

Prepaid Cards: Deposit Accounts? Or Something Else? Answer: It depends.

February 09, 2018

As new FinTech companies and traditional financial service providers look for new ways to provide financial services, the limits of our existing regulatory regimes have found **themselves pressed**. **One development has been the use of prepaid cards and related personal financial management tools to provide services that look and function in many ways like a deposit account.**

Recently, B.C.'s Financial Institutions Commission ("FICOM") reviewed the structure of certain prepaid cards issued by All Trans Financial Services Credit Union Limited ("All Trans") and said that those cards were in effect a 'deposit account' and therefore All Trans was supposedly carrying on unauthorized deposit business in B.C.

In an effort to preserve its card issuing business, All Trans sought review of FICOM's **decision through application to the British Columbia Supreme Court (2017 BCSC 1979)**. **The Court found that FICOM's decision was not reasonable and could not stand.** **All Trans argued that the "deposit" business under the Financial Institutions Act ("FIA") is limited to "monies that a customer places in a specific account with a bank or financial institution giving rise to a relationship, of debtor and creditor, between the institution and the person who "deposits" the funds".** **The Court agreed and found that the specific prepaid card program operated by All Trans was not a "deposit account.** For that program, All Trans does not accept loads of the cards, the monies on the cards are not on All Trans books, the person who loaded funds on the cards did not have an **account with All Trans, nor were they members of the credit union.** **The persons who loaded the cards did not receive statements from All Trans, the funds loaded were not covered by deposit insurance, nor did the funds receive interest.** **In addition, All Trans was not free to use the funds loaded on the card as All Trans could have done if they were with deposits.** **The funds were held in trust for settlement of card transactions; they were held in pooled settlement accounts at TD bank and not with All Trans.** For these reasons the Court found that the hallmarks of a deposit were not present and that All Trans did not need to be licensed as a deposit taking institution to sell its pre-paid cards in B.C. **The Court was unwilling to permit FICOM to expand the meaning of a deposit account to cover prepaid cards having these attributes, despite having similar**

functionality to an account.

The decision is presently under appeal. The decision on appeal may have a significant impact on financial institutions seeking to use creative FinTech approaches to expand their reach and service offerings, as well as FinTech start-ups. Careful consideration to program design is critical to ensure that issuers and program managers structure their card products to meet the regulatory needs for their specific goals. Not all programs work the same way and careful planning is required to meet both consumer facing expectations of function and marketing and the full array of regulatory scrutiny.

By

[Robert Dawkins](#), [Ross McGowan](#)

Expertise

[Securities Disputes](#), [Estate & Trust Litigation](#), [Financial Services](#), [Financial Services Regulatory](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription

preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2025 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.