

## FREQUENTLY ASKED QUESTIONS

### GENERAL

**1. What is a class action?**

A class action is a lawsuit in which the claims of many people having a common interest are decided in a single court proceeding.

**2. Can you explain this class action to me?**

The claim is that TD charged undisclosed, inadequately disclosed or unauthorized fees when converting Visa debits and credits incurred in a foreign currency on its Visa cards issued before September 1, 2001 for consumer cards and before June 1, 2003 for commercial cards. TD denies any wrongdoing.

**3. Who is in the class?**

Those persons who are members of the class are all TD customers in Canada who were issued TD Visa cards before September 1, 2001 for consumer cards and before June 1, 2003 for commercial cards, who incurred debits and credits in a foreign currency on their TD Visa cards, who did not opt out of the class action.

**4. Do I have to sign up to be a class member?**

No. You are automatically a class member if you were issued a TD Visa card before September 1, 2001 for consumer cards or before June 1, 2003 for commercial cards, and did not opt out of the class action.

**5. Why does the proposed settlement only apply to TD Visa consumer cards issued before September 1, 2001 and TD Visa commercial cards before June 1, 2003?**

After these dates, TD disclosed all foreign currency charges to new and existing cardholders in the cardholder agreement they received at the time the card was issued. Therefore, the allegation of undisclosed or inadequately disclosed foreign currency charges can only relate to cards issued before September 1, 2001 for consumer cards and June 1, 2003 for commercial cards.

**6. How much is the settlement for?**

TD will pay the sum of \$55 million in full and final settlement of all claims of the class members against it including interest.

**7. When and where will the Fairness Hearing to consider approving the settlement be held?**

The court will decide whether to approve the proposed settlement of \$55 million, the composition of the cardholder group receiving direct compensation, the amounts that will be paid and to whom, and fix the fees, disbursements and taxes to be paid to the plaintiffs' lawyers, at a Fairness Hearing to be held on Friday, April 24, 2009 at 10:00 a.m. at the court house at 361 University Avenue, Toronto, Ontario.

**8. Can I attend?**

Class members who do not oppose the proposed settlement need not appear at the Fairness Hearing or take any other action at this time to indicate their desire to participate in the proposed settlement. Any Class Member who objects to the proposed settlement may attend the Fairness Hearing in person or send a representative.

**9. What should I do if I want to object?**

The court will consider all objections to the proposed settlement by class members, and requests that these objections be sent in writing, by prepaid mail, courier, email or fax on or before April 20, 2009 to:

Sarkis Isaac  
 Howie & Partners  
 3063 Walker Road  
 Windsor ON N8W 3R4  
 tel: 519.250.8663  
 fax: 519.250.1929  
 email: sisaac@howieandpartners.com

**SETTLEMENT DISTRIBUTION**

**10. Will I be eligible to get money from this settlement directly?**

Some class members will be eligible to get money directly, others will not. To be eligible to receive:

- (a) an \$11.23 credit to your Visa account:
  - (i) your TD Visa card must have first been issued before September 1, 2001 for consumer cards, and June 1, 2003 for commercial cards;
  - (ii) your Visa card must be in good standing on June 1 2009;
  - (iii) you must have conducted a transaction (purchase, payment, cash advance, balance transfer or return/credit) on your TD Visa card within the last 3 months prior to June 1, 2009 (i.e. between March 1, 2009 – June 1, 2009); and

- (iv) your TD Visa card must have been used for at least one foreign currency transaction in the period starting from January 1, 1998 to the end of August 31, 2001 or May 31, 2003, as shown in TD's existing electronic records.
- (b) an \$8.66 credit to your TD Visa account,:
  - (i) your TD Visa card must have been issued on or before September 1, 2001 for consumer cards and June 1, 2003 for commercial cards;
  - (ii) your TD Visa card must be in good standing on June 1, 2009 and
  - (iii) you must have conducted a transaction on your TD Visa card (purchase, payment, cash advance, balance transfer or return/credit) in the last 3 months prior to June 1, 2009 (i.e. between March 1, 2009 – June 1, 2009).

**11. How will I benefit from the proposed settlement if I am not eligible for a direct credit?**

Approximately \$28 million dollars will be paid for charitable and public purposes across Canada as approved by the court on behalf of those class members who do not receive a direct credit. These monies will be given to:

- (a) charitable organization(s) to promote financial literacy among youth, disadvantaged and minority groups in Canada; and
- (b) to common law law schools in Canada to promote professionalism and ethical behaviour by practicing lawyers,

so as to benefit the general public, on terms and in a manner to be approved by the court by further order.

**12. What does it mean that my TD Visa card must be in good standing? What does it mean that my TD Visa card must be active?**

A TD Visa card in good standing means that it has not been cancelled, revoked, suspended or written-off, on or before the relevant date (in this case June 1, 2009), and that the person holding the Visa card has not declared bankruptcy.

An active TD Visa card for the purposes of this class action settlement means that there has been a purchase, cash advance, balance transfer, payment, return/credit made on the card in the last 3 months prior to June 1, 2009 (i.e. between March 1, 2009 – June 1, 2009).

**13. What if I have more than one TD Visa card?**

The credits will be to each TD Visa account opened before September 1, 2001 for consumer cards and before June 1, 2003 for commercial cards, that are in good standing on June 1, 2009. If a person had two or more Visa accounts with TD and satisfies the other requirements in respect of each account, he/she/it will receive a credit in respect of each account. If you have more than one card on a single account (for example, a second card for a spouse), you will only receive the credit once.

**14. Why won't all Class Members be reimbursed fees based upon their individual history of foreign currency transactions?**

Because of practical difficulties, it is almost impossible to create individual foreign currency histories for transactions which occurred before 1998 and for some individual transactions after that date. The settlement is a compromise which directly compensates only those current cardholders who are described in answer 10.

**15. Why was the credit amount set at \$11.23 and \$8.66?**

The credit amount was agreed upon by the parties after review of TD's data on the number of cardholders, the global amount of foreign currency transactions in the relevant period and a review of comparable class action settlements, such as, *Gilbert v. CIBC* which paid credits of between \$0.72 and \$14.32 per account depending on the date and type of card held.

**16. Do I have to do something to participate in the settlement?**

You do not have to do anything to participate in the settlement. If the settlement is approved, TD will determine who is eligible for a credit from its internal records kept on its Visa accounts and credit the accounts.

**17. When will the credit appear on my Visa account?**

The distribution will be done as quickly as possible, certainly before July 31, 2009. TD must take the administrative steps required to determine who is entitled to a distribution.

**18. I am not sure whether or not I had a Visa card before September 1, 2001 or before June 1, 2003, or whether I had any foreign currency transactions. How will this be determined?**

TD's records will be used to:

- (a) establish cardholders who have continuously held a TD Visa card issued before September 1, 2001 for consumer cards and June 1, 2003 for commercial cards;
- (b) determine if the Visa card is in good standing and active on June 1, 2009; and
- (c) determine whether a customer is entitled to a credit of \$11.23 or \$8.66.

**19. What will I be able to do if I do not receive a direct credit?**

If you do not receive a direct credit, but believe you satisfy the eligibility requirements, you can challenge TD's decision to a Referee appointed by the court. The Referee will determine if you are eligible to receive a direct credit.

**MISCELLANEOUS****20. Did TD give out my name to anyone?**

No. Your personal information has not and will not be provided to anyone, including the lawyers or the court. TD will determine internally from its computer records those who are entitled to a distribution and credit the appropriate accounts directly.

**21. Do I have to pay fees?**

No. You will not pay any fees to the lawyers. The court will fix the fees, expenses and taxes for the lawyers which amount will be deducted from the \$55 million in settlement funds.

**22. How much are the lawyers asking to be paid?**

The lawyers are asking the court for a fee of 20% of the settlement amount for their services to the class in accordance with the fee agreement between the representative plaintiffs and the lawyers.

**23. I am no longer a TD Visa cardholder but was one during the class periods you mentioned – why am I not receiving any of this settlement?**

Only those TD Visa cardholders described in Question 10 will be entitled to receive a distribution of the settlement funds.

**24. I am a Quebec cardholder and have heard about another class action involving TD and foreign currency transactions in Quebec (known as Marcotte). What does this settlement mean to me?**

We cannot provide you with information about that Quebec class action. You must contact the plaintiffs' counsel (Trudel & Johnston) for further details by emailing them at [info@trudeljohnston.com](mailto:info@trudeljohnston.com). \*Note: This is different than the contact information for the class action suit referenced in this document below.

**25. How do I find out the results of the Fairness Hearing?**

The results will be posted on the website [www.tdvisaaction.com](http://www.tdvisaaction.com).

**26. What if I have further questions?**

If you still have questions, you can contact Sutts, Strosberg LLP by email at [tdvisaaction@strosbergco.com](mailto:tdvisaaction@strosbergco.com) or by telephone at 866.374.7644.