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JACKPOT! HOW YOU CAN WIN THE LOTTERY BY EXERCISING YOUR SAVINGS ACCOUNT

*Cody Vitello**

I. Introduction

The thrill from playing the lottery does not come cheap. In fact, the average American family spends \$540 on lottery tickets each year¹ – more than *all* dairy products or alcoholic beverages.² By the same token, and perhaps much less surprising, the average American in 2006 had a negative 1% savings rate.³ Moreover, the Federal Deposit Insurance Corporation (“FDIC”) estimates 10% of Americans are unbanked⁴ and the Center for Financial Services Innovation estimates 40 million Americans are underbanked⁵ – meaning these people either do not have access to bank services or are altogether not participating in the

* News Editor; J.D. Candidate, May 2011, Loyola University Chicago School of Law.

¹ Ed Roberts, *Legislators Asked to OK Savings Contests*, 15 CREDIT UNION J. (2011), available at 2011 WLNR 1782595.

² Melissa Schettini Kearney et al., *Making Savers Winners: An overview of Prize-Linked Savings Products 3* (Nat’l Bureau of Econ. Research, Working Paper No. 16433, 2010), available at <http://www.nber.org/papers/w16433> (American households, on average, spend \$430 on all dairy products and \$444 on alcohol each year).

³ Nick Maynard, *Prize-Based Savings: Product Innovation to Make Saving Fun*, 2007 D2D FUND 3, available at http://www.d2dfund.org/research_publications/prize_based_savings_product_innovation_make_saving_fun. However, in light of the Great Recession, this number has recently increased to 6%, but even this number is abysmally low. Kelly Gilblom, *Washington’s Credit Unions Want \$100,000 Prize Drawings to Attract Savers But Olympia Must Update Gambling Laws*, PUGET SOUND BUS. J. (2010), available at 2010 WLNR 25394294.

⁴ Fed. Deposit Ins. Corp., *Findings from the FDIC Survey of Bank Efforts to Serve the Unbanked and Underbanked*, 3 FDIC QUARTERLY 39 (2009) [hereinafter *FDIC Survey*].

⁵ *Id.* at 39 n.3.

mainstream financial system.⁶ Adding insult to injury, surveys indicate that lower class Americans are much more likely to play the lottery than their wealthier counterparts.⁷

Scholars, governments, and nonprofits have long been aware of the problem that those who might benefit the most from accumulating savings instead are more apt to stake their discretionary income on their chances of winning a lottery jackpot. Unfortunately, a 2006 survey discovered that “21% of Americans, and 38% of those with incomes below \$25,000, think that winning the lottery represents the most practical way for them to accumulate several hundred thousand dollars.”⁸ To break the widespread belief that accumulating savings is more futile than playing the lottery, consumer advocates have devised a number of programs to encourage savings. These programs range from the coercive (Social Security & the U.K.’s Child Trust Fund) to inertia-based savings (401(k)s, IRAs, and Bank of America’s “Keep the Change” program) all the way through to savings programs that are actually exciting and thrilling.⁹

So how do innovators rival the \$60 billion¹⁰ state lottery industry and entice Americans to save? By introducing the same thrill that people get by playing the lottery into the normal run-of-the-mill savings account. Such hybrid accounts – prize-linked savings or lottery-linked savings accounts – have been around for more than 300 years.¹¹ This article will explore the structure and incentives that these accounts offer in Part II, survey their effectiveness and highlight local permutations across the globe in Part III, and consider their future viability in the U.S. in Part IV.

II. Designing a Savings Account with a Thrill

Prize-linked savings (“PLS”) and lottery-linked savings (“LLS”) accounts, offering the thrill that comes with playing the

⁶ *Id.* at 39.

⁷ John Fleming, *The Anniston Star, Ala., Bus. As Usual Column*, THE ANNISTON STAR, ALA. (2011), available at 2011 WLNR 539543 (“[T]he lower the income in a neighborhood, the higher the sales of lottery tickets at nearby outlets”); Kearney et al., *supra* note 2, at 4.

⁸ Kearney et al., *supra* note 2, at 5.

⁹ See Peter Tufano & Daniel Schneider, *Using Financial Innovation to Support Savers: From Coercion to Excitement* (Harvard Bus. Sch. Fin., Working Paper No. 08-075, 2008), available at <http://ssrn.com/abstract=1120382>.

¹⁰ Kearney et al., *supra* note 2, at 3.

¹¹ Tufano & Schneider, *supra* note 9.

lottery, are actually quite old and have developed different structural permutations during their lengthy histories. PLS accounts were first engineered in 1694 by the British Government when it sought to raise £1 million by offering an interest-paying bond that came with a raffle ticket for a grand prize.¹² Simply put, PLS and LLS accounts are savings products that have “no risk of principal loss and either forfeit or accept reduced interest payments in exchange for the chance to win one or several large prizes allocated randomly.”¹³

Consequently, a consumer who would normally accrue relatively small amounts of interest on his or her savings account would be entered into a lottery for a chance to win a much larger prize that is usually aggregated from the siphoned interest that is traditionally paid on a comparable account.¹⁴ PLS accounts offer the guarantee of maintaining the principal investment, the liquidity of a traditional savings account, and the potential to win large sums of money or other prizes.¹⁵ Often, the chances of winning any of the prizes offered by PLS accounts are directly related to how much money is deposited or invested in the account.¹⁶ For example, a consumer may get one raffle “ticket” for every \$25 deposited into his or her account up to a predefined maximum – a necessary ceiling to prevent overly favoring wealthier investors. Interest payments on these accounts may exist below the normal market rate or even fall to zero.¹⁷ Prizes are typically offered weekly, monthly, quarterly, and/or yearly (with the biggest prizes offered less often).¹⁸

With the foregoing structure in mind, it has been determined that, because individuals grossly overweight the extremely low probability of winning prizes, grand prizes should be extremely asymmetrical.¹⁹ Therefore, in order to attract the most depositors, governments, banks, and credit unions should offer very few enormous “grand” prizes even if it means that the probability of winning drastically shrinks.²⁰ Conversely, these

¹² *Id.*

¹³ *Id.*

¹⁴ *See, e.g.,* Kearney et al., *supra* note 2, at 9-10.

¹⁵ *Id.* at 5.

¹⁶ Tufano & Schneider, *supra* note 9.

¹⁷ *See* the PLS programs surveyed in Part III *infra*.

¹⁸ *See* the PLS programs surveyed in Part III *infra*.

¹⁹ Marie Pfiffelmann, *Which Optimal Design For LLDA?, LARGE PAPIER* NO 78, 3 (2007) available at <http://ifs.u-strasbg.fr/large/publications/2006/2006-06.pdf>.

²⁰ *Id.* at 20-21.

same accounts need to offer a large number of smaller prizes to reduce depositor fatigue from the low likelihood of winning.²¹ This combination of a few large prizes and many small prizes skews the depositors' expected value of returns generated by the accounts while simultaneously maintaining their enthusiasm for the program.²² U.S. surveys have indicated: (1) PLS accounts attract depositors because they offer both a savings element and a gambling element;²³ (2) 80% of gambling revenue comes from households with income less than \$50,000 annually;²⁴ and (3) 65% of non-savers would be interested in a PLS account.²⁵ Moreover, given that households earning less than \$10,000 annually spend three times as much on gambling,²⁶ PLS accounts offer a very attractive way to increase savings among those who need it most by appealing to a pastime that they already enjoy.

That consumers demand PLS and LLS accounts is encouraging, but if financing entities cannot profitably supply the accounts, the whole concept is dead in the water unless government entities step in. Depending on the structural setup of the PLS account, issuers are able to provide accounts that offer a lower interest rate, and in some cases, none at all. As long as the expected rate of return from all of the prizes distributed is less than what would have had to be paid on a more traditional savings account, the issuer profits.²⁷ With advertising, implementation, and administrative costs being relatively cheap,²⁸ issuers are able to attract many more customers, including those unbanked and underbanked individuals, than they may have otherwise. Additionally, since savings is a public policy concern, national and local governments and other

²¹ Mauro F. Guillen & Adrian E. Tschoegl, *Banking on Gambling: Banks and Lottery-Linked Deposit Accounts*, 21 J. FIN. SERV. RESEARCH 219, 223 (2002), available at <http://www-management.wharton.upenn.edu/guillen/files/gambling.jfsr.2002.pdf>.

²² *Id.*

²³ Peter Tufano, *Saving Whilst Gambling: An Empirical Analysis of U.K. Premium Bonds* 7-8 (American Econ. R. Papers and Proceedings, Working Paper, 2008), available at www.d2dfund.org/system/files/publications/2008_541.pdf.

²⁴ Jan-Emmanuel De Neve, Nick Maynard & Peter Tufano, *Consumer Demand for Prize-Linked Savings: A Preliminary Analysis* 8 (Harvard Bus. Sch., Working Paper, 2008), available at <http://www.hbs.edu/research/pdf/08-061.pdf>.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Guillen & Tschoegl, *supra* note 21, at 220.

²⁸ *Id.* at 221.

consumer advocate groups are often willing to help implement or subsidize new PLS programs.²⁹

III. Savings across the Globe

As indicated above, PLS accounts have a long rich history, starting in the United Kingdom and subsequently spreading around the world. Nowadays, PLS accounts are offered in over twenty countries and a few U.S. states.³⁰ To better understand the structure, importance, and success of PLS accounts, this Part of the article examines how PLS accounts have been implemented around the world.

A. The United Kingdom

As noted above, the British invented the first PLS account more than 300 years ago with the "Million Adventure" program in 1694 as a way to pay down its debt from the Nine Years' War (1689-97).³¹ At the time, the Million Adventure program attracted tens of thousands of investors from the five to six million British citizens.³² Today, the Million Adventure program has long been replaced by the U.K. Premium Bond program attracting between 22-40%³³ of U.K. citizens investing upwards of £40 billion in 2008.³⁴ The Premium Bond program has enjoyed tremendous success, even immortalizing itself in a British rock group's lyrics.³⁵

The structural design of the Premium Bond program is quite simple. The minimum purchase is £100 and for every £1 invested the consumer is allocated a series of numbers.³⁶ In lieu of paying interest on the note, like a traditional bond, the British Government holds monthly drawings for a £1 million jackpot prize and various other prizes ranging from £25 to £100,000.³⁷ To

²⁹ See, e.g., Maynard, *supra* note 3, at 1.

³⁰ De Neve et al., *supra* note 24, at 3; Gilblom, *supra* note 3; Roberts, *supra* note 1.

³¹ Kearney et al., *supra* note 2, at 7.

³² *Id.*

³³ Tufano, *supra* note 23, at 1 ("The 60.2 million residents of the UK had £517 invested in [Premium Bonds] per capita").

³⁴ Kearney et al., *supra* note 2, at 10.

³⁵ *Id.* at 9. The popularity of U.K. Premium Bonds rose from £4 billion in 1994 to £40 billion in 2008. *Id.* at 10.

³⁶ *Id.* at 9.

³⁷ *Id.* at 10.

prevent an unfair probability of winning skewed towards wealthier investors, the U.K. limits the amount of Premium Bonds an individual investor may hold to £30,000.³⁸ Despite the fact that Premium Bonds pay slightly less than comparable government bonds, the amount invested has increased tenfold in the fourteen years leading up to 2008.³⁹ This observation corroborates the findings that individuals derive satisfaction from both the investment and the gambling value of the Premium Bonds.⁴⁰ Finally, the success of the program is known for attracting lower-income households and inducing them to save.⁴¹

B. South Africa

Like the U.K., South Africa's Million a Month Account ("MaMA") was tremendously successful, but unlike the U.K. it was privately-run and, as a consequence, was short-lived due to legal restrictions.⁴² In 2005, First National Bank ("FNB"), one of the four largest retail banks in the South African market, introduced its PLS account – MaMA.⁴³ The MaMA product was a no-fee savings account, paying an interest rate of 0.25%, and rewarded savers with a prize for every 100 rand invested, but required thirty-two days' notice before an investor could withdraw funds.⁴⁴ FNB held monthly drawings for 114 prizes to its MaMA investors, which ranged from 1,000 to 1 million rand.⁴⁵

In an effort to reach low-income South Africans – of whom 72% were unbanked – FNB aggressively marketed the MaMA program.⁴⁶ From January 2005 until the program ended in March 2008, FNB successfully opened over 1.1 million MaMA accounts with 1.4 billion rand in deposits.⁴⁷ Of the South Africans who participated in the MaMA program, an estimated 12% were previously unbanked.⁴⁸ Unfortunately, the success of FNB's MaMA program likely brought upon its ultimate demise, when

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at 10-11.

⁴¹ *Id.* at 12. Albeit higher-income households also partake in the Premium Bond program because, it has been suggested, the winnings are tax exempt. *Id.*

⁴² *Id.*

⁴³ Tufano & Schneider, *supra* note 9; Kearney et al., *supra* note 2, at 12.

⁴⁴ Tufano & Schneider, *supra* note 9; Kearney et al., *supra* note 2, at 12-13.

⁴⁵ Tufano & Schneider, *supra* note 9; Kearney et al., *supra* note 2, at 12.

⁴⁶ Kearney et al., *supra* note 2, at 13.

⁴⁷ *Id.* at 13-14.

⁴⁸ *Id.* at 14.

the South African Lottery Board successfully sued to have the program shut down as an illegal lottery.⁴⁹ However, in mid-2009, 53% of the former MaMA accounts remained open retaining 83% of their balances, proving that, even though the program ceases to exist, it had a positive everlasting impact on the country's savings.⁵⁰

C. Latin America

Several Latin American countries offer PLS accounts, including Venezuela, Colombia, Mexico, and Argentina.⁵¹ Two PLS products have been surveyed in Latin America and have yielded similar results – both products offered daily prizes and large monthly prizes with the odds of winning quite low for both.⁵² Notwithstanding the poor chances of winning, the data is encouraging because it reveals that the two PLS products have been quite successful among low-income individuals.⁵³ For example, a Venezuela bank has reported 697,000 PLS accounts with \$646 million in deposits opened in a year; a Mexican bank reported accounts of 485,000 and deposits of \$178 million in two years; and a Columbian bank reported similar results in just one year.⁵⁴ The reaction from consumers, especially low-income households, has been universally galvanizing. Not only are unbanked and underbanked individuals participating in the mainstream financial system, they are doing so without risking the loss of their principal balance while simultaneously maintaining a chance, albeit a very small one, of winning a life changing amount of money.

D. The United States

The extensive history and success of PLS accounts should not be ignored by U.S. consumers. With centuries of experience and a proven track record, it may be time to more aggressively lobby to permit PLS products into the mainstream U.S. financial market. In fact, a few states have already implemented similar

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ See Tufano, *supra* note 23, at 3; Guillen & Tschogl, *supra* note 21, at 228; Tufano & Schneider, *supra* note 9.

⁵² Tufano & Schneider, *supra* note 9.

⁵³ *Id.*

⁵⁴ *Id.*

products.

In October of 2006, the first PLS product was announced in the U.S. by an Indiana credit union, Centra Credit Union, with extensive help from Doorways to Dreams, the Harvard Business School, the Filene's Research Institute, and Affinity Plus Credit Union.⁵⁵ Centra's PLS product, "Super Savings," has a typical savings account structure but pays a reduced interest rate in exchange for a chance to win prizes.⁵⁶ Consumers are given an additional chance to win in the monthly drawings for every \$25 they have in their Super Savings account, and regardless of their balance, are given one chance to win in the quarterly and annual drawings.⁵⁷ Unlike some of the PLS accounts illustrated above, Super Savings offered relatively small prizes, with a grand prize of only \$5,000.⁵⁸ By 2007, after the program had been instituted in all of its branches, Centra had opened up over 1,300 Super Savings accounts, collecting more than \$500,000 in deposits.⁵⁹ A demographic survey of Super Savings customers revealed that it attracted mostly non-savers who play the lottery heavily, thereby achieving its goal.⁶⁰ To increase the effectiveness of Centra's PLS, program, financial analysts have suggested that it increase the size of its prizes and market the product more effectively.⁶¹

Following Centra's program and with the help of many of the same organizations, the Michigan Credit Union League ("MCUL") launched the "Save to Win" PLS program in early 2009.⁶² Contrary to Centra's low value prizes, the MCUL, by banding together, offers a \$100,000 annual grand prize along with smaller monthly prizes ranging from \$125 to \$1,000.⁶³ The Save to Win program is issued in 12-month savings certificates; with a minimum of \$25 to join, capped at 10 per month, and an interest rate paying between 1 and 1.5%.⁶⁴ Since the program's inception, MCUL members have attracted over 15,000 members and collected nearly \$19 million in deposits.⁶⁵ A survey analyzing Save

⁵⁵ Maynard, *supra* note 3, at 1.

⁵⁶ *Id.* at 3.

⁵⁷ *Id.* at 3-4.

⁵⁸ *Id.* at 4.

⁵⁹ *Id.* at 5.

⁶⁰ *Id.* at 6.

⁶¹ *Id.* at 7-8.

⁶² Kearney et al., *supra* note 2, at 14-15.

⁶³ David Czurak, *Credit Unions Employ Unique Savings Tactic*, 28 GRAND RAPIDS BUS. J. (2010), available at 2010 WLNR 25518768.

⁶⁴ Kearney et al., *supra* note 2, at 16-17.

⁶⁵ Czurak, *supra* note 63.

to Win PLS holders revealed that 56% did not regularly save before joining the program and 39% had less than \$5,000 in assets (excluding home equity), proving once again that PLS programs encourage saving to those who need it most.⁶⁶

With the success of Centra and MCUL in the news, several other states have begun exploring ways to legally introduce PLS accounts. For example, a nonprofit in Alabama is offering a \$20,000 federal savings bond to the winner of their "SaveNow WinLater" program, which gives chances to win for every \$50 invested.⁶⁷ And Washington, Nebraska, Rhode Island, Maryland, and Maine have all either passed or introduced legislation to legalize PLS accounts in their states by amending their gambling and banking laws.⁶⁸ Because the data speaks for itself, it may only be a matter of time before U.S. consumers, particularly those who need it most, are able to benefit from PLS accounts nationwide.

IV. A Formidable Future

For all the successful examples outlined above, there remains one daunting problem that must be resolved before PLS programs can be ubiquitously introduced across the U.S. – legality. Currently, it is illegal for both federally-chartered and state-chartered banks and thrifts to participate in lotteries.⁶⁹ Additionally, PLS programs are illegal under most state lottery laws.⁷⁰ There are, however, two loopholes: (1) if the PLS program is offered as a "sweepstakes" (i.e., no consideration or cash is required to enter), rather than a "lottery," the program will avoid being instantly terminated – e.g., Centra;⁷¹ and (2) Michigan permits state-chartered *credit unions* to employ "savings promotions raffles" where the sole consideration required to enter the drawing is the deposit of money in a savings account – e.g., MCUL.⁷² Although the several states mentioned above are amending their gambling and banking laws to resemble Michigan's, it will take U.S. Congressional action to amend the

⁶⁶ Kearney et al., *supra* note 2, at 17.

⁶⁷ Steve Doyle, *Nest Egg May Hatch Big Prize*, HUNTSVILLE TIMES (2010), available at 2010 WLNR 25118709.

⁶⁸ See Gilblom, *supra* note 3; Roberts, *supra* note 1.

⁶⁹ See 12 U.S.C. § 25a; 12 U.S.C. § 1829a(a); 12 U.S.C. § 339(a); Kearney et al., *supra* note 2, at 18.

⁷⁰ Kearney et al., *supra* note 2, at 18.

⁷¹ *Id.*

⁷² *Id.* at 19.

federal anti-lottery banking laws. In July of 2009 the FDIC Advisory Committee to Explore Prize-Linked Savings, Outreach to Underserved and Low-Income Consumers met to determine whether PLS programs benefit the unbanked and underbanked,⁷³ however, to date no action has been taken. Finally, states derive an enormous amount of revenue from their state-monopolized lottery programs, as do legal casinos, which may create formidable protests against any action liberalizing the spread of PLS programs – e.g., FNB’s MaMA PLS program.⁷⁴

Looking ahead, sovereigns may want join the craze and engineer their own PLS programs similar to the U.K.’s Premium Bond account. States could offer their own state-run PLS programs, thereby encouraging savings and garnishing a little revenue for the state coffers in the process. Additionally, the federal government could build a PLS structure into the Individual Development Account (“IDA”) program.⁷⁵ IDAs are savings accounts for low-income households that match funds deposited two to one.⁷⁶ IDAs, however, suffer from a relatively high dropout rate despite the opportunity to get “free” money.⁷⁷ As an alternative, the IDA program could be restructured to offer PLS-like incentives by giving the saver the thrill of possibly winning a large jackpot prize. That PLS programs can come in any number of permutations, their applicability is almost as large as the benefit they have bestowed on consumers for more than 300 years.

V. Conclusion

While PLS programs may not be a panacea for eliminating indigent populations, they offer a good start and could be one of many tools available to combat economically depressed households. Disturbingly, an FDIC survey found that 73% of banks were aware that their markets had unbanked and

⁷³ Press Release, Fed. Deposit Ins. Corp., FDIC Advisory Committee to Explore Prize Linked Savings, Outreach to Underserved and Low Income Consumers (July 23, 2009), *available at* <http://www.fdic.gov/news/news/press/2009/pr09128.html>.

⁷⁴ De Neve et al., *supra* note 24, at 15.

⁷⁵ Cazilia Loibl, *Can the Poor be Motivated to Save? Evidence from Survey Research and Field Experiments in the United States*, OHIO STATE UNIV. 11-12 (2009) *available at* [http://aede.osu.edu/resources/seminars/Papers/AEDESeminarLoibl\(2\).pdf](http://aede.osu.edu/resources/seminars/Papers/AEDESeminarLoibl(2).pdf).

⁷⁶ *Id.* at 2-3.

⁷⁷ *Id.* at 4-5.

underbanked populations; yet, fewer than 18% of the banks polled had any strategy to expand services to these individuals.⁷⁸ We already know that these households are spending a vastly disproportionate amount of their income on gambling – gripping onto an infinitesimally small chance of winning – that banks are unable or unwilling to reach out to these people without the proper incentives, that PLS accounts have successfully been implemented in over twenty countries and two states over the course of three centuries, and that there are formidable barriers to legalizing comprehensive PLS programs in the U.S. However, the appetite for helping the economically marginalized does not need to come at the cost of private and public welfare – or profits for that matter.

For now, it seems that a few states have flirted with the execution of PLS programs and that many more seem interested in following suit. Nevertheless, substantial legal, economic, and business forces prevent the PLS star from rising much higher than the horizon in the U.S. until those same forces that lubricate American industry realize that there is money to be made by helping those who, all along, just need the proper incentive: a worthwhile jackpot!

⁷⁸ *FDIC Survey*, *supra* note 4, at 41.