

INTERPRETIVE LETTER NO. 98-07 (July 22, 1998)

A check printer may use the next consecutive check number indicated by the account holder's current check supply when filling an order for a customer. A check printer who is unable to determine the date on which an account was opened shall use the date of the earliest transaction or the earliest order of checks for the account that can be verified. The status of the financial institution in which the account is held, rather than the residency of the account holder, shall determine whether the check printer must comply with the verification requirements of the Check Printer and Check Number Act.

This letter is in response to your recent correspondence concerning the Check Printer and Check Number Act ("Act"). You requested the Office of Banks and Real Estate's ("Agency") opinion on a number of issues, including the sequential numbering of checks, the correct date of origin of the consumer checking account that must appear on the face of the check, and whether the residency of the customer or the location of the financial institution determines whether verification requirements of the Act apply.

Your first question concerns a consumer-deposit account holder who regularly switches from one direct mail check printer to another. You asked whether the check printer that has received the most recent order, and that had previously filled orders for an account holder in prior years, should (i) continue the sequential ordering from the last number indicated in the account holder's current check supply or (ii) use the next number higher than the highest number that this same check printer had used when it last filled an order for this customer. Section 10 of the Act provides that all new checks drawn on financial institution accounts opened after January 1, 1993 shall clearly display on the face of each check a number commencing with number 101, with each check thereafter to be numbered consecutively. 205 ILCS 690/10. Section 2 of the Consumer Deposit Account Act requires the same for checks drawn on consumer-deposit accounts opened after January 1, 1982. 205 ILCS 605/2. It is the Agency's opinion that the check printer should, for the new order, use the next consecutive number in the sequence indicated by the account holder's current check supply, regardless of whether the check printer filling the order at hand filled the previous order. If the account holder regularly switches check printers and each check printer uses the number higher than the highest number which that particular check printer previously used, there would be no consistency in numbering and no possibility that the checks be numbered consecutively between orders. The check printer has an obligation to begin a new account with check number 101, but for later orders relying on the account holder's record of the last check number issued is the best way to ensure consecutive numbering.

Your second question concerns the account origination date that is to be printed on the face of the check and the extent to which the direct mail check printer must go to determine the accurate date. Section 10 of the Act provides that for accounts opened after January 1, 1993, the month and year in which the account was opened shall be displayed clearly on the face of each check. 205 ILCS 690/10. Section 2 of the Consumer Deposit Account Act requires the same for accounts opened after January 1, 1982. 205 ILCS 605/2. It is the Agency's opinion that the check printer should attempt to find the month and the year in which the account was opened. If that specific information is unavailable, the check printer should use the date of the earliest transaction for the account (or the date of the earliest order of checks from any check supplier) that can be verified. This may not necessarily be the date the account was opened, but it would

be a much more accurate record than an arbitrary "grandfather" date. You suggest that as long as the check printer is using reasonable efforts to determine this information, it is complying with the Act. If reasonable efforts include working with the financial institution or the account holder to verify the earliest transaction on record or the earliest order of checks for the account, then the check printer is complying with the Act with respect to this issue.

Your third question concerns whether a check printer that has written procedures in place satisfies the requirements of the Act discussed above. Although the question is somewhat unclear, written procedures alone do not constitute compliance with the Act. The written procedures must be consistent with any applicable statutory provisions and further, they must also be followed.

Your fourth question concerns whether a check printer is subject to the verification requirements of the Act (i) if the account holder, who resides in Illinois, has his or her account with a financial institution that is not covered by the Act or, conversely (ii) if the account holder, who resides outside of Illinois, has his or her account with a financial institution that is covered by the Act. Under Section 5 of the Act and Section 1 of the Consumer Deposit Account Act, "financial institutions" include any bank, including an Illinois branch of an out-of-state bank, that is subject to the Illinois Banking Act, any savings bank subject to the Savings Bank Act, any savings and loan association subject to the Illinois Savings and Loan Act of 1985, and any federally-chartered bank, savings bank, or savings and loan association organized and operated in Illinois under the laws of the United States. 205 ILCS 605/1, 205 ILCS 690/5. It is the Agency's opinion that the check printer is subject to the verification requirements for all accounts held in a financial institution that is covered by the Act or the Consumer Deposit Account Act, regardless of the residency of the account holder. If the account is maintained at an Illinois financial institution, the provisions of the Act and the Consumer Deposit Account Act apply. The account holder, under both Acts, is described in terms of being a "natural person" but is not described with any reference to residency.

Your fifth and final question concerns the recourse a check printer has against a financial institution that does not cooperate with the check printer's verification requests. Under Section 15 of the Act, the burden to verify the information on the account holder's account falls upon "a person, other than a financial institution, who sells or distributes checks." 205 ILCS 690/15. There is no stated requirement that the financial institution comply with the verification provisions. Perhaps the check printer's best recourse against an uncooperative financial institution would be to inform the account holder that the check order can not be processed until the financial institution complies with the check printer's verification requests. The account holder may be better able to persuade the financial institution to accelerate its response.