



Visa/Mastercard Interchange Fee Settlement Frequently Asked Questions

Q: What is the current status of the case (as of May 25, 2019)

- On January 25, 2019, a [Superseding and Amended Definitive Class Settlement Agreement](#) was preliminarily approved by the Court. Technically, this is a 'new' proposed \$5.56–\$6.26 billion settlement to provide payments to merchants who accepted Visa and MasterCard at any time from January 1, 2004 and the Preliminary Approval Settlement Date.
- A Fairness Hearing has been planned for November 7, 2019. This will be to determine whether the proposed \$5.54 to \$6.24 billion settlement is fair, adequate and reasonable. Brownstone Recovery is monitor this and other legal developments and send immediate updates accordingly.
- The terms of this proposed settlement modify, amend and supersede the Definitive Class Settlement Agreement in which approval was reversed and remanded by the Second Circuit Court of Appeals on June 30, 2016.
- Within the next 90 days, known class members will be mailed a notice about their legal rights and the release of their claims. Information about the settlement will also be published in online media as well as in newspapers, consumer magazines and trade publications.

Q: What was the previous status of the case?

A: On June 30, 2016, the Second Circuit of Appeals reversed and remanded approval of the settlement in this action. On August 11, 2016, Judge Margo K. Brodie and Magistrate Judge James Orenstein of the Eastern District Court in New York held a status conference to discuss how the Visa/MasterCard case will move forward.

Q: Why was the settlement remanded?

A: The settlement was remanded due to the Judges concerns that certain merchants were inadequately represented in the settlement. In more technical terms, the Judges “concluded that the class plaintiffs were inadequately represented in violation of Rule 12(a)(4) and the Due Process Clause. Procedural deficiencies produced substantive shortcomings in this class action and the settlement. As a result, this class action was improperly certified, and the settlement was unreasonable and inadequate.”

INFORMATION ABOUT THE COURT CASE

Q: What is this case about?

A: The lawsuit, which is officially called “In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation,” originated as a dispute between merchants, card-issuing banks, and payment card associations over interchange fees.

Merchants claimed that card associations set interchange fees and rules governing payment card acceptance in ways that amounted to illegal price fixing. The card associations, the principle ones in this case being Visa and MasterCard,

and card-issuing banks countered that the fee structures are reasonable, and the merchants are free to negotiate better terms if they so desire.

Before the case was fully litigated, both sides reached a negotiated settlement. The settlement provides that Visa and MasterCard contribute to a \$6 billion-dollar cash settlement fund, which will be distributed to merchants who accept the settlement. An additional \$1.2 billion is set aside to cover an adjustment in interchange fees for an eight-month period that starts on July 29, 2013.

All merchants received a notice from the claims settlement administrator saying that if they wished to participate in the settlement, they must register with the claims settlement administrator.

Q: What is interchange?

A: Interchange is a fee that every merchant indirectly pays whenever they accept payment from a customer who is using a credit or debit card. Interchange is typically about one and a half to three percent of the transaction amount. It is automatically deducted from the money a merchant receives when a transaction is settled.

Q: Who is suing whom in this case?

A: In 2005, a number of merchants filed separate lawsuits against card associations and issuing banks claiming they were engaging in unfair practices. Because the complaints in these various cases were essentially the same, they were consolidated into a single class action lawsuit. In the class action lawsuit, 19 named plaintiffs, representing the class of all merchants, is suing Visa, MasterCard, and a number of card-issuing banks, including Bank of America, Citi Group, and many others.

Q: Who are the plaintiffs in this case?

A: There were originally 19 plaintiffs representing the merchant class in this case. When the court finally approved of the settlement, 10 of the original 19 chose not to join the settlement. The remaining 9 are now the plaintiffs in this case. They are: Photos Etc. Corporation; Traditions, Ltd.; Capital Audio Electronics, Inc.; CHS Inc.; Crystal Rock LLC; Discount Optics, Inc.; Leon's Transmission Service, Inc.; Parkway Corp.; and Payless ShoeSource, Inc.

Q: Must I use Brownstone Recovery or any other third-party filing firm?

A: No.

Claim forms are not available at this time, and no claim-filing deadline exists. If another settlement is reached, no-cost assistance will be available from the Class Administrator and Class Counsel during any claims filing period. No one is required to sign up with any third-party service in order to participate in any settlement.

For additional information regarding the status of the litigation, interested persons may visit www.paymentcardsettlement.com, the Court-approved website for this case.

Q: Who are the defendants in this case?

A: The defendants in this case are as follows:

- "Visa Defendants": Visa U.S.A. Inc.; Visa International Service Association; and Visa Inc.;
- "MasterCard Defendants": MasterCard International Incorporated and MasterCard Incorporated; and

- “Bank Defendants”: Bank of America, N.A.; BA Merchant Services LLC (formerly known as National Processing, Inc.); Bank of America Corporation; MBNA America Bank, N.A.; Barclays Bank plc; Barclays Bank Delaware; Barclays Financial Corp.; Capital One Bank (USA), N.A.; Capital One F.S.B.; Capital One Financial Corporation; Chase Bank USA, N.A.; Chase Manhattan Bank USA, N.A.; Chase Paymentech Solutions, LLC; JPMorgan Chase Bank, N.A.; JPMorgan Chase & Co.; Bank One Corporation; Bank One Delaware, N.A.; Citibank (South Dakota), N.A.; Citibank N.A.; Citigroup Inc.; Citicorp; Fifth Third Bancorp; First National Bank of Omaha; HSBC Finance Corporation; HSBC Bank USA, N.A.; HSBC North America Holdings Inc.; HSBC Holdings plc; HSBC Bank plc; National City Corporation; National City Bank of Kentucky; SunTrust Banks, Inc.; SunTrust Bank; Texas Independent Bancshares, Inc.; Wachovia Bank, N.A.; Wachovia Corporation; Washington Mutual, Inc.; Washington; Mutual Bank; Providian National Bank (also known as Washington Mutual Card Services, Inc.); Providian Financial Corporation; Wells Fargo Bank, N.A. and Wells Fargo & Company.

Q: What is the essential issue in this case?

A: This case originated as a dispute over interchange fees.

The original purpose of interchange was to generate revenue that paid for all the services needed to make card payment possible. In recent years, merchants have found their interchange payments rising rapidly. They believe that because of restrictive rules governing card payment acceptance and the way interchange rates are set, they have no control and no ability to negotiate better rates from service providers. They contend that Visa and MasterCard illegally collude with card-issuing banks to set rates, and this amounts to a monopolistic practice.

Q: Why is this case important?

A: This case is important because interchange fees generate approximately \$40 billion dollars per year, all paid for by merchants. The outcome of the case can impact the way merchants are able to negotiate fees, and whether they can promote alternative forms of payment. The outcome can also have a big impact on the payment card industry.

INFORMATION ABOUT THE SETTLEMENT

Q: What did the court decide?

A: The court did not render a decision in this case. The participants in this case: card associations, card-issuing banks, and merchants, agreed to settle before the case was fully litigated. In January of 2019, the court gave its Preliminary Approval Settlement Date.

The court has scheduled another fairness hearing for May 2019.

Q: Why is there a settlement?

A: This lawsuit was started in 2005. After 14 years of litigation involving the review of more than 60 million pages of documents and more than 600 depositions, but before an actual trial began, all parties in the case, including the court, recognized it was in everyone’s best interest to settle. In July of 2012 they agreed to the terms of a settlement, and in October of 2012 the court gave its preliminary approval.

Q: What does this settlement mean to me?

A: The settlement means two things to merchants:

- Greater flexibility for merchants in some of the rules that govern interchange fees.
- An opportunity for all merchants to collect a portion of the interchange they may have paid between January 1, 2004 and the Preliminary Approval Settlement Date.

Q: Am I part of the settlement?

A: If you are, or were, a merchant who accepted debit and credit card payments between January 1, 2004 and the Preliminary Approval Settlement Date, you are eligible to participate in this settlement. Most eligible merchants received a notice from the Claims Administrator that explained the settlement. It is possible you did not receive this notice, or do not recall receiving it, but you are still eligible. To take part in the settlement, you must register with either the court-appointed Claims Administrator or retain a claims recovery service provider.

Q: Why did I get a settlement notice?

A: If you are, or were, a merchant who accepted debit and credit card payments between January 1, 2004 and the Preliminary Approval Settlement Date, you are eligible to participate in this settlement. Most eligible merchants received a notice from the court appointed Claims Administrator. This notice explained the settlement and the process for making a claim.

Q: Where can I see the full text of the settlement notification?

A: You can read the full text of the settlement notification at www.paymentcardsettlement.com.

Q: What are the terms of the cash settlement?

A: According to the terms of the settlement, Visa, MasterCard, and the bank defendants will make payments into two funds:

• Cash Settlement Fund:

- Every merchant that does not exclude itself from the cash settlement class by May 28, 2013 and files a valid claim will receive money from the \$6.05 billion Cash Fund. This fund will be reduced by an amount no greater than 25% of the Cash Fund to allow for merchants who exclude themselves from the cash settlement class. The money in this fund, after reduction for excluded merchants, will also pay for:
 - The cost of the court-approved claims administration.
 - Court-approved disbursements to merchants.
 - Court-approved attorneys' fees and expenses.
- The money in this fund will only be distributed if the court finally approves the settlement.

• Interchange Fund:

- The money for this fund is estimated to be up to \$1.2 billion and will be equivalent to 10 basis points (i.e. one-tenth of 1%) of transaction volume attributable to cash settlement class members that accept Visa or MasterCard credit cards during an eight-month period starting July 29, 2013. Every merchant in the cash settlement class that does not exclude itself from the class, and that accepted Visa or

MasterCard credit cards during that eight-month period, and files a valid claim will get money from the Interchange Fund. The money in this fund will pay:

- The cost of the court-approved claims administration.
- Court-approved disbursements to eligible merchants.
- Court-approved attorneys' fees and expenses paid to class counsel.

Q: What are the settlement classes?

A: There are three settlement classes:

- **The Cash Settlement Class** – this includes all merchants who are eligible for, and who have not opted out of receiving a share of the \$6.05 billion cash settlement fund. That includes any merchant who accepted Visa or MasterCard credit and debit card payments between January 1, 2004 and the preliminary settlement date and who files a claim to receive a share of this settlement.
- **The Interchange Classes** – this includes all merchants who accepted Visa or MasterCard credit card payments during an eight-month period starting July 29, 2013. Eligible merchants who exclude themselves from the cash settlement class are still members of this class and will benefit from adjustments in interchange rates during this eight-month period.
- **The Rules Class** – this includes all active merchants, for all merchants will be subject to the rule changes governing interchange and payment card acceptance. Merchants who exclude themselves from the cash settlement class will still be part of the rules class.