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Merchants May Get Lump-Sum Payout in Debit Card Suit

By JENNIFER BAYOT

The nation's retailers may receive money from the settlement of a lawsuit involving debit cards from Visa U.S.A. and MasterCard International sooner than they had expected, according to agreements announced yesterday.

The original settlement plans, disclosed in April, called for payment of \$3 billion over 10 years, but the retailers are allowed to look for a financial institution that would pay or raise the money immediately in exchange for the rights to the payments over the next decade, lawyers said yesterday.

The lump sum would be less than \$3 billion, however, to reflect the greater value of receiving all of the money at once.

In addition, Visa and MasterCard have agreed to make their databases of debit card transactions available, allowing retailers to determine exactly how much each merchant is

owed.

The agreements, filed in Federal District Court in Brooklyn for preliminary approval, otherwise repeat or expand on provisions made public when Visa and MasterCard agreed to settle with the retailers in April.

The settlements stemmed from a class-action lawsuit filed in 1996 by Wal-Mart Stores Inc., Sears, Roebuck & Company and a handful of other large retailers, which contended that Visa and MasterCard had violated antitrust laws by forcing merchants to accept their debit cards if they wanted to accept their credit cards.

Debit card transactions that are routed through Visa's or MasterCard's networks typically cost merchants 10 times what transactions routed through competing networks do.

Under the terms of the settlements, made just as the case was about to go to trial, Visa and MasterCard agreed to no longer require merchants to accept both types of

cards, and their networks will lower the fees they charge merchants for debit card transactions beginning in August.

"At the end of the day, these changes in market structure will drive the use of debit cards" up, said Craig Peckham, an analyst with Jefferies & Company, a brokerage firm in New York.

But banks that issue Visa or MasterCard debit cards stand to lose considerable income as a result of the settlement, Mr. Peckham said. In 2002, debit transactions handled by Visa and MasterCard earned banks \$4.76 billion in revenue.

Visa and MasterCard predicted that few retailers would refuse their debit cards, especially after receiving price breaks and the settlements. "We don't believe they want to lose the sales," said Noah Hanft, MasterCard's general counsel.

Mallory Duncan, general counsel for the National Retail Federation, said that retailers planned to use the money — \$2 billion from Visa and \$1

billion from MasterCard — to compete more aggressively. "If their competitive edge is in providing discounts, they're going to provide better discounts," he said. "Others are going to use the money to upgrade their service."

Lloyd Constantine, a lawyer for the retailers, estimated that the average merchant would receive a few hundred dollars under the settlement and that the lump-sum payouts would save the retailers close to \$100 million in administrative costs that would otherwise reduce the amount of the settlement.

The agreement that Visa signed yesterday also spells out how the company's debit cards will be reissued to make them distinct from its credit cards, allowing merchants to identify them more easily and to reject them if they choose. MasterCard has yet to decide how it will reissue its debit cards.

Final approval of the agreements is expected in September, Mr. Constantine said.