

Upon consideration of the motion for Preliminary Approval of the Settlement Agreement, and the settlement contemplated thereby, and all memoranda, affidavits and other papers and arguments submitted with respect thereto;

NOW, it is hereby ORDERED as follows:

1. This Court has jurisdiction over the subject matter of the Consolidated Action and over all Parties to the Consolidated Action, including, without limitation, the members of the Settlement Classes.

2. In conjunction with the proposed settlement, the Court hereby grants Plaintiffs leave to file, and accepts for filing, and deems filed and served on all Defendants, the Third Amended Complaint for settlement purposes only.

3. The Court hereby approves the following persons as Representative Plaintiffs of the Settlement Classes pursuant to Rule 23 of the Federal Rules of Civil Procedure, and finds that, for settlement purposes only, these Representative Plaintiffs have and will fairly and adequately protect the interests of the Settlement Classes: S. Byron Balbach, Jr., Jeanne H. Balbach, Woodrow W. Clark, Leslie Cooper, Cherie R. Donald, Andrea Kune, Pamela Meyerson, Michael H. Oshry, Camille LaPlaca-Post, Herve Senequier, Robert Ross, Randal Wachsmuth, Jeffrey Zakem, Kayta George, David Shrieve, Tara Rado, Anthony Ralphs, David Ultan, Shannon Mattingly, and Timur Nusratty.

4. The Court hereby also approves the following law firms as Settlement Classes Counsel pursuant to Rule 23 of the Federal Rules of Civil Procedure, and finds that, for settlement purposes only, these Settlement Classes Counsel have and will fairly and adequately protect the interests of the Settlement Classes:

Berger & Montague, P.C.; and Lerach Coughlin Stoia Geller Rudman & Robbins LLP.

5. The Court hereby certifies, for settlement purposes only, the following Settlement Classes: A Settlement Damages Class, pursuant to Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure, and a Settlement Injunctive Class, pursuant to Rule 23(a) and Rule 23(b)(2) of the Federal Rules of Civil Procedure, in lieu of the currently certified classes, and defined as follows:

SETTLEMENT DAMAGES CLASS: all Persons who or which were holders of United States-issued MasterCard- or Visa-branded Credit or Debit Cards or United States-issued Diners Club-branded Credit Cards and made a Foreign Transaction from February 1, 1996 to the date of Preliminary Approval; and

SETTLEMENT INJUNCTIVE CLASS: All Persons who or which were holders of United States-issued MasterCard- or Visa-branded Credit or Debit Cards or United States-issued Diners Club-branded Credit Cards as of the date of Preliminary Approval.

Provided, however, that Defendants are not members of the Settlement Classes.

The Court hereby finds and orders that, by not objecting to the certification of these Settlement Classes, and by taking other steps to negotiate, execute and implement the Settlement Agreement, Defendants and each of them are not in any way waiving other rights, if any, they may have to require arbitration of any Claims, including, but not limited to rights, if any, they may have (a) to require arbitration of any of the Released Claims if Final Settlement Approval does not occur or if the Settlement Agreement terminates prior to Final Settlement Approval, or (b) as to any Person who timely and properly opts out of the Settlement Damages Class as permitted by the Court. In addition, neither certification of the Settlement Classes for settlement purposes only, nor any other act relating to the negotiation, execution or implementation of the Settlement

Agreement, shall be considered as a factor in connection with any class certification issue(s) if the Settlement Agreement terminates or Final Settlement Approval does not occur. The Court further finds that if Final Settlement Approval does not occur or if the Settlement Agreement terminates prior to Final Settlement Approval, any Person retains the ability, if any, to oppose or challenge any claim of arbitration rights on any grounds other than any claim of waiver relating to certification of the Settlement Classes or any other act relating to the negotiation, execution or implementation of the Settlement Agreement.

6. The Court hereby preliminarily approves the Settlement Agreement, and the settlement contemplated thereby, as being a fair, reasonable and adequate settlement as to all members of the Settlement Classes within the meaning of Rule 23 of the Federal Rules of Civil Procedure, approves the establishment and funding of the Settlement Fund under the Court's jurisdiction, and directs the Parties to proceed with said settlement pursuant to the terms and conditions of the Settlement Agreement and exhibits thereto, subject to this Court's authority to determine whether to finally approve said settlement.

7. The Court hereby finds and orders that the proposed Class and Settlement Notice Plan (attached as Exhibit G to the Settlement Agreement), including, but not limited to, the proposed mailed Notice of Pendency and Settlement of Class Action, the proposed Agency/Company Notice, and the proposed Publication Notice (respectively attached as Exhibits 1, 2 and 3 to the Class and Settlement Notice Plan), and both the contents of and plans for dissemination for said Notices to the Settlement Classes, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the

requirements of due process, are the best notice practicable under the circumstances to the members of the Settlement Damages Class, provide individual notice to all members of the Settlement Damages Class who or which can be identified through reasonable effort, and provide Publication Notice to members of the Settlement Damages Class and Settlement Injunctive Class. The Court further approves the proposed Claim Form (attached as Exhibit 4 to the Class and Settlement Notice Plan). The Court hereby directs that the Notice of Pendency and Settlement of Class Action, the Agency/Company Notice, the Publication Notice, and the Claim Form be provided by Plaintiffs to the members of the Settlement Classes in accordance with the terms and conditions of the Class and Settlement Notice Plan; provided that the Parties, by agreement, may revise the Notices, Claim Form and other exhibits in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy. The Court directs (1) the Bank Defendants to issue Statement Insert Notice in a billing cycle that begins within 140 days after the entry of this order, (2) the Bank Defendants to submit information to the Claims Administrator for purposes of Stand Alone Mailings within 30 days after the conclusion of the billing cycle in which each such Bank Defendant sends Statement Insert Notice, (3) the Claims Administrator to issue Stand Alone Mailings within 45 days of receipt by the Claims Administrator of the information referenced in subsection (2) of this paragraph, and (4) the Claims Administrator and/or Settlement Classes Counsel to cause Publication Notice to be disseminated beginning in the week or month in which the Claims Administrator issues Stand-Alone Mailings, consistent with the terms of the Class and Settlement Notice Plan.

8. The Defendants have timely filed notifications of this settlement with the appropriate state and federal officials pursuant to the Class Action Fairness Act of 2005 (“CAFA”), Pub. L. No. 109-2, 119 Stat. 4, 7-8 (2005). These notifications apprised the appropriate officials that, in connection with the approval of this settlement, the Defendants would seek certification from this Court that their respective notifications complied with any applicable CAFA requirements. The Court has reviewed such notifications and accompanying materials and finds that the Defendants’ notifications comply fully with any applicable requirements of CAFA.

9. Heffler, Radetich & Saitta, L.L.P. is hereby appointed Claims Administrator to supervise and administer the settlement notice and claims process, as more fully set forth in the Settlement Agreement.

10. The Court preliminarily determines that the Plan of Administration and Distribution, attached as Exhibit H to the Settlement Agreement, fairly and adequately addresses the matters of settlement administration and claims submission, and allocation of monetary payments among Settlement Damages Class Members.

11. The Settlement Fund, including the Gross Settlement Fund and Net Settlement Fund, shall be deemed and considered to be in custodia legis of the Court, and shall remain subject to the jurisdiction of the Court. No funds may be disbursed from the Gross Settlement Fund or Net Settlement Fund unless expressly authorized by the terms of the Settlement Agreement, and, where required by the Settlement Agreement, expressly approved in advance by the Court. No less frequently than once a quarter, Settlement Classes Counsel and the Claims Administrator shall together file a written report with the Court detailing the nature, amount and recipients of all Settlement Notice

and Administration Costs expended, paid or incurred, together with supporting documentation.

12. Settlement Damages Class Members who or which want to seek payment from the Settlement Fund in accordance with the Plan of Administration and Distribution shall complete and submit a Claim Form in accordance with the instructions contained therein. Unless the Court orders otherwise, Claim Forms must be submitted no later than [_____], which deadline shall be set forth in the Notices.

13. Any member of the Settlement Damages Class who or which does not submit a Claim Form or file an objection to the settlement shall have the right to opt out of the Settlement Damages Class by sending a written request for exclusion from the Settlement Damages Class to the addresses listed in the Notices, postmarked no later than [_____], which deadline shall be set forth in the Notices. Exclusion requests by non-natural Persons must: (A) include that Person's full legal name, current address and taxpayer identification number; (B) include all account numbers of that Person's Credit Card and/or Debit Card accounts for which that Person is a member of the Settlement Damages Class; (C) include an affirmation, under penalty of perjury, from an authorized representative of that Person (1) as to whether or not that Person is a co-brand or affinity contractual counterparty to any Defendant Releasee or Member Releasee, and, if so, separately identify the accounts included in respect of Subsection (B) of this Section 13 that relate to that co-brand or affinity program, and (2) that that Person has advised any and all joint account holders on any of the account(s) included in respect of Subsection (B) of this Section 13 that that Person is excluding that account(s) from the Settlement Damages Class; and (D) include the following statement from such authorized

representative: “On behalf of [the non-natural Person], I request that [that Person] be excluded from the Settlement Damages Class in the Consolidated Action in In re Currency Conversion Fee Antitrust Litigation, MDL No. 1409. I affirm under penalty of perjury that: I have listed [that Person’s] full name, current address, taxpayer identification number, and all account numbers of [that Person’s] Credit Card and/or Debit Card accounts in relation to which [that Person] is a member of the Settlement Damages Class, I have certified that [that Person] is/is not a co-brand or affinity contractual counterparty to any Defendant Releasee or Member Releasee, [and, if it is such a counterparty, I have separately identified the accounts that relate to that co-brand or affinity program from the account numbers of [that Person’s] Credit Card and/or Debit Card accounts in relation to which [that Person] is a member of the Settlement Damages Class], and I have advised any joint account holders on any of the account numbers of [that Person’s] Credit Card and/or Debit Card accounts in relation to which [that Person] is a member of the Settlement Damages Class that [that Person] is taking this action and that that account(s) will not be entitled to any payment.”

14. Exclusion requests by natural Persons must: (A) be signed by that member of the Settlement Damages Class; (B) include that Person’s full name and current address; (C) include all account numbers of that Person’s Credit Card and/or Debit Card accounts for which that Person is a member of the Settlement Damages Class, or that Person’s complete social security number; (D) include an affirmation, under penalty of perjury, that that Person has advised any and all joint account holders on any such account(s) that that Person is excluding the account(s) from the Settlement Damages Class; and (E) include the following statement: “I request to be excluded from the

Settlement Damages Class in the Consolidated Action in In re Currency Conversion Fee Antitrust Litigation, MDL No. 1409. I affirm under penalty of perjury that: I have listed my full name, current address, all account numbers of my Credit Card and/or Debit Card accounts in relation to which I am a member of the Settlement Damages Class (or, in the alternative, have provided my complete social security number), and I have advised any joint account holders on such accounts that I am taking this action and that such account(s) will not be entitled to any payment.”

15. No request for exclusion will be valid unless all of the information described above is included. If a timely and valid request for exclusion is made by a member of the Settlement Damages Class, then no payment shall be made with respect to any account(s) of such Person. Settlement Classes Counsel and Defendants shall use such opt out information only for purposes of determining and/or establishing whether a Person has timely and properly opted out of the Settlement Damages Class as permitted by the Court, and shall, absent further court order, redact any social security and account number(s) before providing a request for exclusion to any non-Party (including, without limitation, any filing with the Court), other than the issuing Member(s) that issued the respective account(s).

16. All Settlement Damages Class Members (whether or not a Claimant or Authorized Claimant, and whether or not he/she/it submits a Claim Form), and all members of the Settlement Injunctive Class (whether or not a Settlement Damages Class Member), shall be bound by all determinations and judgments concerning the Settlement Agreement and the settlement contemplated thereby. Within twenty (20) business days after the Court-ordered deadline for timely and properly opting out from

the Settlement Damages Class, Settlement Classes Counsel shall provide to counsel for Defendants a list or electronic file of the names, applicable addresses, and applicable account numbers of the members of the Settlement Damages Class who or which have timely and properly opted out of the Settlement Damages Class as permitted by the Court, as well as the total number of such Persons and of their applicable accounts.

17. All further proceedings in the Litigation (including, but not limited to, any existing discovery obligations) are ordered stayed until Final Settlement Approval or termination of the Settlement Agreement, whichever occurs earlier, except for those matters necessary to obtain and/or effectuate Final Settlement Approval.

18. All Settlement Damages Class Members, and any Person actually or purportedly acting on behalf of any Settlement Damages Class Member(s), are stayed and enjoined from commencing, instituting, continuing, pursuing, maintaining, prosecuting or enforcing any Released Claim (including, without limitation, in any individual, class or putative class, representative or other action or proceeding), directly or indirectly, in any judicial, administrative, arbitral, or other forum until Final Settlement Approval or termination of the Settlement Agreement, whichever occurs earlier; provided, that this stay and injunction shall not apply to individual claims of any member of the Settlement Damages Class who has timely and properly opted out from the Settlement Damages Class as permitted by the Court. For avoidance of doubt, nothing herein shall prevent any Settlement Damages Class Member, or any Person actually or purportedly acting on behalf of any Settlement Damages Class Member(s), from taking any actions to stay and/or dismiss any Released Claim(s). This stay and injunction is necessary to protect and effectuate the Settlement Agreement, and the settlement

contemplated thereby, this Preliminary Approval Order, and the Court's flexibility and authority to effectuate the Settlement Agreement and to enter Final Judgment when appropriate, and is ordered in aid of this Court's jurisdiction and to protect its judgments.

19. The Court hereby schedules a hearing on entry of a Final Judgment and Order of Dismissal (the "Fairness Hearing") for _____, 200____ at 10:00 a.m. in Courtroom 11D at the Daniel Patrick Moynihan United States Courthouse for the Southern District of New York. At the Fairness Hearing the Court will also consider: whether the settlement on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and adequate and should be approved by the Court; whether the proposed Plan of Administration and Distribution should be approved; the amount of attorneys' fees and expenses that should be awarded to Plaintiffs' Co-Lead Counsel; and whether the requested service awards to Representative Plaintiffs should be awarded, and, if so, the amounts of such awards.

20. The date and time of the Fairness Hearing shall be set forth in, inter alia, the Notice of Pendency and Settlement of Class Action, the Agency/Company Notice, and the Publication Notice. The Court reserves the right to adjourn or continue the date of the Fairness Hearing without further notice to the members of the Settlement Classes, and retains jurisdiction to consider all further applications arising out of or in connection with the Settlement Agreement. At or after the Fairness Hearing, the Court may approve or reject the Settlement Agreement without further notice to members of the Settlement Classes.

21. Any application by Settlement Classes Counsel for attorneys' fees and expenses, or for awards to the Representative Plaintiffs, shall be filed with the Court and served on or before _____, 2007.

22. The issues of any application by Settlement Classes Counsel for a Fee and Expense Award, and/or awards to the Representative Plaintiffs, and the allocation of the Net Settlement Fund among Authorized Claimants, shall be heard on the same date and at the same time as scheduled for the Fairness Hearing. Those matters shall be considered and determined by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of this Settlement Agreement, and the settlement contemplated thereby.

23. Any Settlement Classes Member who or which wants to object to the approval of the Settlement Agreement, and the settlement contemplated thereby, the allocation of the Net Settlement Fund among Authorized Claimants, the application by Settlement Classes Counsel for an award of attorneys' fees and reimbursement of expenses, or the application by Settlement Classes Counsel for awards to the Representative Plaintiffs, may do so, either personally or through an attorney, by filing a written notice of objection, together with any supporting written or documentary materials with the Clerk of the Court on or before _____, 2007. Any such written notice of objection must include (a) documents sufficient to show that (i) the Person is a member of the Settlement Injunctive Class, if such objections pertain or otherwise relate to the Settlement Injunctive Class, or (ii) the Person is a Settlement Damages Class Member, if such objections pertain or otherwise relate to the Settlement Damages Class; (b) a detailed statement of such Settlement Classes Member's specific

objections to any such matter; and (c) the grounds for such objections, as well as all documents which such Person desires the Court to consider. This written objection must also be served by hand, overnight mail, or via certified mail, return receipt requested, postmarked no later than _____, 2007, on Settlement Classes Counsel as set forth in the Notice. Settlement Classes Counsel shall promptly, and in any event within one business day after receipt, provide copies of such written objections to counsel for Defendants. Any Settlement Classes Member who or which does not make his, her, or its objection in the manner provided for herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed settlement contemplated by the Settlement Agreement, the issue of the allocation of the Net Settlement Fund among the Authorized Claimants, or the issues of any Fee and Expense Award and awards to Representative Plaintiffs. Any Settlement Classes Member who or which has timely submitted and served a written objection in accordance with the foregoing may formally appear at the Fairness Hearing either in person or through an attorney, and be heard to the extent the Court in its discretion deems appropriate at that time, provided that, at the time of filing of his, her, or its written objection, such Settlement Classes Member also files a notice of intention to appear together with his, her or its written objection.

24. All supplemental papers in support of the settlement contemplated by the Settlement Agreement, the allocation of the Net Settlement Fund among the Authorized Claimants, and the issues of any applications by Settlement Classes Counsel for a Fee and Expense Award and/or awards to the Representative Plaintiffs, and any

responses to objections, shall be filed with the Court and served on or before twenty-one (21) days prior to the Fairness Hearing.

25. None of the Defendant Releasees and Member Releasees shall have any liability or responsibility whatsoever with regard to the maintenance, preservation, investment, use, allocation, adjustment, distribution, and/or disbursement of any amount in the Gross Settlement Fund or the Net Settlement Fund.

26. The Settlement Agreement (including, without limitation, its exhibits), and any and all negotiations, documents and discussions associated with it, shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, regulation or principle of common law or equity, of any liability or wrongdoing, by any of the Defendants, or of the truth of any of the Claims, and evidence relating to the Settlement Agreement shall not be discoverable or used, directly or indirectly, in any way, whether in the Consolidated Action or in any other action or proceeding, except for purposes of demonstrating, describing, implementing or enforcing the terms and conditions of the Settlement Agreement, this Order and/or the Final Judgment and Order of Dismissal.

27. In the event that any of the provisions of this Preliminary Approval Order is asserted by any Defendant Releasee or Member Releasee as a defense in whole or in part to any Claim, or otherwise asserted (including, without limitation, as a basis for a stay) in any other suit, action, or other proceeding brought by a Settlement Damages Class Member or any Person actually or purportedly acting on behalf of any Settlement Damages Class Member(s), that suit, action or other proceeding shall be immediately stayed and enjoined until the Court has entered an order or judgment finally determining

any issues relating to such defense or assertion and no further judicial review of such order or judgment is possible. Solely for purposes of such suit, action, or other proceeding, to the fullest extent they may effectively do so under applicable law, the Parties irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of the Court, or that the Court is, in any way, an improper venue or an inconvenient forum. This section 27 is necessary to protect and effectuate the Settlement Agreement, this Order, and this Court's flexibility and authority to effectuate the Settlement Agreement, and is ordered in aid of this Court's jurisdiction and to protect its judgments.

28. If for any reason the Settlement Agreement terminates before Final Settlement Approval, then the filing of the Third Amended Complaint and the certification of the Settlement Damages Class and Settlement Injunctive Class shall be deemed vacated, and the operative complaint in the Consolidated Action shall be the Second Consolidated Amended Class Action Complaint filed on August 15, 2003, and the classes certified in the Consolidated Action shall be those certified in this Court's October 15, 2004 Order, as modified by this Court's March 9, 2005, June 16, 2005, and December 7, 2005 Orders, subject to any further judicial review, requests for further judicial review, and/or further decisions by the Court or the Second Circuit, and the certification of the Settlement Damages Class and the Settlement Injunctive Class for settlement purposes shall not be considered as a factor in connection with any subsequent class certification issues. In that event, the Parties shall return to the status quo ante in the Consolidated Action, without prejudice to the right of any Defendant to assert any

right or position that it could have asserted if this Settlement Agreement had never been reached or proposed to the Court.

SO ORDERED this _____ day of _____, 2006.

Hon. William H. Pauley III
United States District Judge