

December 21, 2012

To: Merchants in the U.S. and U.S. Territories

From: MasterCard Worldwide

Re: Merchant Point-of-Interaction Practices for Surcharging

Notice of MasterCard Rules Changes

As a result of the U.S. merchant class settlement agreement that was executed on 19 October 2012 and preliminary approved by the U.S. District Court on 27 November 2012, MasterCard will make changes to certain of its rules and practices affecting merchants in the United States. The class settlement agreement also obligates Visa to make similar modifications of its rules and practices. The rule changes, which will take effect on 27 January 2013, are summarized below. A detailed description of the MasterCard rule changes and other information relevant to those rule changes can be found at www.mastercardmerchant.com.

Brand-level Surcharge Rules on Credit (not Debit) Cards

Merchants will be able to charge an extra fee to all customers who pay with MasterCard—branded credit cards. This is called a brand-level surcharge, and it is allowed if the surcharge:

- is the same for all MasterCard credit cards, regardless of the card's issuer;
- is no more than the lesser of the merchant's average MasterCard merchant discount rate (calculated historically or based on the previous month) or the maximum surcharge cap, which will be posted on MasterCard's websites at www.mastercardmerchant.com.

For merchants that accept other brands of credit payment networks, such as American Express, Discover, PayPal, or Visa, there are other requirements that depend on whether those brands enforce surcharge restrictions and the costs of those brands to the merchant.

- If the merchant accepts a competing brand of credit card that is as or more expensive than MasterCard, and that competing brand limits the merchant's ability to surcharge, the merchant may surcharge MasterCard credit cards only in the same way as the merchant would be allowed to surcharge the competing brand's cards or on the terms on which the merchant actually surcharges the competing brand's cards.
- If the merchant accepts a competing brand of credit card that prohibits or effectively prohibits the merchant from surcharging in a particular channel of commerce (i.e., either face-to-face or non-face-to-face), the merchant may not surcharge MasterCard cards unless it also surcharges the competing brand's cards regardless of the cost of that brand to the merchant. The amount of the surcharge on the competing brand must at least equal the lesser of: the cost to accept the competing brand, or the surcharge imposed on MasterCard cards.

Exception: A merchant may individually negotiate an agreement with the competing brand to waive or limit its ability to surcharge that brand, if that agreement fulfills the terms set out in the surcharge rule modifications that can be found at www.mastercardmerchant.com.

Product-level Surcharge Rules on Credit (not Debit) Cards

A merchant that does not wish to surcharge all MasterCard credit cards may instead impose a surcharge on a particular MasterCard credit card product, such as World Elite MasterCard®. The amount of the surcharge must not be more than the merchant's cost to accept the particular MasterCard credit card product, minus the Durbin Amendment's cap on debit-card interchange fees. The surcharge must be the same for all transactions on the particular MasterCard credit card product, regardless of the card's issuer. For merchants that accept credit cards issued by competing brands, there are requirements similar to the brand level surcharge rules summarized above.

Merchant Notification and Disclosure Obligations Concerning the Surcharge Amount

A merchant's ability to apply either a Brand-level or Product-level Surcharge is conditioned on the merchant's satisfaction of certain disclosure requirements. These disclosure requirements include advance notice to both

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MasterCard and the merchant's acquirer of the merchant's intention to impose a surcharge no less than thirty days before the merchant implements a surcharge, and clear disclosure to the merchant's customers of the merchant's surcharging practices at the point of interaction. In addition, the merchant must disclose the dollar amount of the surcharge on the transaction receipt provided by the merchant to its customers. A detailed description of the merchant disclosure requirements and a link for a merchant to notify MasterCard of its intent to surcharge can be found at www.mastercardmerchant.com. Nothing in the changes to MasterCard's rules described above affects any obligation of a merchant to comply with applicable state or federal laws, including but not limited to state laws regarding surcharging of credit transactions, and federal and state laws regarding deceptive or misleading disclosures. However, the fact that a merchant's ability to surcharge may be restricted under the laws of one or more states is not intended to limit that merchant's ability under the settlement to surcharge Visa or MasterCard credit cards where permitted by state law.

Additional MasterCard Rules and Policies Impacted by Settlement

All Outlets: Merchants may accept MasterCard cards at fewer than all of the merchant's "trade names" or "banners" if the merchant operates multiple businesses under different trade names or banners.

Buying Groups: Merchants that form buying groups that meet certain criteria may make proposals to MasterCard about card acceptance on behalf of the group's members. If MasterCard believes that the group's proposal "provides reasonable commercial benefits to the parties," it must negotiate with the buying group and decide, in "good faith," whether or not to make an agreement with the group. Information concerning how a buying group could contact MasterCard to initiate such negotiations can be found at www.mastercardmerchant.com.

Additional Information

In addition to the MasterCard Web site previously identified, all these rule changes are set forth in full in the Settlement Agreement, which appears on the Web site: www.PaymentCardSettlement.com.

For More Information

Customers with questions about this article may access the MasterCard Web site at www.mastercard.com for additional information or contact Customer Operations Services using the Contact Information in this bulletin.