

Notice of Class Action Settlement – Capital One ATM Balance Inquiry Fees

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UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NOTICE REGARDING CLASS ACTION SETTLEMENT

A federal court authorized this notice. This is not a solicitation from a lawyer.

A Settlement has been reached in a class action lawsuit claiming that Capital One, N.A. (“Capital One”) breached its contract with accountholders and improperly assessed and collected fees when accountholders used a non-Capital One ATM to check an account balance. Capital One maintains it did nothing wrong; however, it has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right. You can read the [Settlement Agreement](#) and other important documents on the Settlement Website at www.ATMBalanceInquiryFeeSettlement.com.

Who’s Included?

Capital One’s records show you are a member of the Settlement Class. The Settlement Class means all current and former Capital One accountholders who were charged an Out of Network ATM Balance Inquiry Fee during the Class Period, which varies by the state in which a Settlement Class Member’s account was established as follows:

- (a) For Settlement Class Members whose accounts were established in Louisiana: the period from April 6, 2008 to June 30, 2020;
- (b) For Settlement Class Members whose accounts were established in Connecticut, New York, and New Jersey: the period from April 6, 2012 to June 30, 2020;
- (c) For Settlement Class Members whose accounts were established in Virginia: the period from April 6, 2013 to June 30, 2020;
- (d) For Settlement Class Members whose accounts were established in Texas: the period from April 6, 2014 to June 30, 2020; and
- (e) For Settlement Class Members whose accounts were established in the District of Columbia, Maryland, and Delaware: the period from April 6, 2015 to June 30, 2020.

Excluded from the Settlement Class are (1) Capital One, its parents, subsidiaries, affiliates, officers and directors; (2) all Settlement Class Members who exclude themselves from the Settlement; and (3) all judges assigned to this litigation and their immediate family members.

What is an Out of Network ATM Balance Inquiry Fee? An Out of Network ATM Balance Inquiry Fee or “OON Balance Inquiry Fee” means the fee Capital One charged accountholders when using a non-Capital One ATM to check an account balance. This Settlement does not relate to fees charged for cash withdrawals from a non-Capital One ATM.

What are the Settlement Terms?

A cash Settlement Fund of \$13 million dollars has been established to pay (1) Settlement Class Member Payments; (2) attorneys’ fees (of up to 30% of the Settlement Fund), costs, and expenses; (3) Class Representative Service Awards; and (4) Administrative Costs. Current and former Capital One customers who incurred at least one OON Balance Inquiry Fee may be eligible for a Settlement Class Member

Payment (in the form of a check or account credit) from the Settlement Fund. The amount of each Settlement Class Member Payment will be based on the number of Settlement Class Members and the amount of OON Balance Inquiry Fees each Settlement Class Member incurred. You do not have to do anything to receive your benefit.

Capital One will determine whether Settlement Class Members receive account credit or a check. If you receive a check, it will be mailed to and made payable to the name and address on record with Capital One and/or the United States Postal Service's National Change of Address database.

Your Other Options.

If you do not want to be bound by the Settlement, you must exclude yourself by October 26, 2020. If you exclude yourself, you cannot get money or a credit from this Settlement. Alternatively, if you do not exclude yourself, you may object to the Settlement by October 26, 2020. If you do not exclude yourself, you will release your claims against Capital One. The [Long Form Notice](#) available upon request and at the [Settlement Website](#) listed below explains how to exclude yourself or object. The Court will hold a hearing at 10:00 am PT on January 11, 2021, at the United States District Court for the Southern District of California, located at 333 West Broadway, Suite 420, San Diego, CA 92101, to consider whether to approve the Settlement, a request by Class Counsel for attorneys' fees, a request by Class Counsel for costs and expenses for litigating the case, and a request by the Class Representatives for Service Awards of up to \$10,000 each. You may appear at the hearing, but you do not have to. You may hire your own attorney, at your own expense, to appear or speak for you at the hearing.

This email provides limited information about the Settlement. For more information:

www.ATMBalanceInquiryFeeSettlement.com

1-888-716-1219

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