

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,)	
STATE OF CONNECTICUT,)	
STATE OF IOWA,)	
STATE OF MARYLAND,)	
STATE OF MICHIGAN,)	
STATE OF MISSOURI,)	Civil Action
STATE OF OHIO, and)	No. CV-10-4496
STATE OF TEXAS)	
)	
Plaintiffs,)	(Garaufis, J.)
)	(Pollak, M.J.)
v.)	
)	
AMERICAN EXPRESS COMPANY,)	
AMERICAN EXPRESS TRAVEL)	
RELATED SERVICES COMPANY, INC.,)	
MASTERCARD INTERNATIONAL)	
INCORPORATED, and VISA INC.)	
)	
Defendants.)	
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**PLAINTIFF’S NOTICE OF THE APPLICABILITY OF
THE ANTITRUST PROCEDURES AND PENALTIES ACT
TO THE PROPOSED FINAL JUDGMENT**

In this civil antitrust case, the United States has filed a proposed Final Judgment with respect to defendants MasterCard International, Inc. (“MasterCard”) and Visa, Inc. (“Visa”), which is subject to the requirements of the Antitrust Procedures and Penalties Act (“APPA”), 15 U.S.C. §16(b)-(h), as more fully described below.

Applicable Law. The Court’s consideration of the proposed Final Judgment is governed by the APPA, which requires that certain steps be taken before the Court may enter the proposed Final Judgment.

Partial Settlement. Only MasterCard and Visa have reached a settlement with the United States. Defendants American Express Company and American Express Travel Related Services Company, Inc. (collectively “American Express”) are not parties to the proposed Final Judgment and therefore the United States will proceed to litigate its case against American Express.

Competitive Impact Statement. Today, the United States filed a Competitive Impact Statement (“CIS”) complying with the APPA’s requirement that, when a proposed consent judgment is filed, a CIS explaining the nature of the case and the proposed relief must also be filed. *See* 15 U.S.C §16(b).

Description of Communications. Within ten days after the proposed Final Judgment is filed, the APPA requires a settling defendant to file a description of certain communications with the government. *See* 15 U.S.C §16(g).

Publication and Public Comment Period. The APPA also requires that the United States publish the proposed Final Judgment and the CIS in the Federal Register and cause to be published a summary of the proposed Final Judgment and the CIS in certain newspapers. *See* 15 U.S.C. §16(b)&(c). After the completion of the Federal Register and newspaper publications, at least 60 days must elapse to allow time for the public to submit comments to the United States regarding the proposed Final Judgment and for the United States to respond. The APPA further provides that, at the close of the period for comments, the United States shall publish its response to comments received in the Federal Register and also file its response to comments with the Court. *See* 15 U.S.C. §16(d).

Certificate of Compliance; Motion for Entry of Judgment. After all of the APPA’s requirements have been met by the parties, the United States will file with the Court a motion for

entry of the proposed Final Judgment that includes a Certificate of Compliance with the APPA. Thereafter, the Court may enter the proposed Final Judgment, after determining compliance with Fed. R. Civ. P. 54(b), and if it concludes that, pursuant to 15 U.S.C. §16(e)-(f), entry of the judgment is in the public interest.

Respectfully submitted,

FOR PLAINTIFF
THE UNITED STATES OF AMERICA

/s/

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MICHAEL G. DASHEFSKY
JUSTIN M. DEMPSEY
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