Payments in Canada

Fraud Loss and Dispute Resolution
Outline

• Payment Systems
  – Large Value Transfer System (LVTS)
  – Automated Clearing and Settlement System (ACSS)

• Types of Payments and Fraud
  – Wire Transfers, Cheques, Debit Cards, Pre-Authorized Debits

• Dispute Resolution
  – Customers vs. Financial Institutions
    • Ombudsman for Banking Services and Investments
    • Financial Consumer Agency of Canada
  – Payment System Participants
    • CPA Rule A6, CPA Rule A9, Compliance By-law

• Courts
• Conclusions and Questions
Payment Systems

• In Canada, “payments” are governed by the Canadian Payments Association (CPA)

• CPA owns and operates 2 payment systems:
  – Large Value Transfer System (LVTS)
    • Wholesale
    • Low Volume and High Value
  – Automated Clearing and Settlement System (ACSS)
    • Retail
    • High Volume and Low Value
Types of Payments and Fraud

• Wire Transfers

• Fraud is Rare
  – Schemes to Initiate Fraudulent Transfers

• Prevention
  – Verification and Internal Controls
  – Engage Accounts Payable
Types of Payments and Fraud

• Cheques

• CPA Rule A4 (Return Time Frames)

• Fraud is More Common
  – Material Alteration
  – Counterfeit
  – Forgery
    • Forged Endorsement
    • Forged Signature - *Advance Bank v. TD Bank* (2003, Ont. S.C.J.)
Types of Payments and Fraud

• Cheques (continued)

• Consumer Rights
  – Bills of Exchange Act (section 48)
  – Rights May be Restricted Using Verification Agreement

• Prevention
  – Hold Periods, Positive Pay, Customer Awareness, Employee Education
  – Systemic: Prohibition on Tele-Cheques
Types of Payments and Fraud

• Debit Card Fraud
  – Debit Card Skimming
  – Shoulder Surfing

• Transactions Cannot be Returned
  – No Return Under CPA Rule A4

• Consumer Rights
  – Canadian Code of Practice for Debit Card Services

• Prevention
  – EMV Chip Technology
  – Monitoring and Education
  – Increase Fraud Prevention Measures
Types of Payments and Fraud

• Pre-Authorized Debits (PADs) Fraud

• CPA Rule H1
  – Underlying Payor’s PAD Agreement Required
  – 90 Days Recourse for Personal PAD

• Consumer Rights
  – Automatic Reimbursement

• Fraud
  – Reasons for Return

• Prevention
  – “Know the Payee”
Dispute Resolution – Customers vs. FIs

- Customers vs. Financial Institutions

  - Ombudsman for Banking Services and Investments (OBSI)
    - Consumer Complaints in Payments (see: [www.obsi.ca](http://www.obsi.ca) for case studies)

  - Financial Consumer Agency of Canada (FCAC)
    - Ensure Compliance with Complaint Procedures
    - Monitor Implementation of Voluntary Codes of Conduct
Dispute Resolution – System Participants

• CPA Rule A6 - Items in Dispute
  – Consensual
  – Escalation Process
  – Dispute Resolution Panel
  – Members of National Clearings Committee

• CPA Rule A9 – Arbitration
  – Consensual
  – More Formal
  – 3 or More Knowledgeable Persons

• Compliance By-law
  – Non-Consensual
  – Complaint Filed By Member
  – Investigation Initiated By CPA General Manager and CEO
Courts

• Consumers vs. Financial Institutions
  – Consumers Cannot Rely on CPA Rules

• Payment System Participants – Judicial Review
Conclusions

– Fraud Mitigation Mainly up to Participants and their Clients

– Payment System may Assist

– Electronic Payments – Delivering Direct Clearer Liable

– Paper Payments – Liability Depends on Reason for Return and Applicable Time Frame

– Risks may be Passed on to Clients via Contract
Questions?

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