

CALIFORNIA GAMBLING CONTROL COMMISSION

**ADDENDUM TO THE FINAL STATEMENT OF REASONS  
MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR GAMBLING ESTABLISHMENTS:  
EXTENSION OF CREDIT AND CHECK CASHING  
CGCC-GCA-2009-05-R**

**HEARING DATE:** July 21, 2009

**SUBJECT MATTER OF PROPOSED REGULATIONS:** Minimum Internal Control Standards (MICS) for Gambling Establishments: Extension of credit and check cashing.

**SECTIONS AFFECTED:** California Code of Regulations, Title 4, Division 18, Chapter 7, Article 3, amend Section 12388.

**UPDATED INFORMATION:**

The Initial Statement of Reasons and the Final Statement of Reasons are included in the file and are hereby incorporated by reference as if fully set forth herein. The information contained therein is complete and, except as described below in the section entitled "Proposed Action," no changes have been made to the proposed regulations that would warrant any changes in that information.

**Proposed Action:**

Sections 12388(f) currently prohibits a licensee from allowing a patron to redeem, reclaim or repurchase an un-deposited personal check and replace it with another personal check, unless the patron is approved for credit and the amount of the check to be replaced is within the patrons approved credit limit. The amendments to Section 12388(f) would add the word *replace* to the list of ways in which a patron may present one check to a cardroom in an effort to take back a previously written check. These amendments would also specify that once a patron replaces a personal check with another personal check, the patron cannot further replace the replacement check with any more personal checks. That is to say, a personal check can only be replaced *once* with another personal check. If that replacement personal check were to be dishonored, the cardroom would not be allowed to accept another personal check. Instead, the cardroom would need to demand payment in another form, such as cash or a cashier's check. Finally, these amendments would exempt patrons from the requirement that they be approved for credit when replacing personal checks that have not been deposited within three banking days of receipt, and when replacing a dishonored check. These amendments were included in Section 12388 by dividing subsection (f) into three paragraphs. These amendments will help to align subsection (f) with other regulations that require cardrooms to consider a check an extension of credit if it is

not deposited within three days (re. § 12388(e)). These amendments will also help to reduce cardroom debt by allowing patrons to replace a check that has been dishonored by the bank, without going through a credit approval process. However, by allowing a patron to replace a dishonored personal check with another personal check only once, these amendments will also help to discourage problem gambling by not allowing patrons to continually float bad checks to support their habit. It is for this reason that some local jurisdictions prohibit cardrooms from extending credit to patrons. These amendments will also help to keep cardrooms from disguising *credit* transactions as *check* transactions in those areas of the state that prohibit the extension of credit by cardrooms.

### **COMMENTS, OBJECTIONS OR RECOMMENDATIONS / RESPONSES:**

After further review of all of the comments, objections and recommendations received regarding the proposed action, and after consultation with legal counsel for the Office of Administrative Law, it was determined that several minor editorial changes were required in response to comments received regarding the first 15-day change, as follows:

#### **First 15-Day Change Comment Period Ending August 17, 2009**

The following comments/objections/recommendations were made regarding the proposed action, during the first 15-day change comment period that ended on August 17, 2009.

- Section 12388(f) prohibits a cardroom from allowing a patron to redeem, reclaim or repurchase a personal check with another personal check, unless the patron is approved for credit and the amount of the check to be replaced is within the patrons approved credit limit. This restriction does not apply to personal checks that have not been deposited within three banking days of receipt, or dishonored checks. Finally, a subsequent personal check used by a patron to replace a previous personal check may not be replaced with another personal check at any time after receipt by the licensee.
  - a. Charles Bates- Bay 101: At the end of play, a patron should be allowed to redeem a personal check written earlier with a combination of their winnings, chips and a smaller check for the balance. This is a sound business practice, since it reduces the chances of a bounced check. It also represents sound money management on the part of the patron. The redemption of a personal check with another personal check should be allowed if it reduces the cardroom's outstanding liability.
  - b. David Fried- CGA: There is no authority for the Commission to restrict legal efforts by cardrooms to collect on dishonored checks. Cardrooms should be able to accept a personal check that is meant to clear a bad check. Further, cardrooms should be allowed to enter into an installment payment agreement with a patron that is short of funds. In this case, the patron would pay down the debt by writing monthly payment checks to replace the bounced check. Mr. Fried provided suggested text changes characterized as "simplifications for clarity."

**Response (a. & b. above):** These comments were rejected.

In response to the first issue, Section 12388(f) already allows a patron to replace a personal check that was written to the cardroom at the beginning of play, with another personal check, as long as the original check has not yet been deposited by the cardroom and three banking days have not elapsed.

In response to the second issue, this section does not prohibit a cardroom from allowing patrons to replace a dishonored check with another personal check, or multiple personal checks; therefore, installments would be permitted. The only condition to either of these scenarios is that the *replacement* check(s) cannot *again* be replaced later with another personal check. This condition was introduced during the first 15-day change so that a cardroom cannot allow a patron to replace one check with another, over and over again, in an effort to avoid having the overall transaction considered as an extension of credit (serial replacement). Some local jurisdictions do not allow cardrooms to extend credit and serial replacement could conceivably be used to circumvent this restriction. The proposed action does not restrict legal efforts to collect on dishonored checks, and the Commission's general authority for these provisions is set forth in Business and Professions Code section 19841, subdivision (g), paragraph (2).

The suggested clarifying changes to the text would do more than just clarify; they would substantially alter the meaning and effect of subsection (f). The proposed action is not intended to address how dishonored checks are repaid; whether in one lump sum or in installments – as stated above, absent an express prohibition installments would be permitted. Nor was the intent to address whether cash or chips could be exchanged for a personal check used for repayment of a dishonored check. The suggested amendments actually add additional subjects and further complicate an already complicated issue.

Furthermore, the current proposed language of subsection (f) is fairly simple and straight forward. As is intended, it includes three basic provisions:

1. A patron cannot replace one personal check with another personal check unless the patron has been approved for credit.
2. A personal check that was used to replace a previous personal check cannot be replaced with a subsequent personal check.
3. Notwithstanding 1, a personal check may be replaced with another personal check within 3 banking days, if not deposited; and, a dishonored personal check may be replaced with another personal check.