



**May 14, 2024**

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### **Budget Passed; Skill Games Still Up in the Air**

Yesterday, senators and delegates returned to Richmond and passed a compromise two-year budget, which was signed by Governor Youngkin in the afternoon. The two sides were able to reach a consensus after it was revealed that state revenue growth would be sufficient to fund Democratic spending priorities without new taxes. The special session recessed rather than adjourned, and there is substantial speculation that they may return next month to address skill games. How that will play out is anyone's guess, but we will keep you informed of new developments.

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EMA Legal Reminder: [VISA/MasterCard Settlement Administrator Accepting Claims Forms](#)

*From EMA*

After the VISA/MasterCard case was filed over 18 years ago, and over 5 years since the court approved the September 18, 2018 Class Settlement Agreement, the Class Administrator of the \$5.5 billion payment card interchange fee settlement fund has mailed out claim forms to retailers/marketers who may be eligible for a share of the Settlement Fund.

1. CLAIMANTS must have accepted VISA and/or MasterCard as payment for their sales of goods or services between January 1, 2004 and January 25, 2019. Claim Forms must be submitted by May 31, 2024. If you received a Claim Form in the mail and want to file a claim online using the Claimant ID provided, please click the "Submit a Claim" button" at this link: <https://www.paymentcardsettlement.com/en>.
2. Branded marketers should submit a claim, for branded sales, even though there is currently a dispute about whether they or their branded supplier is entitled to recover the settlement share for credit card sales through their branded supplier's respective systems. As previously reported by the Energy Marketers of America (EMA), a Special Master has been appointed by the court to hear appeals from denials of eligibility, such as claim denials based on the alleged status of branded retailers as indirect payers.

3. THE CLAIMS The actual claim amount, per \$ of sales approved, will be calculated after the Claims Administrator calculates the total amount of the Claims submitted. If you receive a claim form in the mail, fill it out and return it to the Settlement Administrator in accordance with the instructions on the form using the assigned Claim ID number. If your claim is denied, you will be able to bring it before the Special Master for review. If you did not receive a form, you can access the settlement website below and enter your Tax ID number (TIN) to find out whether the Settlement Administrator considers you eligible at <http://www.paymentcardsettlement.com/en/Login>.

While EMA has not secured the procedures to be utilized by the Special Master, a determination of ineligibility obtained by accessing the above-referenced login information should be sufficient as a denial of your claim to warrant an appeal to the Special Master.

Please note that the "Court Approved Claim Form" is only 1 page long. Other than claimant identification, it only contains one substantive question. It requires a claimant to fill in the blank for "Class Period (Jan.1 2004-Jan. 25, 2019) Interchange Fees Paid." Marketers should not need any assistance in completing or filing their claims. A fund this large attracts firms who think of inventive ways to obtain some of the settlement. We have heard from several marketers who have received solicitations to assist with their claims due to the anticipated long delay until payout. Given that this case was filed in 2005, the time until payout is unknown but it will likely be lengthy. Marketers may of course choose their own path but should understand that filing their claim form is simple.

If your claim is denied on the ground that you are an "indirect payer," and you wish to lodge an appeal, you may want to first seek guidance from your attorney, although you are free to file your appeal without attorney assistance. The primary basis for any such appeal would be that you are, in fact, a direct payer of the interchange fees paid on each card transaction.

Comments and/or Questions? Please Contact EMA General Counsel: Bob Bassman, [bbass@bmalaw.net](mailto:bbass@bmalaw.net) or Al Alfano [aalfano@bmalaw.net](mailto:aalfano@bmalaw.net).

## **Welcome New Member**

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