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Check Kiting Fraud



[Jennifer Corbett](#)

Attorney & LegalMatch Legal Writer

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What Is Check Kiting?

Check kiting is a type of [white-collar crime](#) and [check fraud](#) or a [bad check crime](#). Kiting checks involves drawing a check for an amount that is greater than what is contained in an account.

That check is then deposited into another account. Before the check can clear the first account, the funds are immediately taken out of the second account.

Many times, the money will be deposited back into the first account to conceal the transfer. When done this way, the first bank may not have time to trace the fraudulent transfer because checks can take a few days to clear.

Check kiting is based on the idea that a check that would have bounced is forced to clear using fraudulent means. Check kiting may also be referred to as check flashing or floating a check.

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What Are the Legal Penalties for Check Kiting?

In most countries, check kiting is illegal. It is considered to be a serious crime.

Check kiting is one of the most strictly enforced types of white-collar crimes. Even a first-time offender may face stiff penalties, in some cases resulting in criminal fines of more than \$500,000 and jail time of more than 20 years.

An offender may also face civil charges in addition to criminal charges if the bank or banks involved decide to sue to recover their losses. This type of crime is typically thought of as a crime that is committed by individuals.

However, corporations and large businesses may also be found guilty of check-kiting on a larger scale. For example, if they float several different checks through

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different bank accounts.

In these cases, the legal penalties will be even more severe. The check-kiting statute of limitations will depend on many factors, including the state and whether the defendant is charged under federal or state law.

What Is Check Kiting – A Felony or a Misdemeanor?

Minor cases of check kiting can result in misdemeanor charges, depending on the laws of the state. If, however, the check kiting involves a large check or multiple checks, it will typically result in felony charges.

Because the federal government also regulates check kiting, perpetrators may face both federal and state charges for engaging in check kiting. Many cases of check kiting will also involve other types of criminal activity, for example, issuing bad checks or [overdrafts](#).

If an individual engages in check kiting multiple times within a six-month period, which adds up to large amounts, it may result in a 5th, 4th, or 3rd-degree felony, depending on the amount of money involved.

Are There Any Defenses to Check Kiting?

It is somewhat difficult to defend against check-kiting charges. This is because it is typically difficult to accidentally engage in check kiting or similar types of conduct.

In order for check kiting to occur, an individual typically has to be acting with some type of intent to deceive the bank or banks. There may, however, be some defenses available to check kiting.

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For example, if an individual was coerced, or another individual forced them to engage in check kiting under the threat of harm. Another defense that may be used is if the individual was a victim of [fraud](#).

This may occur if another individual forged their signature in order to gain access to their checking account.

How Can I Avoid Check Kiting Scams?

An individual can avoid becoming a victim of a check-kiting scam by:

- Never wiring money to strangers;
- Learning how to spot a fake check or check scam;
- Knowing who they are dealing with when making financial transactions.

An individual should resist any pressure to act quickly. It is important to keep in mind that if an offer appears too good to be true, it probably is.

Banks will also be watching for check kiting. They will watch out for red flags, for example, large numbers of checks deposited each day or many checks withdrawn from the same bank account.

Other red flags include large amounts of cash in an account that has yet to be cleared or deposits that are made at multiple branches of the same bank.

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What Is Circular Kiting?

Circular kiting is kiting that involves one or more banks that serve as the location of the kiting and using multiple accounts at different banks. A perpetrator who has two or more accounts at different banks writes a check to themselves from Bank A to Bank B so that funds become available at Bank B that same day.

The following day, the perpetrator will write a check to their Bank B account to themselves and deposit it into their account at Bank A in order to provide artificial funds, which allow the check they wrote the previous day to clear.

This cycle will continue until the perpetrator is caught or until the offender deposits funds that are legitimate. There are also more complicated versions of this scheme that involve two separate individuals who each have an account at a different bank and constantly write checks back and forth to one another.

In some cases, a group of individuals will write checks circularly, which makes detection even more difficult. There are also some kiting rings that involve a perpetrator posing as a business.

This can cause their activity to appear as normal business transactions.

What Is Retail-Based Kiting?

Retail-based kiting involves a party that is not a bank that unknowingly provides temporary funds to an account holder who does not have the funds needed for a check to clear. In these cases, the kiter will write a check to one or more retailers, such as supermarkets, that offer cash back in addition to the amount of purchase.

Following the transactions, the kiter will deposit the

cash they received back from the transaction into their bank account on that same day in order to provide sufficient funds for other checks to clear. In contrast, the check that was written on that day will clear one more business day later.

This will be repeated until legitimate funds can be deposited into the bank account. Retail kiting is used to receive cash that is immediately available and whose deposits clear faster than a check in exchange for a check.

The retail establishment providing the check-cashing service takes credit risk on the check which may be dishonored. In this case, the retail establishment has been defrauded, and that establishment takes a cash loss in exchange for a bad check.

There are also other versions of this scheme that involve purchasing an item from a retail store with a check and then returning it for a cash refund. After that, the case will be deposited into a bank account.

However, this is more difficult now, as more retailers are delaying refunds on purchases that are made by check. Retail kiting is more popular in suburban areas where there are supermarket chains within close proximity to each other.

This type of kiting is more difficult to detect and prosecute. It typically involves smaller amounts of money than circular kiting.

What Is Corporate Kiting?

Corporate kiting is the use of large kiting schemes involving millions of dollars. This method is used to secretly borrow money or earn interest.

Limits are typically placed on the amount that an

individual is allowed to deposit without a temporary hold. Corporations, however, may be granted immediate access to funds, which can make kiting schemes go undetected.

Do I Need a Lawyer if I'm Facing Check Kiting Charges?

If you believe you have been a victim of fraud that resulted in check kiting, it is important to consult with a [fraud lawyer](#) as soon as possible. Check kiting is one of the most serious criminal charges you may face.

Your lawyer will be able to review your case, provide you with legal advice regarding how to proceed, and help you prove fraud occurred.

If you are facing criminal check-kiting charges, it is essential to consult with a criminal lawyer. Your lawyer will advise you if any defenses are available in your case and appear in court with you to protect your rights.

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Jennifer joined LegalMatch in 2020 as a Legal Writer. She holds a J.D. from Cumberland School of Law and has been a member of the Alabama State Bar since 2012. She holds a B.A. in Criminology and Criminal Justice and a B.A. in Spanish, both from Auburn University. Jennifer's favorite parts of legal work are research, writing, and helping individuals understand their legal options. Jennifer enjoyed being a Law Clerk for a distinguished Circuit Judge in Alabama. She is a work-from-home mom and homeschool teacher of three children. She enjoys reading as well as coffee dates with her husband, a distinguished member of local law enforcement.

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