

## CLASS ACTION SETTLEMENT AND POTENTIAL CONSULTANTS

If you or your business accepted payment via Visa or MasterCard between January 1, 2004 and November 28, 2012, you may be eligible for a cash award as a result of a pending class action lawsuit. Additionally, you may be approached by consultants who will offer to register you for participation in exchange for a percentage of your award.

### THE SETTLEMENT

MasterCard and Visa recently entered into a settlement exceeding \$6 billion in a class action lawsuit alleging that the providers conspired to charge excessive fees to merchants or vendors in violation of antitrust laws.

The parties to the lawsuit have agreed to a settlement. However, such settlements must receive a court's independent approval. This settlement agreement will be subject to a hearing in September 2013 where the Court will determine if the settlement offer is fair and reasonable to all parties. The Court will then either (1) approve the settlement and begin the process of paying class members' claims; or (2) require the parties to renegotiate a settlement.

Once a settlement is approved by the Court, the claims process will be opened to class members to submit claims. An independent "Class Administrator" will then review each entity or person's claim and determine the estimated award from the settlement fund.

### HOW THIS AFFECTS YOU AND YOUR BUSINESS

If you accepted payment via MasterCard or Visa between January 1, 2004 and November 28, 2012, you are eligible for an award. Notice of the settlement has been sent via mail. You have the following options:

1. Participate in the class action by registering with the Court via a simple online form to receive a payout from the settlement fund;
2. Decline to participate in the class action but elect to pursue your own lawsuit against MasterCard and Defendants for their alleged violations; or
3. Choose not to participate in the class action and forfeit your right to any portion of the settlement fund.

Participation will involve a minor allocation of time to fill out a simple, online pre-registration form and then, upon approval of the settlement by the Court in late 2013, fill out an additional claims form. All of the calculations and estimates of your award will be done by the independent Claims Administrator. Once the Claims Administrator determines the value of your claim, you will be given the option to either (1) accept the payout in the estimated amount; or (2) contest the estimate and provide detailed documentation demonstrating the amount you believe you are entitled to receive.

You may decline to participate in the settlement but pursue your own lawsuit against MasterCard and Visa. Such an option would require legal representation and be a prolonged process. It would be both resource and time intensive, and any potential gains from a separate settlement or judgment would likely be significantly outweighed by the costs of litigation.

You may decline to participate in the lawsuit and decline to claim any payout. This option requires you or your business to take no further action. Doing so will forfeit all of your rights to any payout of the settlement fund, and your portion will then be allotted to other class members who register for a payout or the attorneys who brought the suit.

### APPLICATION TO HEALTH CARE PROVIDERS

Health care providers may rest assured that participation in the class action and receipt of a portion of the settlement will not trigger liability under federal fraud and abuse statutes. However, monetary settlements are likely to have an impact on cost reporting to the federal government and must be recorded appropriately.

### PRE-REGISTRATION

If you elect to participate and receive a payout, it is recommended that you fill out the pre-registration information, which can be found [here](#).

The form is a simple, online registration process that will require provision of information such as your Tax Identification Number, Employer Identification Number and contact information. It will allow timely electronic communication from the Court upon approval of the settlement and will also be used to gather demographic information about potential class members in order to estimate the value of payouts.

## POTENTIAL CONSULTANTS

It has come to Hall Render's attention that our clients who are potential class members are being approached by businesses calling themselves consultants. They are offering to register entities for settlement payouts in return for a percentage of the payout. These consultants appear to be offering to fill out the electronic form with information provided by the client - an exercise of nominal effort after the information gathering is complete. Given the ease and simplicity of class settlement registration in this case, hiring a consultant may not be necessary. Hall Render encourages anyone approached by a potential consultant to contact us if you have any questions about these services.

If you have any questions, would like additional information about this topic or have been contacted by such a consultant, please contact:

- David Honig at (317) 977-1447 or [dhonig@hallrender.com](mailto:dhonig@hallrender.com);
- Drew Howk at (317) 429-3607 or [ahowk@hallrender.com](mailto:ahowk@hallrender.com);
- Chad Wilson at (317) 977-1473 or [cwilson@hallrender.com](mailto:cwilson@hallrender.com); or
- Your regular Hall Render attorney.

If you have any questions about class action lawsuits or other litigation matters, please contact one of Hall Render's commercial litigation shareholders:

- David Honig at (317) 977-1447 or [dhonig@hallrender.com](mailto:dhonig@hallrender.com);
- Kent Smith at (317) 977-1419 or [ksmith@hallrender.com](mailto:ksmith@hallrender.com);
- Tim Feeley at (414) 721-0461 or [tfeeley@hallrender.com](mailto:tfeeley@hallrender.com);
- David French at (248) 457-7813 or [dfrench@hallrender.com](mailto:dfrench@hallrender.com); or
- Your regular Hall Render attorney.