

NOTICE OF PROPOSED SETTLEMENT

Markson v. MBNA Canada Bank

**TO: All Current and Former MBNA Canada Bank
and CUETS Financial Credit Card Customers**

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

The Claim

An action on behalf of all Canadian cardholders was commenced in 2003 against MBNA Canada Bank, now BofA Canada Bank (the “Defendant”). It was certified as a class proceeding by court order dated May 2, 2007.

The claim alleges that in certain circumstances when cardholders repaid cash advances and the cash advance fees in full, the Defendant may have received interest from cardholders that exceeded an effective annual interest rate of 60%, in breach of s. 347 of the Criminal Code of Canada, and that the Defendant may have been unjustly enriched and breached its cardholder agreements with the Class. The claim also sought an order prohibiting the Defendant from receiving interest in excess of an effective annual rate of 60% in the future.

The Claim was limited in time up to March 12, 2008.

Under the terms of the proposed Settlement, the Claim will be expanded to include the time up to November 30, 2011.

Who this Notice is for:

You are a member of the Class if you live anywhere in Canada and:

The Original Class

1. you had an MBNA credit card issued by the Defendant on which cash advances could be taken at any time up until March 12, 2008, and you did not already opt out of this class action on or before April 30, 2008 (“**Original Class Member**”).

The Proposed Expanded Class

You are a member of the Proposed Expanded Class if you live anywhere in Canada and:

2. you had an MBNA credit card issued by the Defendant at any time between March 12, 2008 and November 30, 2011 on which cash advances could be taken (“**New Class Member**”); or

3. you had a credit card issued by CUETS Financial, a division of the Defendant, or CUETS Financial Ltd. (“CUETS Financial”) between January 1, 2009 and November 30, 2011 on which cash advances could be taken. (“**New Class Member**”)

A Settlement of the Claim is Proposed

A Settlement of the expanded Claim has been reached between the representative plaintiff, Stephen Markson, and the Defendant. The Settlement is a compromise of the disputed claims.

The Defendant does not admit any wrongdoing or liability.

The Settlement must be approved by the Court before it will become effective.

Nothing in this proposed Settlement is intended to constitute a release of the claims asserted in any class action already commenced against MBNA in the Province of Québec.

Settlement Approval Hearing Date

The Ontario Superior Court of Justice will decide whether to approve the proposed Settlement and will decide how much will be paid to Class Counsel for fees, disbursements and taxes from the Settlement Fund.

October 11, 2012

The Settlement Approval Hearing will be held **on October 11, 2012 at the Courthouse 361 University Avenue, Toronto, ON**, commencing at 10:00.

Class Members are welcome to attend at the hearing, but they are not required to attend.

TERMS OF THE PROPOSED SETTLEMENT

If approved, the Settlement will expand the Class to include the New Class Members in addition to the Original Class Members.

The Defendant has agreed to pay \$8 million into a Settlement Fund.

Legal Fees to be paid from the Settlement Fund

The lawyers for the Class (“Class Counsel”) will ask the court to approve payment of their fees equal to 30% of the Settlement Fund, in the amount of \$2.4 million, as well as disbursements and taxes. The court-approved fees of Class Counsel, including the disbursements and taxes, as well as a payment to the Class Proceedings Fund to reimburse it for disbursements that it has paid plus 10% of the net settlement amount will be deducted from the Settlement Fund.

Partial payment to Charity

In lieu of monetary compensation to Class Members who do not currently have an active MBNA credit card, \$500,000 will be paid to the Law Foundation of Ontario Access to Justice Fund.

Credits will be Applied to Some Cardholders’ Accounts

After deduction of the legal fees and the payments to the Law Foundation, the remainder of the Settlement Fund will be paid to each Original Class Member and each New Class Member in equal shares as a partial reimbursement of cash advance fees so long as they:

a) have an open and active MBNA credit card account on the date the payment is to be made (the “Distribution Date”) and they took at least one cash advance between January 1, 2005 and November 30, 2011; or

b) have an open and active CUETS Financial credit card account on the Distribution Date and took at least one cash advance between January 1, 2009 and November 30, 2011; and

otherwise meet the Searchability Criteria as defined in the Settlement Agreement.

The partial refund of cash advance fees paid will appear as a credit on the eligible Class Members’ MBNA or CUETS Financial credit card account.

The complete terms and conditions of the proposed Settlement are available to be viewed at: www.mbnaclassaction.ca or: www.kmlaw.ca/MBNAclassaction

No Cost to the Class Members

There will be no cost to you to participate in the Settlement, and you do not have to complete any forms. The only compensation Class Counsel will receive is the amount of legal fees that are approved by the Court. Class Counsel will be seeking approval of the contingency fee agreement it has with the representative plaintiff. That agreement provides for a contingency fee of 30% of the Settlement Fund to be paid to Class Counsel (\$2.4 million), along with reimbursement of all disbursements and taxes. The court must approve the payment of any legal fees before they are paid to Class Counsel.

Objections to the Proposed Settlement

Class Members who do not oppose the proposed Settlement do not need to take any action.

You may make written comments about the Settlement, or deliver a written objection to the Settlement. Any such correspondence should be directed to:

MBNA Class Action
c/o Paliare Roland LLP
155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1

All correspondence should be sent by no later than October 3, 2012 and any correspondence received by October 10, 2012 will be brought to the attention of the Court.

In addition, any Class Member, including any proposed New Class Member, who objects to the terms of the proposed Settlement may attend at the October 11, 2012 Settlement Approval Hearing in

person or they may send a representative to explain to the Court what their objections to the Settlement are. If you wish to attend at the Settlement Approval Hearing you must provide brief written submissions to Class Counsel by no later than October 3, 2012.

CLASS COUNSEL: Any questions about the matters in this notice should be addressed to Class Counsel.

The certification order and Settlement Agreement are available on the websites www.mbnaclassaction.ca or www.kmlaw.ca/MBNAclassaction or may be obtained by calling: 1-877-309-9111

Requests for information or questions for Class Counsel should be directed to:

MBNA Class Action
Paliare Roland LLP
155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1
e-mail: info@mbnaaction.ca.

INTERPRETATION: If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.