

To: Merchants in the U.S. and its Territories
From: Visa Inc.
Date: August 15, 2011
Re: U.S. Department of Justice Settlement – Important Changes to Merchant Acceptance Practices

In October 2010, Visa announced a settlement with the U.S. Department of Justice (DOJ) and several state attorneys general to resolve antitrust investigations into Visa's merchant acceptance rules in the United States. On July 20, 2011, the court approved the settlement and entered final judgment in the case. The final judgment is available at www.justice.gov/atr/cases/f273100/273170.pdf. We're writing to inform you of the changes Visa has made to its rules, effective July 20, 2011, and to describe certain merchant acceptance practices that are now permitted and that may assist you in better managing your costs associated with accepting payment cards. The text of Visa's revised rules is available at http://usa.visa.com/merchants/operations/op_regulations.html.

Visa's Operating Regulations already allowed merchants to steer customers to other forms of payment and offer discounts to customers who choose to pay with cash, check, or PIN debit. Following the settlement, U.S. Merchants may steer customers to use a particular network brand, such as Visa or MasterCard; to a type of payment card, such as a "non-reward" credit card; or to another preferred form of payment. U.S. Merchants may also encourage a customer who initially presents a Visa card to use a payment card with a different network brand, a different type of payment card, or a different form of payment. Merchants may engage in any of the following steering activities:

- Offering a customer a discount or rebate, including an immediate discount or rebate at the point of sale;
- Offering a free or discounted product;
- Offering a free or discounted or enhanced service;
- Offering the customer an incentive, encouragement or benefit;
- Expressing a preference for the use of a particular brand or type of general purpose card or a particular form of payment;
- Promoting a particular brand or type of general purpose card or a particular form or forms of payment through posted information, through the size, prominence or sequencing of payment choices, or through other communications to a customer;
- Communicating to a customer the reasonably estimated or actual costs incurred by the merchant when a customer uses a particular brand or type of general purpose card or a particular form of payment or the relative costs of using different brands or types of general purpose cards or different forms of payment; or
- Engaging in any other practices substantially equivalent to these.

Visa also revised its rules regarding the size, color, and prominence of the Visa mark displayed at the point of sale for U.S. Merchants. Under Visa's revised rules, a U.S. Merchant is not required to display the Visa mark in a size as large as other payment marks. U.S. Merchants may promote acceptance brands other than Visa through the size, prominence, or sequencing of payment choices.

The rule changes enhance merchants' ability to manage the costs associated with accepting electronic payments. However, the merchant must continue to respect a cardholder's ultimate decision to pay with Visa: the settlement does not impact merchants' existing obligation to accept for payment properly presented Visa cards, including rewards cards. Surcharging of Visa cards and steering among Visa cards based on the issuing bank are not permitted. Merchants must ensure that their steering practices are not performed in a confusing manner.

Acquirers are permitted to provide to their U.S. Merchants or agents information regarding the costs or fees a merchant would incur in accepting a Visa card, including BIN information and other product-identifying data. In addition, Visa's Product Eligibility Inquiry Service messages can help merchants electronically identify the card product type. Introduced in 2006, product identification messages give merchants accurate, real-time information at the point of sale about the type of card presented (e.g., a reward credit card) for all U.S. consumer and commercial card programs. The same information is also provided in every Visa authorization response message for U.S.-issued cards. Your acquirer can provide more information about electronic identification of card products.

Acquirers are prohibited from adopting or enforcing rules, agreements, or practices with respect to U.S. Merchants' acceptance of Visa cards that Visa would be prohibited from adopting or maintaining under the final judgment.

If you have any questions regarding this settlement, please contact your acquirer.

Notice of MasterCard Rules Changes

As a result of the consent decree and final judgment that was entered between MasterCard and the Department of Justice, MasterCard agreed to modify Rule 5.11.1 “Discrimination” in the United States as follows:

A Merchant may request or encourage a customer to use a payment card with an acceptance brand other than MasterCard or other form of payment or a Card of a different product type (e.g., traditional cards, premium cards, rewards cards) than the Card the consumer initially presents. A merchant may do so by methods that include, but are not limited to:

- a. offering the customer an immediate discount from the Merchant’s list, stated, or standard price, a rebate, a free or discounted product or service, or any other incentive or benefit if the customer uses a particular payment card with an acceptance brand other than MasterCard or other particular form of payment;
- b. offering the customer an immediate discount from the Merchant’s list, stated, or standard price, a rebate, a free or discounted product or service, or any other incentive or benefit if the customer, who initially presents a MasterCard, uses instead another payment card or another form of payment;
- c. Expressing a preference for the use of a particular payment card or form of payment;
- d. promoting the use of a particular general purpose payment card with an acceptance brand other than MasterCard or the use of a particular form or forms of payment through posted information, through the size, prominence, or sequencing of payment choices, or through other communications to customers (provided that merchants will abide by the MasterCard trademark standards relating to the display of its marks); or
- e. communicating to customers the reasonably estimated or actual costs incurred by the Merchant when a customer uses particular payment cards or forms of payment or the relative costs of using different general purpose payment cards or forms of payment.

Consistent with the modified rule, merchants are free to engage in the POS practices that are described above, or any other substantially equivalent practices. Acquirers are prohibited from adopting or enforcing rules or agreements with respect to U.S. merchants that are contrary to the foregoing rules.

Electronic copies of the MasterCard final judgment can be found at www.justice.gov/atr/cases/f273100/273170.pdf.