

## **BANK OF MONTREAL CLASS ACTIONS**

### **NOTICE OF SETTLEMENT APPROVAL HEARINGS AND OPT-OUT**

**This notice is to any person who is a current or former client of Bank of Montreal and whose personal information was impacted as a result of a data breach affecting Bank of Montreal announced on or about May 27, 2018.**

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

CLASS ACTIONS COMMENCED IN ONTARIO AND QUEBEC HAVE BEEN SETTLED

In 2018, a class action was commenced in each of Ontario and Quebec against Bank of Montreal (“**BMO**”) in respect of a data breach announced on May 27, 2018 (the “**Incident**”) that exposed the personal information of certain BMO clients (the “**Class Actions**”).

This notice applies to all current or former clients of BMO as at May 27, 2018 whose Personal Information (as defined in the Settlement Agreement, described below) was impacted as a result of the Incident (the “**Class Members**”).

The parties to the Class Actions have reached a proposed settlement (the “**Settlement Agreement**”) subject to obtaining the approval of the courts of Ontario and Quebec (the “**Courts**”). The Settlement Agreement provides that BMO will pay \$12,757,540.00 in non-refundable settlement funds, and up to an additional \$8,465,535.00 in funds subject to claims by affected BMO clients, in full and final settlement of all claims of the Class Members (the “**Settlement Benefits**”). BMO has also agreed to maintain its existing commitment to reimburse all Class Members for any unauthorized transaction carried out in their accounts with BMO as a direct result of the Incident. The Settlement Benefits includes all legal fees, disbursements, and taxes (“**Class Counsel Fees**”). In return for the Settlement Benefits, BMO will receive a release from all Class Members, a dismissal of the Ontario Action and a declaration of settlement out of court of the Quebec Action.

The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of BMO, which has disputed, and continues to dispute, the allegations advanced in the Class Actions.

### **CERTIFICATION OF THE CLASS ACTIONS**

As part of the terms of the Settlement Agreement, the Actions have been certified by the Court in Ontario and authorized by the Court in Quebec, respectively, as Class Actions.

The Class Members are:

Any person who is a current or former client of BMO whose Personal Information was impacted as a result of the Data Breach announced on or about May 27, 2018. (“**Class**” or “**Class Members**”).

If you are not sure whether or not you are a member of the Class, you should speak to Class Counsel whose addresses are provided below.

## CLASS MEMBERS' ENTITLEMENTS

BMO has identified 113,151 of its clients whose Personal Information was affected by the Incident:

- 3,195 BMO clients had their Personal Information, including date of birth and SIN, accessed and posted online (“**Group 1**”);
- 59,750 BMO clients had their Personal Information, including date of birth and SIN, accessed but not posted online (“**Group 2**”);
- 50,206 BMO clients had their Personal Information, but not including their date of birth and SIN, accessed but not posted online (“**Group 3**”); and
- 3,566 BMO clients experienced unauthorized transactions in their accounts as a result of the Incident (“**Group 4**”).

Each of the Class Members in Group 4 is also a member of one of Groups 1, 2 or 3.

The \$12,757,540.00 in non-refundable Settlement Funds - Fixed will, after Class Counsel Fees are deducted from that sum, be distributed to the Class Members in Groups 1, 2 and 4.

The \$8,465,535.00 in funds subject to claims by Class Members (the Settlement Funds – Claimable) will, after Class Counsel Fees are deducted from that sum, be distributed to the Class Members in Groups 1, 2 and 3 in accordance with the claims made by the Class Members.

Each Group 1 Class Member will be entitled to a \$1,000.00 payment (from which Class Counsel Fees will be deducted), and will be able to apply for additional amounts for up to 3.5 hours of lost time (at \$18.00/hr.), if they spent in excess of 20 hours to secure their Personal Information following the Incident. For example: If you spent a total of 23 hours changing banking passwords, direct debit and deposit information, and speaking with representatives of BMO on the phone, you will be entitled to a total of \$1,054.00 (from which Class Counsel Fees will be deducted). If you spent 20 hours or less on such activities, you will receive \$1,000.00 (from which Class Counsel Fees will be deducted).

Each Group 2 Class Member will be entitled to a \$144.00 payment (from which Class Counsel Fees will be deducted), and will be able to apply for additional amounts for up to 3.5 hours of lost time (at \$18.00/hr.), if they spent in excess of 8 hours to secure their Personal Information following the Incident. For example: If you spent a total of 11 hours changing banking passwords, direct debit and deposit information, and speaking with representatives of BMO on the phone, you will be entitled to a total of \$198.00 (from which Class Counsel Fees will be deducted). If you spent 8 hours or less on such activities, you will receive \$144.00 (from which Class Counsel Fees will be deducted).

Each Group 3 Class Member will be entitled to apply for amounts for up to 5 hours of lost time (at \$18.00/hr.) if they spent time securing their Personal Information following the Incident. For example: If you spent a total of 5 hours changing banking passwords, direct debit and deposit information, and speaking with representatives of BMO on the phone, you will be entitled to a total of \$90.00 (from which Class Counsel Fees will be deducted).

Each Group 4 Class Member will be entitled to a \$270.00 payment (from which Class Counsel Fees will be deducted), for lost time associated with their own efforts to address unauthorized transactions in their account(s). If you are also in Group 1, 2 or 3 you are entitled to this amount in addition to any amounts you may be entitled to as a member of those groups.

The following chart illustrates the fixed and claimable amounts available to the members of each Group:

<b>Claimant Group</b>	<b>Settlement Funds - Fixed per Claimant</b>	<b>Settlement Funds - Claimable per Claimant by Applying</b>
<b>Group 1</b>	\$1,000.00 (minus Class Counsel Fees)	Up to \$63.00 (minus Class Counsel Fees) for those who spent over 20 hours addressing issues arising from the Incident.
<b>Group 2</b>	\$144.00 (minus Class Counsel Fees)	Up to \$63.00 (minus Class Counsel Fees) for those spent over 8 hours addressing issues arising from the Incident.
<b>Group 3</b>	N/A	Up to \$90.00 (minus Class Counsel Fees) for those who spent time addressing issues arising from the Incident.
<b>Group 4</b>	\$270.00 (minus Class Counsel Fees)	N/A

#### **IF YOU DO NOT WISH TO PARTICIPATE IN THIS CLASS ACTION**

Class Members who wish to participate in the Class Actions do not need to do anything at this time. They are automatically included in the Class Actions.

Any Class Member who does not wish to participate in the Class Actions and who therefore chooses to “opt-out” of the Class Actions will not be entitled to participate further in the Class Actions, or to share in the distribution of funds received as a result of the Settlement Agreement. Those who opt-out will not be bound by the releases provided to BMO.

Any Class Member who wishes to opt-out of the Class Actions must do so by sending a written opt-out form, signed by the Class Member, stating that he/she opts out of the Class Actions. The opt-out form appears as Appendix ‘A’ to this Notice. It can also be obtained from Class Counsel.

A completed opt-out form must be sent to Class Counsel by email no later than **February 10, 2021** or by courier postmarked no later than **February 5, 2021**. For Quebec residents, the opt-out form must also be sent to the court office by the same deadline.

No Class Member will be permitted to opt-out of the Class Actions after **February 10, 2021**. If you opt-out of the Class Actions, and if you wish to seek to proceed with a personal legal claim, you will take full responsibility for initiating your own lawsuit against BMO and for taking all legal steps necessary to protect your claim, if you wish to proceed with a claim.

## **SETTLEMENT APPROVAL HEARINGS WILL BE HELD IN OTTAWA, ONTARIO AND MONTREAL, QUEBEC**

Before the Settlement Agreement can be implemented, it must be approved by both Courts.

Class Members who reside outside of Quebec may, but are not required to, attend at the Settlement Approval Hearing which will be held on **February 19, 2021 at 10 am** at the court house at 161 Elgin Street, Ottawa, Ontario.

Class Members who reside in Quebec may, but are not required to, attend at the Settlement Approval Hearing which will be held on **February 23, 2021 at 9:30 am** at the court house at 1, Notre-Dame East street, Montreal, Quebec, in room 1.156.

In the event that the COVID-19 pandemic necessitates that the motions be heard electronically, or by other alternative means, the means by which Class Members may attend at the Settlement Approval Hearings will be posted on the web sites of Class Counsel.

Class Members who do not oppose the proposed Settlement Agreement do not need to appear at any hearing or take any other action to indicate their desire to support the proposed Settlement Agreement.

## **CLASS COUNSEL FEES**

In addition to seeking the Courts' approval of the Settlement Agreement, Class Counsel (as identified below) will seek the approval of their legal fees, in an amount equal to 25% of the Settlement Benefits, plus disbursements and applicable taxes. Class Counsel will also seek approval of a plan for distributing the Settlement Benefits, minus Class Counsel Fees (the "**Net Settlement Funds**") to Class Members (the "**Distribution Plan**").

## **CLASS MEMBERS MAY OBJECT TO THE SETTLEMENT**

***As a Class Member, if you are unhappy with the terms of the Settlement Agreement, you have a right to object.***

If you wish to comment on, or make objection to, the approval by the Courts of the Settlement Agreement, the Distribution Plan or Class Counsel Fees, you must provide notice in writing of your intention to do so. All such notice must be submitted to Class Counsel (at the addresses listed below) no later than February 10, 2021. Class Counsel will forward all such submissions to the appropriate Court and to Counsel for BMO. You may attend at the appropriate Settlement Approval Hearing whether or not you deliver an objection. In the event that the current COVID-19 pandemic necessitates that the motions be heard electronically, or by other alternative means, the means by which Class Members may attend at the appropriate Settlement Approval Motion will be posted on the web sites of Class Counsel.

A written objection should include the following information:

- (a) The objector's name, address, telephone number, fax number (where applicable) and email address;
- (b) A brief statement outlining the nature of, and reason for, the objection; and
- (c) A statement as to whether the objector intends to appear at the settlement approval hearing in person or by legal counsel and, if by legal counsel, the name, address, telephone number, fax number and email address of such legal counsel.

#### **PROPOSED DISTRIBUTION OF THE NET SETTLEMENT AMOUNT**

If approved, the Net Settlement Funds will be distributed to Class Members who are authorized claimants in accordance with the Distribution Plan, which, in general terms, will provide that:

- (a) in order to be eligible to receive compensation pursuant to the Settlement Agreement, you must be a Class Member.
- (b) a Claims Administrator will determine whether a Class Member is entitled to receive compensation from the Net Settlement Funds, and in what amount, pursuant to the Settlement Agreement and the Distribution Plan (“**Authorized Claimant**”).
- (c) each Class Member’s actual compensation from the Net Settlement Funds will be calculated in accordance with the Distribution Plan.

If the Settlement Agreement is approved by both Courts, all Class Members (but not clients who have formally opted-out of the Actions) will be bound by the terms of the Settlement Agreement. This means that they will not be able to bring or maintain any other claim or legal proceeding against BMO in relation to the claims advanced in the Class Actions.

**If the settlement is approved, another notice to Class Members will be mailed which will provide instructions on how to make a claim to receive compensation from the Settlement Agreement.**

A copy of the Settlement Agreement and of the Distribution Protocol may be found at the websites of Class Counsel.

#### **INTERPRETATION**

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**QUESTIONS ABOUT THE PROPOSED SETTLEMENT SHOULD BE DIRECTED TO CLASS COUNSEL**

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**Appendix 'A'**

**OPT-OUT FORM**

**BANK OF MONTREAL CLASS ACTIONS**

**TO: Class Counsel**

I, \_\_\_\_\_ (insert full name), have received notice of the proposed settlement of the Bank of Montreal Class Actions.

I believe that I am a Class Member.

I was a client of Bank of Montreal on May 27, 2018, and my Personal Information was impacted as a result of the Data Breach that occurred on or around that date.

I do NOT wish to participate in the Bank of Montreal Class Actions.

I understand that by opting out of the Class Actions, I will not be eligible for any benefit that may be available to the Class upon resolution of this matter.

I understand that, if I wish to seek to pursue any remedy against the Bank of Montreal with respect to the Data Breach, I must do so on my own.

Dated the \_\_\_\_ day of \_\_\_\_\_, 202\_\_

\_\_\_\_\_  
(signature)

Insert Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number:

\_\_\_\_\_

Email Address:

\_\_\_\_\_

In order to validly opt out, you must complete and send this opt out form by email no later than **February 10, 2021** or by courier postmarked no later than **February 5, 2021** to one of the Class Counsel.

**If you are a Québec resident, you also must send this opt out form to :**

**Greffier de la Cour supérieure du Québec**

Palais de justice de Montréal

Dossier no : 500-06-000944-187

1 rue Notre-Dame Est, salle 1.120

Montréal, Québec H2Y 1B6