their requests have been, and as is the case even more so with the present Petition are, supported by the financial results and circumstances of the Industry. Had the rate increases requested by the Industry in 2006-2007 been granted, the Industry might not have deteriorated to its present circumstances, with significant losses in the number of currency exchanges and net earnings per currency exchange. Now is the time to rectify the situation going forward by granting the Petitioners' requested rate increases.

b. Check-Cashing Rates Charged by Banks and Other Businesses. Check-cashing rates charged by banks and other businesses are discussed in Sections III(b) & (c) of this Petition. The surveys and other facts set forth in those sections show that (i) banks can legally charge any rate they choose for noncustomers to cash checks, (ii) the largest banks charge for smaller checks greater flat fees than currency exchanges presently can charge and would be authorized to charge if their request for increases in rates under this Petition were granted, (iii)

the smaller banks in Illinois also charge fees for cashing noncustomer checks sometimes at fees that exceed currency exchange rates for smaller checks which consumers of limited means need to cash, (iv) currency exchanges take greater risk than banks in cashing checks justifying higher rates, (v) currency exchanges count on cashing checks as a main source of revenue whereas banks cash checks of noncustomers not only for the fees, but as a way to recruit customers to the bank to sell them account and credit products and services, (vi) most banks limit the checks which they will cash for noncustomers to checks drawn on that bank and will not cash other checks drawn on another bank, and (vii) most customers of limited means that have checking accounts at banks are charged in other ways for maintaining their account, and the fees can at times be quite large. Based on these factors, it appears that the rate increase is justified by what banks are allowed to charge and what, in many cases, they do charge even if currency exchanges and banks were comparable. However, as previously noted there are several factors, including increased risk and lack of other fee generating services that support granting currency exchanges higher rates to cash checks. Finally, with the existence of so many banks offering to cash checks for noncustomers, competitive forces are likely to keep actual rates that currency exchanges can charge lower than maximum rates authorized, especially on larger checks.

While about one-third of grocery stores and big box retailers do cash checks, Navigant's survey of 45 grocery and retail stores shows that, except in some cases for government and printed payroll checks, their services are limited to customers who make purchases. While their charges may be lower than what currency exchanges charge, they do so to obtain customers to come into their store to make purchases of goods and services. Check cashing is only a tiny portion of their revenues whereas such revenues can make the difference between staying in business and closing shop for currency exchange operators. In other words, given limitations on

what services currency exchanges can offer for a fee and given that grocery stores and retailers primary business is selling goods to their customers, the rates grocery stores and big box retailers charge for cashing checks should not be viewed as limiting what currency exchanges should be allowed to charge for that same service.

Because check-cashing is not the primary revenue source for big box retailers and grocery stores, the rates charged by these businesses are not based on the cost of providing check-cashing services. Rather, check-cashing is an accommodation or loss leader provided to obtain other more profitable forms of business. Retailers and grocery stores are able to recoup any reduced profits attributable to check-cashing by increasing their prices (which are not regulated) or obtaining new customers for their goods and services. Currency exchanges, in contrast, are heavily dependent on check-cashing revenue as their primary source of revenue. According to the Department's annual reports from 2015, currency exchanges state-wide derived over 50% of their total revenue from check-cashing fees. Moreover, as our surveys confirm, many retailers and grocery stores do not provide a full range of check-cashing services to Illinois consumers, condition check cashing on making a purchase, and in some cases do not cash checks at all, at least for noncustomers. This data clearly demonstrates, as the Illinois General Assembly declared in enacting the Currency Exchange Act, that "community currency exchanges provide important and vital services to Illinois citizens . . . in communities in which banking services are generally unavailable." 205 ILCS § 405/4.1.

c. Income, Cost and Expense of the Operation of Currency Exchanges. As dramatically shown in Section II of this Petition, the Industry is depressed and stagnating in 12 major categories of operation and financial performance. The state-wide aggregate financial information for Illinois currency exchanges from 2008 through 2015 demonstrates that the

economic health of the industry has deteriorated markedly since the current rates were established in 2007. As the financial data in Section II of this Petition demonstrates, despite the increases in check-cashing rates granted by the Director at the end of 2007, from 2008 through 2015, Illinois currency exchanges showed material and serious decreases in the number of currency exchanges, the number of checks cashed, aggregate check-cashing revenues, the total dollar amount of checks cashed, total revenue per currency exchange store, net revenues for all currency exchanges, net revenues per currency exchange, and net revenues and owner-office compensation. The latter two categories are even worse if adjusted for inflation and considering that there has been a significant consolidation in the industry. The consolidated financials of all Illinois currency exchanges over the 8-year period also showed no growth in average check size and revenue per check and some increase in expenses. Expenses as a percentage of total revenue grew from 94.5% in 2008 to 98.5% in 2015, largely due to a decrease in revenues with only a lesser decrease in expenses per store. The growing disparity between expenses and revenue caused return on revenue to decline by 2.5%. Stated in 2008 constant dollars, the 2008 return on revenue was 5.4% while the inflation adjusted return on revenue in 2015 was only 2.9%.¹⁵ Significantly, net income as adjusted for inflation declined from \$10.6 million in 2008 to \$3.7 million in 2015 -- a drop of 64.7%.

d. Rates Charged by Currency Exchanges and other Similar Entities Located in Other States. As surveyed and identified in Section III(a) of this Petition, rate limitations of other states or the lack thereof show that even with the entire increase in rates requested by Petitioners,

¹⁵ The consolidated financial data for all currency exchanges was adjusted to 2008 constant dollars using an adjustment factor based upon Bureau of Labor Statistics' Consumer Price Index. The December 31, 2008 CPI Index was divided by the CPI Index at December 31, 2015 to calculate the adjustment factor for 2015 values (https://www.bls.gov/regions/midwest/data/consumerpriceindexhistorical_us_table.pdf).

rate limits for check cashing in most other states are comparable or greater or without limit at all, allowing market forces and competition to set rates. Thus, Illinois has substantially lower permitted check cashing rates at the current time than all but a handful of states, and even if the Secretary grants the rate increase requested by the CCEA and the Industry, Illinois maximum check-cashing rates will still be lower than the maximum rates for check cashing of the majority of other states.

e. Rates Charged by the United States Postal Service for the Issuing of Money Orders.

This Petition does not seek an increase in the rates charged by currency exchanges for selling money orders, even though nearly every other state which established maximum rates has rates substantially higher than the maximum rate in Illinois. Accordingly, rates charged by the United States Post Office for selling money orders are not relevant to this Petition.

f. Reasonable Profit for a Currency Exchange Operation. Industry-wide aggregate data for 2015, published by the Department, reveals that the average currency exchange in Illinois has experienced a continuing decline in net income since the time the Industry received a rate increase in late 2007, nine years ago. As detailed above in Sections II(h), (i), (j), (k) & (l) of this Petition, the average currency exchanges incurred a significant decrease in net income since the current rate was established. As noted in Section II(k) of this Petition, the last full year for which consolidated statistics are available from the Department shows net revenue per store decreasing from \$18,244 per currency exchange store in 2008 down to \$9,985 in 2015, a 45% decline. Stated another way, earnings per store were almost 83% higher in 2008 than they were eight years later. (Table L) Industry-wide average net income per currency exchange, when

adjusted for inflation, declined by over 50%.¹⁶

Although obvious from the number of currency exchanges that have closed and the financial data on declining profits and revenues presented in this Petition, Navigant has prepared a comparison with other financial service businesses to show that the currency exchange owners are not earning a comparable or compensable rate of return on their investment in and time put into their currency exchanges. See Tab 19. Navigant's first chart shows that for comparable sole proprietorship businesses, the rate of return before taxes is three to four times (3X to 4X) as great as that of currency exchanges. Navigant's second chart shows that profits before taxes on a more specific breakdown of small and medium sized comparable businesses. That chart shows that the rate of return for comparable businesses to currency exchanges is about three times (3X) greater than that realized by currency exchanges in Illinois. This comparison includes check cashing businesses which realized a rate of return two times (2X) greater than Illinois currency exchanges. This evidence is compelling that Illinois currency exchanges are not earning a reasonable profit compared to other closely related businesses.

As will be shown at the public hearings, currency exchanges employ hundreds of employees who live in the communities they serve, and the continuous closing of currency exchange stores will have additional detrimental effect on employment in these communities.

Furthermore, as past Directors of the Department have recognized, currency exchanges are relatively unique service businesses. As previously discussed, other businesses that provide check-cashing services (banks, big box retailers and grocery stores) are not comparable to currency exchanges. Currency exchanges receive over 50% of their total revenues from check-cashing fees. Unlike banks and most other financial service businesses, currency exchanges do

¹⁶ This calculation is derived from the U.S. Bureau of Labor Statistics Inflation Calculator based on the Consumer Price Index found at https://www.bls.gov/data/inflation_calculator.htm.

not hold deposits or make loans, do not hold accounts and charge for account services, and the assets of currency exchanges are not readily invested in order to earn a return. Instead, currency exchange assets are used to purchase checks from customers for a modest fee, whereby currency exchanges place their own capital at risk by providing customers with immediate cash without the security of offsetting deposit accounts or a time delay for check clearing. In return, currency exchanges receive a modest fee that compensates them for the cost of the transaction and its subsequent processing, as well as for the risks they assume.

VI. PROPOSAL FOR ESTABLISHING NEW MAXIMUM RATES

In order to offset decreasing revenues, lower profits, the loss of the number of currency exchanges remaining in business, and the low and uncomensatory rates of return the currency exchange operators receive, and to give the Industry a better chance to remain viable, as mandated by the General Assembly, Petitioners propose the following new schedule of maximum check-cashing rates be adopted by the Secretary:

<u>Rate</u>	<u>Check Amount</u>
2.50% plus \$1.00	\$0-\$100.00
2.50%	\$100.01-\$1250.00
3.00%	\$1250.01 and greater

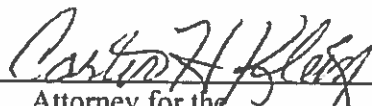
As required by the Currency Exchange Act, the proposed maximum check-cashing rates are necessary to enable currency exchanges to realize a “reasonable profit” and “to insure [their] financial stability,” so that they will be able to serve their communities. 205 ILCS § 405/4.1, 19.3. This is necessary in order to offset the continuing erosion of net income attributable to lost check cashing revenues and low rates of return in the Industry. The Secretary should grant the

rate increases requested by this Petition to ensure that Illinois currency exchanges remain sufficiently profitable so they may continue to operate and serve their communities.

VII. CONCLUSION

For the foregoing reasons, there is reasonable cause to increase the existing maximum check-cashing rate as requested by this Petition. Accordingly, Petitioners request that the Secretary convene public hearings and, once conducted, approve the increases in the maximum check-cashing rates requested by this Petition.

Respectfully submitted,

By: 
Attorney for the
Community Currency Exchange
Association of Illinois, Inc.

Dean N. Panos
Carter H. Klein
JENNER & BLOCK LLP
One IBM Plaza
Chicago, IL 60611
(312) 222-9350