

Credit Card Class Actions Opt-Out Administrator  
P.O. Box 2312  
349 W. Georgia St.  
Vancouver, BC V6B 1Y0

## **NATIONAL BANK, VISA, AND MASTERCARD MERCHANT CREDIT CARD FEES SETTLEMENT NOTICE**

If you accepted Visa or Mastercard credits cards as payment for goods or services after March 23, 2001, your rights could be affected by proposed national class action settlements with each of National Bank of Canada, Visa, and Mastercard.

### **The Credit Card Actions**

Class action lawsuits were commenced in British Columbia (the “BC Action”), Alberta, Saskatchewan, Quebec, and Ontario (collectively, the “Credit Card Actions”) against Visa Canada Corporation (“Visa”), Mastercard International Incorporated (“Mastercard”), and certain banks which issue credit cards (“Issuing Banks”) alleging each of Visa and Mastercard conspired with their issuing Banks and Acquirers in setting the amount of interchange fees and imposing rules restricting merchants’ ability to surcharge or refuse higher cost Visa and Mastercard Credit Cards. The BC Action was certified as a class proceeding as against all Defendants.

### **The Prior Settlements**

The Courts have previously approved settlement agreements with Bank of America, Citigroup, Capital One, and Desjardins (the “Prior Settlements”). Information about the Prior Settlements is available at [www.CreditCardSettlements.ca/en](http://www.CreditCardSettlements.ca/en).

### **The New Settlements**

Although National Bank of Canada, Visa, and Mastercard deny liability, they have reached three new national settlements with the Plaintiffs (the “National Bank Settlement,” the “Visa Settlement,” and the “Mastercard Settlement,” collectively, the “New Settlements”), subject to approval of the Courts. National Bank of Canada will pay CAD \$6 million, and Visa and Mastercard will each pay CAD \$19.5 million for a collective total of \$45 million (the “Settlement Amounts”) for the benefit of the Settlement Class Members and provide certain cooperation to the Plaintiffs as described in their respective settlement agreements, in exchange for a full release of claims against each of them and their related entities. Visa and Mastercard will also be modifying their respective “no surcharge rules” that prevented merchants from charging a premium on credit card use, on terms set out in greater detail in their respective settlement agreements.

If the New Settlements are approved, the Class Lawyers will ask the Courts to approve the deduction of certain amounts (collectively, the “Court-approved Expenses”) from the Settlement Amounts, including costs incurred to distribute this Notice and process opt-out requests, comments and objections, the approved counsel fee of up to 25% of the recovered amounts, and disbursements.

As the Credit Card Actions have to continue against the remaining Defendants, it is proposed that the amounts remaining from the Settlement Amounts after deduction of all Court-approved Expenses be added to the net proceeds from the Prior Settlements that are held in trust for Settlement Class Members pending receipt of further settlements or further order of the Court at the conclusion of the Credit Card Actions. At such time, a distribution protocol will be developed and submitted to the Courts for approval, and further notice will be provided to you of the proposed distribution system.

If you would like to make sure you receive direct notice of any later distribution, please register at [www.CreditCardSettlements.ca/en](http://www.CreditCardSettlements.ca/en) or contact one of the Class Lawyers below.

## Certification and Authorization as Class Proceedings for Settlement Purposes

Class action proceedings can only be settled on a national basis if they are also certified and authorized as class actions. In order to implement the New Settlements, and separate and apart from the (contested) certification of the BC Action against all Defendants, the Courts have certified and authorized all of the other Credit Card Actions as class proceedings against National Bank of Canada, Visa, and Mastercard for settlement purposes only.

## Who Are The Settlement Class Members?

The Court-approved definition of “Settlement Class Member” sets out who can participate in the New Settlements and in the continued prosecution of the Credit Card Actions against the remaining Defendants (BMO, TD, CIBC, RBC, and Scotia). You are a Settlement Class Member if you accept or accepted Visa Credit Cards and/or Mastercard Credit Cards as payment for goods or services and incurred merchant discount fees, including interchange fees, in Canada since March 23, 2001.

The Settlement Class includes **Quebec Settlement Class Members**. Quebec Settlement Class Members are Quebec resident persons who accepted Visa and/or Mastercard Credit Cards as payment for goods or services and incurred merchant discount fees, including interchange fees, in Canada, at any time since March 23, 2001. As noted below, Quebec Settlement Class Members have different participation options.

Any legal persons established for a private interest, partnership, or association, which at any time between December 17, 2009, and December 17, 2010, had under its direction or control more than 50 persons bound to it by contract of employment, and any legal persons established for a public interest resident in Quebec, are **not** Quebec Settlement Class Members, but **are** Settlement Class Members.

All Settlement Class Members are affected by this Notice.

## Settlement Approval Hearings

Hearings to consider approval of the New Settlements, a counsel fee of up to 25% of the recovered amounts, and disbursements payable from the Settlement Amounts will be heard on the following dates:

- June 25, 2018 at 10:00 a.m. (British Columbia Supreme Court, Vancouver)
- July 5, 2018 at 10:00 a.m. (Court of Queen’s Bench of Alberta, Edmonton)
- July 6, 2018 at 10:00 a.m. (Court of Queen’s Bench for Saskatchewan, Regina)
- August 21, 2018 at 8:45 a.m. (Quebec Superior Court, Montreal)
- July 12, 2018 at 10:00 a.m. (Ontario Superior Court of Justice, Toronto)

Anyone can attend the hearings, but if you wish to speak to the Court, please advise the Administrator (Epiq)\*.

If you wish to provide written comment on or objection to any of the New Settlements, you must do so by delivering same to the Administrator\* by **JUNE 21, 2018**. Comments or objections will be provided to the Court for consideration in whether to approve or reject each of the New Settlements.

## Participating in the Settlements or Credit Card Actions (No Action Needed)

Settlement Class Members who wish to participate in the New Settlements or in the continuing Credit Card Actions do not need to do anything at this time, although we encourage them to register as set out above to ensure that they receive notice of any important developments, including when time comes to distribute all the funds received.

## Opting Out of the Credit Card Actions or Settlements (Requires Action)

Merchants who do not wish to participate in the Credit Card Actions and in any approved settlements have to opt out (exclude themselves). The Courts in Quebec and in the common law provinces have approved different rules regarding opting out of the Credit Card Actions and settlements. In practice, Quebec Settlement Class Members have an opportunity to opt out in connection with each round of settlement approval, whereas other Settlement Class Members are given a single opportunity to elect whether to opt out or not. In all cases, once a Settlement Class Member elects to opt out, they are out for good and cannot opt back into the Credit Card Actions.

For most Settlement Class Members, the right to opt out of the Credit Card Actions was previously provided in connection with the approval of some of the Prior Settlements and has now expired. The only Settlement Class Members who can elect to opt out at this time are

- Quebec Settlement Class Members and
- Persons who only began accepting Visa and/or Mastercard Credit Cards after September 4, 2015 (the “New Merchants”).

The deadline for Quebec Settlement Class Members and New Merchants to opt out is **MAY 31, 2018**. Regardless, all Settlement Class Members can still make their views known about the New Settlements as set out above.

## Consequences of Opting Out

### a) for Quebec Settlement Class Members:

By opting out, you are choosing

- 1) **not** to take part in any of the New Settlements,
- 2) **not** to participate in any future settlements reached in the Credit Card Class Action in Quebec, AND
- 3) **not** to participate in the ongoing prosecution of the Credit Card Class Action in Quebec against the other Defendants.

Quebec Settlement Class Members who opt out will not be bound by the New Settlements or the releases in those Settlements, but will also not be entitled to share in any of the proceeds that may become available to merchants as part of those Settlements or any future settlement(s). Quebec Settlement Class Members who opt out will remain bound by the Prior Settlements and the releases in those Settlements, and will be entitled to share in the proceeds that may become available to merchants as part of those Settlements.

### b) for New Merchants:

By opting out, you are choosing

- 1) **not** to take part in any of the Prior Settlements or New Settlements,
- 2) **not** to participate in any future settlements reached in the Credit Card Class Actions, AND
- 3) **not** to participate in the ongoing prosecution of the Credit Card Class Actions.

New Merchants who opt out will not be bound by the Prior Settlements and the New Settlements or the releases in those Settlements, but will also not be entitled to share in any of the proceeds that may become available to merchants as part of those Settlements or other settlement(s).

## Consequences of NOT Opting Out

### a) for Quebec Settlement Class Members:

Quebec Settlement Class Members who **do not opt out** will be bound by the New Settlements and the releases in them, and will be entitled to share in any of the proceeds that may become available to merchants as part of those Settlements. They will have an opportunity to opt out of the ongoing Credit Card Action in Quebec against the other Defendants if and when such action is authorized as a class action against some or all of those remaining Defendants.

b) for New Merchants:

New Merchants who **do not opt out** will be bound by the Prior Settlements and the New Settlements, and the releases in them, and will be entitled to share in any of the proceeds that may become available to merchants as part of those Settlements. They will also participate in the ongoing prosecution of the Credit Card Class Actions in Alberta, Saskatchewan, and Ontario against the remaining Defendants. The right of New Merchants to participate in the ongoing prosecution of the Credit Card Class Action in British Columbia will ultimately be determined by the British Columbia Court in the context of the contested proceedings.

\* \* \*

FOR MORE INFORMATION on the status of the approval hearings or on how to opt out of the Credit Card Actions, comment or object to the New Settlements, or to view any of them and a list of other definitions that apply to this Notice, visit [www.CreditCardSettlements.ca/en](http://www.CreditCardSettlements.ca/en), which will be periodically updated with information on the approval process of the New Settlements and the Credit Card Actions.

\*For communications with the Opt-Out Administrator, Epiq, call +1 (877) 283-6548, email [info@CreditCardSettlements.ca](mailto:info@CreditCardSettlements.ca), or write to the following address:

Credit Card Class Actions Opt-Out Administrator  
P.O. Box 2312  
349 W. Georgia St.  
Vancouver, BC V6B 1Y0

CLASS LAWYERS can be reached at [lawyer@CreditCardSettlements.ca](mailto:lawyer@CreditCardSettlements.ca) and are

- Branch MacMaster LLP at (604) 654-2999 (Luciana Brasil)
- Camp Fiorante Matthews Mogerma LLP at (604) 689-7555 (David Jones)
- Consumer Law Group Inc. (for Quebec residents) at +1 (888) 909-7863 x2 (Jeff Orenstein)

This Notice is approved by the Courts.