

## SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into between the United States of America, acting through the Civil Division of the United States Department of Justice and the American Express Company (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. The American Express Company (American Express) is a bank holding company and global financial services corporation based in New York, New York. American Express, through its subsidiaries, sells and issues charge and credit payment card products as well as wire transfer products. American Express’s subsidiaries include American Express National Bank, a federally insured financial institution.

B. The United States contends that it has civil claims against American Express arising under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”), 12 U.S.C. §1833a. The United States contends that these civil claims are predicated on American Express’s violations of 18 U.S.C. § 1341 (mail fraud) and 18 U.S.C. § 1343 (wire fraud) affecting a federally insured financial institution, and 18 U.S.C. § 1005 (bank entries, reports and transactions). These civil claims are based on American Express’s credit card sales practices, recordkeeping practices, and wire transfer sales practices arising from the following allegations (collectively, the “Covered Conduct”):

(1) From 2014 through March 2017, American Express, through the conduct of employees of its outbound telemarketing component, Commercial Acquisition Group (CAG), allegedly deceptively marketed credit cards to small

businesses. CAG salespeople made misrepresentations to prospective customers, including false statements about the card rewards and fees, or whether credit checks would be done without the customers' consent. Additionally, as part of the process of qualifying small businesses to obtain credit cards, CAG salespeople submitted falsified financial information for prospective customers, such as overstating a business's income.

(2) When a bank is opening an account, banking regulations require the bank to obtain and record employer identification numbers (EINs) if the card recipient is a corporation or partnership, but not a sole proprietor. During the course of 2015 and the first half of 2016, American Express employees allegedly entered "dummy" employer identification numbers (such as "123456788") for certain small businesses applying to acquire credit cards to replace an American Express co-branded credit card that was being discontinued during that time period. American Express allowed these dummy EINs to remain on the credit card accounts of American Express for up to two years before remediating the problem, despite knowing that many such small business customers were corporations and partnerships, and that banking regulations required American Express to acquire EINs before approving these applications. American Express knew that many of these small business applicants had previously acquired American Express-issued co-brand cards without providing their EINs in applying for such cards. The applications for the discontinued co-brand card stated that EINs were required to open accounts for partnerships and corporations, but if the applicants left the EIN line blank, American Express would assume they were sole proprietors. That

practice exacerbated the effects of American Express's failure to enter proper EINs when it sold these customers replacement cards. The United States contends that American Express engaged in these practices to deceive its federally insured financial institution into allowing certain small business customers to acquire American Express credit cards without the required EINs.

(3) From 2018 through 2021, American Express employees allegedly deceptively marketed wire transfer products known as Payroll Rewards and Premium Wire to small business customers, making false assertions regarding these products' tax benefits. As to both products, American Express allegedly would wire money for an above-market fee that was far in excess of that offered by competitors in the marketplace, and award the business or the business owners credit card membership reward points. American Express sales employees allegedly told customers that the wire transfer fees were tax deductible as business expenses, while the reward points earned on the transaction were not taxable, and thereby afforded the customer tax-free benefits. At no time did American Express consult tax professionals to discern whether these statements relied on accurate tax advice. In fact, these statements did not. The above-market wiring fee was not deductible as an ordinary and necessary business expense insofar as it was incurred by a customer solely for the purpose of generating a personal benefit. This was not disclosed to customers and it would have negated the purpose of using the products.

C. This settlement agreement is neither an admission of any facts or liability or wrongdoing by American Express nor a concession by the United States that its claims

are not well-founded. Except as to admissions made in connection with the criminal action referenced in the next paragraph, American Express denies the United States' allegations in Paragraph B.

D. Simultaneously with executing this agreement, American Express is entering into a Non-Prosecution Agreement (NPA) with the United States Attorney's Office for the Eastern District of New York to resolve the criminal investigation of violations of 18 U.S.C. § 1343 (wire fraud) and 18 U.S.C. § 1349 (conspiracy), arising out of American Express's illegal practices in connection with Payroll Rewards and Premium Wire (as defined in the NPA) (hereinafter referred to as the Criminal Action).

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. American Express shall pay a civil monetary penalty under FIRREA in the amount of One Hundred and Eight Million and Seven Hundred Thousand dollars (\$108,700,000.00), plus simple interest accrued on the unpaid amount not subject to the credit described in Paragraph 1.b. below at a rate of 4.00% per annum from January 13, 2025 (Settlement Amount) to the United States as follows:

- a. Payment shall be made by electronic funds transfer no later than 14 days after the Effective Date of this Agreement pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice.

- b. American Express will receive a credit toward the satisfaction of this penalty in the amount of Thirty Million Three Hundred and Fifty Thousand (\$30.35 million) if it makes a full payment of the forfeiture and fine amounts due under the NPA.
  - c. The entirety of the Settlement Amount is a civil monetary penalty recovered pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act (“FIRREA”), 12 U.S.C. § 1833a.
2. Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, and conditioned upon the United States’ receipt of the Settlement Amount due under Paragraph 1, the United States releases The American Express Company and its subsidiaries from any civil or administrative monetary claim the United States has for the Covered Conduct under Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. § 1833a.
3. Notwithstanding the release given in Paragraph 2 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:
- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
  - b. Any criminal liability;
  - c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, or any administrative remedy, including the suspension and debarment rights of any federal agency;

- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals.

4. American Express waives and shall not assert any defenses American Express may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

5. American Express fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that American Express has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of American Express, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement and by the NPA described in Paragraph D above;

- (2) the United States' audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement;
- (3) American Express's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and criminal investigation(s) in connection with the matters covered by this Agreement and the NPA described in Paragraph D above (including attorneys' fees);
- (4) the negotiation and performance of this Agreement and the NPA described in Paragraph D above;
- (5) the payment American Express makes to the United States pursuant to this Agreement and the NPA described in Paragraph D above,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by American Express, and American Express shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, American Express shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by American Express or any of its subsidiaries or affiliates from the United States. American Express agrees that the United States, at a

minimum, shall be entitled to recoup from American Express any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine American Express's books and records and to disagree with any calculations submitted by American Express or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by American Express, or the effect of any such Unallowable Costs on the amount of such payments.

7. This Agreement is intended to be for the benefit of the Parties only.

8. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

9. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

10. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of New York. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

11. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.



12. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

13. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

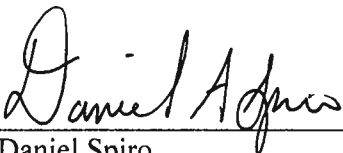
14. This Agreement is binding on American Express's successors, transferees, heirs, and assigns.

15. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

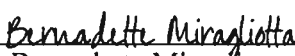
16. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 1/16/2026

BY:   
Daniel Spiro  
Mary Beth Hickox-Howard  
Attorneys  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

American Express

DATED: 1/15/2025 BY:   
Bernadette Miragliotta  
Executive Vice President & Managing Counsel

DATED: 1/15/2025 BY: 

Jonathan Tuttle  
Courtney Dankworth  
Debevoise & Plimpton LLP  
Counsel for American Express