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Department of the Treasury

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LEGEND

Parent =

Target =

Target Sub =

Country X Target Shareholder =

Country Y Target Shareholder =

Country Z Target Shareholder =

Joint Venture =

New Parent =

Merger Sub =

principal members =

State A =

Business A =

Business B =

Business C =

Business D =

Business E Brand =

Country W =

Country X =

Country Y =

Country Z =

Region A =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

Transition Period =

Transition Date =

Date 1 =

Date 2 =

Date 3 =

Dear

This letter responds to Parent's authorized representative's letter dated July 5, 2001, requesting certain rulings under §§ 368 and 351 of the Internal Revenue Code of 1986, as amended (the "Code"), with respect to a series of proposed transactions. Additional information was received in letters dated October 11, 2001, November 21, 2001, January 9, 2002, January 22, 2002, April 2, 2002, April 9, 2002, and May 7, 2002. The material information submitted is summarized below.

Parent, a State A non-stock membership corporation, is the common parent of an affiliated group of corporations that files a consolidated federal income tax return. Parent is engaged in Business A operations worldwide, including in Region A. As a non-stock corporation, Parent is owned by its principal members, which, under Parent's organizational documents, have voting rights in Parent and rights to share in the proceeds of a liquidation of Parent ("Equity Rights"). In the past, principal members' Equity Rights have been adjusted annually based on a formula.

Parent and its principal members enter into licensing arrangements that permit the principal members to conduct Business B under Parent brands. Principal members' rights as licensees ("Licensee Rights") are embodied in Parent's organizational documents, in policies, rules and regulations promulgated by Parent, and in individual license agreements with Parent. Parent also has non-principal "affiliate" members, which have no Equity Rights and which conduct Business B operations through affiliation with principal members. Parent earns revenues by charging its members transaction fees and assessments.

Target is a Country W corporation. Target conducts Business A in Region A. Target's capital stock is owned by approximately a shareholders. Parent, which owns b% of Target's stock, conducts its Business A operations in Region A through a

strategic alliance with Target. Under the alliance, Parent has granted exclusive licensing rights in Region A for certain Parent brands, and Target is responsible for conducting certain aspects of Parent's Business A operations in Region A. Except for Country X Target Shareholder and Country Z Target Shareholder, all of Target's shareholders are, or will be at the time of the proposed transactions, principal members of Parent that will be treated as Region A principal members for purposes of the proposed transactions.

Country X Target Shareholder is a Country X corporation that owns approximately c% of Target's stock. Country X Target Shareholder is not a principal member of Parent; however, all of the shareholders of Country X Target Shareholder are, or will be at the time of the proposed transactions, principal members of Parent.

Country Y Target Shareholder is a Country Y corporation that owns approximately c% of Target's stock. Country Y Target Shareholder is a principal member of Parent.

Country Z Target Shareholder is a Country Z company that owns approximately d% of Target's stock. Country Z Target Shareholder is not, and is not eligible to become, a principal member of Parent. As described below, Country Z Target Shareholder will not participate in the proposed transactions on the same basis as other Target shareholders.

Target Sub is a Country W corporation that is owned 85% by Target and 15% by Parent. Target Sub is engaged in Business C in Region A.

Joint Venture is a State A stock corporation owned 50% by each of Parent and Target. Joint Venture was formed for the purpose of conducting Business D.

For what are represented to be valid business reasons, Parent has determined that it will convert to a holding company structure and, through the holding company, acquire, directly and indirectly, the shares of Target stock not already owned by Parent. To effectuate the foregoing, Parent proposes the following transactions:

- (i) Nominees of Parent have organized New Parent, a State A stock corporation.
- (ii) Nominees of New Parent have organized Merger Sub, a State A non-stock membership corporation.
- (iii) New Parent will purchase for \$e in cash (plus transaction expenses) all of the shares of Target stock owned by Country Z Target Shareholder.
- (iv) New Parent will purchase for approximately \$f in cash g shares of the Target stock owned by Country Y Target Shareholder.

- (v) Parent will amend its organizational documents to create “class A memberships” and a single “class B membership” (the “Recapitalization”). Class A memberships will include that part of the Licensee Rights embodied in Parent’s organizational documents (“New Licensee Rights”). The single class B membership will include all current Equity Rights in Parent (including an explicit right to receive dividends) (“New Equity Rights”).
- (vi) Merger Sub will merge with Parent in a statutory merger under State A law, with Parent surviving (the “Conversion”). Each Parent principal member will receive in exchange for its principal membership (a) shares of New Parent class A voting common stock and class B voting common stock and (b) a class A membership in Parent. The terms and conditions of the class A shares and the class B shares are identical in all material respects. The shares of New Parent class A and class B common stock issued in the exchange will be allocated to principal members in proportion to their Equity Rights in Parent as of Date 1. Parent will issue directly to New Parent the single class B membership in Parent.
- (vii) Each Target shareholder (other than Parent and Country X Target Shareholder) will transfer its shares of Target stock, and each shareholder of Country X Target Shareholder will transfer its shares of Country X Target Shareholder stock, to New Parent in exchange for shares of New Parent class A common stock and class B common stock (the “Integration” and, together with the Conversion, the “Holding Company Transactions”). Shares of New Parent class A common stock and class B common stock issued in the Integration will be allocated in proportion to the shareholders’ respective interests in Target, except as to two of the Target shareholders (where the disproportionate issuance will not exceed two-tenths of one percent of New Parent shares) and the shareholders of Country X Target Shareholder (where the disproportionate issuance will not exceed one percent of New Parent shares).
- (viii) The shares of New Parent class A common stock and class B common stock issued in the Holding Company Transactions will be divided into a Region A pool and a non-Region A pool. Contemporaneously with, and as an integral component of, the Holding Company Transactions, those shares will be initially reallocated to the New Parent shareholders within each of the regional pools in accordance with a new formula (the “New Formula”). The shares of New Parent stock allocated to each principal member will consist of $\frac{h}{i}$ % class A common stock and $\frac{j}{i}$ % class B common stock. During the Transition Period, except for share transfers permitted in certain limited circumstances, shareholders will retain their shares regardless of changes in their New Formula calculations during that period.
- (ix) On the Transition Date, and except as described in paragraph (x) below, (a) each share of New Parent class B common stock will convert to a share of New

Parent class A common stock, (b) all shares of class A common stock will be reallocated between the Region A and non-Region A regions, and (c) each shareholder within each of the regional pools will be allocated shares of class A common stock in accordance with its New Formula calculation for the last twelve months of the Transition Period. Shareholders whose initial closing share allocations decrease as a result of the Transition Period reallocation will return shares initially allocated to them to New Parent, for which New Parent may pay an amount equal to the shares' par value, and New Parent will deliver shares to shareholders whose initial share allocations increase.

- (x) On the Transition Date, a limited number of shares of New Parent class B common stock may not convert to shares of class A common stock or be reallocated. The parties will designate any such shares "Business E Brand stock." Shares of Business E Brand stock will lose their voting rights until the second anniversary of the Transition Date. On the second anniversary of the Transition Date, all shares of Business E Brand stock will convert to shares of class A common stock, thereby regaining their voting rights, and may be reallocated among New Parent shareholders.

Parent has made the following representations with respect to the Recapitalization:

- (a) Parent has not redeemed or otherwise acquired any of its principal memberships during the last five years, except that when a member has disposed of or otherwise ceased to conduct its Business A operations, its membership has been terminated without payment of consideration by Parent.
- (b) Parent has no plan or intention to redeem or otherwise reacquire any New Equity Rights following the Recapitalization.
- (c) The fair market value of the New Equity Rights deemed held by each Parent member following the Recapitalization will approximately equal the fair market value of the Equity Rights held by such Parent member before the Recapitalization.
- (d) To the best knowledge of Parent management, other than pursuant to the Conversion, none of the Parent principal members has any plan or intention to sell or otherwise dispose of New Equity Rights following the Recapitalization.
- (e) No property, other than Parent memberships, will be involved in the Recapitalization. No securities will be issued, exchanged, or surrendered in the Recapitalization.

- (f) Parent will continue to conduct business operations after the Recapitalization.
- (g) Parent and its members will each pay their own expenses, if any, incurred in connection with the Recapitalization.
- (h) The Recapitalization is a single, isolated transaction and is not a part of a plan to periodically increase the proportionate interest of any Parent member in the assets or earnings and profits of Parent.
- (i) The Recapitalization will occur pursuant to a plan of reorganization agreed upon before the Recapitalization.
- (j) Parent is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).
- (k) Parent management has no plan, intention, or formal or informal understanding to change the voting rights or powers of the New Equity Rights as established in the Recapitalization.
- (l) No dividends of cash or Equity Rights have been paid by Parent in respect of its membership interests during the past 4 years. Parent has issued Equity Rights when new principal members have joined Parent, and Parent has increased the Equity Rights of principal members in connection with its annual adjustment of principal members' Equity Rights.
- (m) At the time of the Recapitalization, Parent will not have outstanding any options, warrants, convertible securities or other rights that are convertible into any class of membership in Parent.
- (n) The Parent principal members will not actually receive any interest in the New Equity Rights, which will be issued directly to New Parent in the Conversion.
- (o) None of the New Equity Rights deemed received by Parent members in the Recapitalization will be for services rendered or to be rendered.
- (p) Parent will be treated under applicable state law as the same corporation following the Recapitalization, and its corporate existence will continue uninterrupted.
- (q) Immediately before the recapitalization, Parent will not be a U.S. real property holding corporation (USRPHC) within the meaning of § 897(c)(2).

Parent has made the following representations with respect to the Holding Company Transactions:

- (a) No stock or securities will be issued for services rendered to or for the benefit of New Parent in connection with the proposed transaction; New Parent shares will be allocated to shareholders based on their New Formula calculations. No stock or securities will be issued for indebtedness of New Parent that is not evidenced by a security or for interest on indebtedness of New Parent that accrued on or after the beginning of the transferors' holding period for the debt.
- (b) None of the membership interests or stock to be transferred is "section 306 stock" within the meaning of § 306(c).
- (c) The transfer is not the result of the solicitation by a promoter, broker or investment house.
- (d) None of the transferors will retain any rights in the property transferred to New Parent.
- (e) There is no indebtedness between any transferor and New Parent and there will be no indebtedness created in favor of any transferor as a result of the transaction. There will be indebtedness between Parent and certain of its principal members in the form of trade payables incurred in the ordinary course of business and subordinated indebtedness of Parent issued, in part to principal members, in the form of notes on Date 2, bearing interest at a rate per annum of j%, with a stated maturity of Date 3.
- (f) The transfers and exchanges will occur under a plan agreed upon before the transaction in which the rights of the parties are defined.
- (g) Except for the issuance of any later-issued shares or the return of any returnable shares, all exchanges will occur on approximately the same date.
- (h) Except for any returnable shares, any shares repurchased from a shareholder whose membership in Parent is terminated, or any shares purchased to facilitate shareholder compliance with share ownership limitations, there is no plan or intention on the part of New Parent to redeem or otherwise reacquire any of its stock issued in the Holding Company Transactions.
- (i) Taking into account any issuance of later-issued shares of New Parent stock, any issuance of stock for services, the exercise of any New Parent stock rights, warrants or subscriptions, a public offering of New Parent stock, and the sale,

exchange, transfer by gift or other disposition of any of the stock of New Parent held by any transferor after the transfer, the transferors will be in “control” of New Parent within the meaning of § 368(c).

- (j) Each transferor will receive stock with a fair market value approximately equal to the fair market value of the property transferred or deemed transferred to New Parent; New Parent shares will be allocated to shareholders based on their New Formula calculations.
- (k) New Parent will remain in existence and will use the property transferred to it in its trade or business.
- (l) There is no plan or intention by New Parent to dispose of the transferred property other than in the normal course of business operations.
- (m) Each of the parties to the transactions will pay its own expenses, if any, incurred in connection with the proposed transactions.
- (n) New Parent will not be an investment company within the meaning of § 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).
- (o) To the best knowledge of Parent, no transferor is under the jurisdiction of a court in a Title 11 or similar case (within the meaning of § 368(a)(3)(A)) and no stock or securities of New Parent will be used to satisfy the indebtedness of such debtor.
- (p) New Parent will not be a “personal service corporation” within the meaning of § 269A.
- (q) Neither Parent nor New Parent will claim a deduction in respect of any shares of New Parent stock issued in the proposed transactions, including any such shares issued on the Transition Date or on the second anniversary of the Transition Date.
- (r) All of the stock will be issued within five years and one fiscal quarter from the date of initial issuance.
- (s) Some stock is not being issued immediately because the parties are currently unable to agree on the relative values of the businesses in the Region A and non-Region A regions. Accordingly, the allocation, based on New Formula calculations, is deferred until an appropriate future date.
- (t) The maximum number of shares to be issued in the exchange is stated.

- (u) Treating New Parent class A common stock and class B common stock as a single class of stock for this purpose, more than 50% of the shares of each class of stock that may be issued to the shareholders in each of the Region A and non-Region A regions will be issued in the initial distribution.
- (v) The New Parent bylaws prohibit assignment of the right to receive later-issued shares except in connection with a shareholder's transfer of its shares of New Parent common stock.
- (w) The right to receive later-issued stock will not give rise to the receipt of anything other than additional shares of New Parent stock.
- (x) The issuance of additional shares will not be triggered by an event that is within the shareholders' control.
- (y) The issuance of additional shares will not be triggered by any change in tax liability (increase or decrease) resulting from an Internal Revenue Service audit of the shareholders or corporation either (a) as to the § 351 transaction involving later-issued shares or (b) as to any § 351 transaction involving persons related within the meaning of § 267(c)(4).
- (z) The number of additional shares to be issued will be determined by the New Formula calculations, which are based on objective and readily ascertainable data.
- (aa) New Parent has no plan or intention to issue stock other than in exchange for stock or assets or in connection with the admission by Parent of new members.
- (bb) Some New Parent shares are subject to return to New Parent because the parties are currently unable to agree on the relative values of the businesses in the Region A and non-Region A regions. Accordingly, the allocation, based on New Formula calculations, is deferred until an appropriate future date.
- (cc) Stock subject to return will appear as issued and outstanding on the balance sheet of New Parent and be legally outstanding under applicable state law.
- (dd) Although New Parent does not expect to declare or pay any dividends during the relevant period, any dividends paid on the stock will be distributed currently to the exchanging shareholders.
- (ee) All voting rights of the stock (other than those not permitted to be exercised because, under the New Parent charter and bylaws, a shareholder may not

exercise more than k% of New Parent's total voting power for the election of directors) will be exercisable by or on behalf of the shareholders or their authorized agents.

- (ff) The shares are not subject to any restrictions requiring their return to the issuing corporation because of death, failure to continue employment or similar restrictions, except that, if a shareholder's membership in Parent is terminated before the Transition Date, New Parent may purchase the shareholder's shares for par value, and if a shareholder's membership in Parent is terminated after the Transition Date, New Parent may repurchase the shareholder's shares for book value.
- (gg) All of the stock will be released from the arrangement within five years and one fiscal quarter from the date of issuance.
- (hh) Treating New Parent class A common stock and class B common stock as a single class of stock for this purpose, no more than 50% of the shares of each class of stock issued to the shareholders in each of the Region A and non-Region A regions (excluding any later-issued shares described above) will be subject to forfeiture to New Parent.
- (ii) The return of the stock will not be triggered by an event that is within the shareholders' control.
- (jj) The return of stock will not be triggered by any change in tax liability (increase or decrease) resulting from an Internal Revenue Service audit of the shareholders or corporation either (a) as to the § 351 transaction in which the returnable shares will be issued or (b) as to any § 351 transaction involving persons related within the meaning of § 267(c)(4).
- (kk) The number of shares to be returned is determined by the New Formula calculations, which are based on objective and readily ascertainable data.

Based solely on the information submitted and the representations made, we have concluded with respect to the proposed transactions that:

- (1) Pursuant to the Recapitalization, each principal member of Parent will be treated as (i) exchanging its current Equity Rights for New Equity Rights and (ii) exchanging its current Licensee Rights for New Licensee Rights.
- (2) Pursuant to the Conversion, each principal member of MasterCard will be treated as transferring its New Equity Rights to New Parent solely in exchange for shares of New Parent class A common stock and class B common stock.

Based solely on the information submitted and the representations made, we have concluded with respect to the Recapitalization that:

- (1) For federal income tax purposes, the Equity Rights associated with current Parent principal membership and the New Equity Rights resulting from the Recapitalization will each be treated as stock of Parent.
- (2) Insofar as it relates to the deemed exchange of Equity Rights for New Equity Rights, the Recapitalization will qualify as a reorganization within the meaning of § 368(a)(1)(E). Parent will be a party to a reorganization within the meaning of § 368(b).
- (3) No gain or loss will be recognized by a Parent principal member as a result of the deemed exchange of Equity Rights for New Equity Rights pursuant to the Recapitalization. § 354(a)(1).
- (4) No gain or loss will be realized by Parent or any Parent principal member as a result of an exchange or modification of Licensee Rights pursuant to the Recapitalization. § 1001.
- (5) The basis of a Parent member in the New Equity Rights resulting from the Recapitalization will equal the basis of such member in the Equity Rights associated with current Parent principal membership immediately before the Recapitalization. § 358(a)(1).
- (6) The holding period of a Parent member for the New Equity Rights resulting from the Recapitalization will include the period during which the member held the Equity Rights associated with its current Parent principal membership, provided that the Equity Rights are held as a capital asset on the date of the Recapitalization. § 1223(1).
- (7) No gain or loss will be recognized by Parent as a result of the Recapitalization. § 1032(a).

Based solely on the information submitted and the representations made, we have concluded with respect to the Holding Company Transactions that:

- (1) No gain or loss will be recognized by a Parent principal member on the deemed transfer of its New Equity Rights, or by a shareholder of Target or Country X Target Shareholder on the transfer of its shares of Target or Country X Target Shareholder stock, to New Parent solely in exchange for New Parent stock, taking into consideration any surrender of shares, or receipt of additional shares,

of New Parent stock as a result of a reallocation of shares of New Parent stock. § 351(a). Parent principal members and shareholders of Target or Country X Target shareholder that receive cash in addition to New Parent stock will recognize gain, if any, but not loss, in an amount not to exceed the amount of cash received. § 351(b).

- (2) No gain or loss will be recognized when shares of New Parent class B common stock are converted to shares of class A common stock. §§ 351(a), 1036(a).
- (3) No gain or loss will be recognized by New Parent on the receipt of the New Equity Rights and the shares of Target and Country X Target Shareholder stock in exchange for shares of New Parent stock. § 1032(a).
- (4) The affiliated group of corporations filing a consolidated federal income tax return of which Parent is the common parent immediately before the proposed transactions will remain in existence after consummation of the proposed transactions, with New Parent as the common parent. Rev. Rul. 82-152, 1982-2 C.B. 205.
- (5) For purposes of Treas. Reg. §§ 1.1502-31 and 1.1502-33, the Holding Company Transactions will be a “group structure change.” New Parent’s basis in the New Equity Rights in Parent will be Parent’s net asset basis as determined under Treas. Reg. § 1.1502-31(c), subject to the adjustments described in Treas. Reg. § 1.1502-31(d). New Parent’s basis in the Target and Country X Target Shareholder stock it receives in the Integration will be the same as the basis of that stock in the hands of the exchanging shareholders of Target and Country X Target Shareholder immediately before the Holding Company Transactions. § 362(a).
- (6) Immediately after New Parent becomes the new common parent, the earnings and profits of New Parent will be adjusted to reflect the earnings and profits of Parent immediately before Parent ceases to be the common parent as if New Parent had succeeded to the earnings and profits of Parent in a transaction described in § 381(a). Treas. Reg. § 1.1502-33(f).
- (7) The basis of a Parent principal member or a shareholder of Target or Country X Target Shareholder in the shares of New Parent stock received will be the same as the basis of the Parent principal member in the New Equity Rights or the shareholder of Target or Country X Target Shareholder in the shares of Target or Country X Target Shareholder stock, as the case may be, held immediately

before the transfer, decreased by the amount of any money received and increased by the amount of any gain recognized on the exchange. § 358(a).

- (8) The holding period for the shares of New Parent stock received by a Parent principal member or a shareholder of Target or Country X Target Shareholder will include the holding period during which the New Equity Rights were deemed held, or the shares of Target or Country X Target Shareholder stock were held, provided that the New Equity Rights are deemed held, or the Target or Country X Target Shareholder stock is held, as a capital asset on the date of the transfer. § 1223(1).
- (9) The holding period for the New Equity Rights and the shares of Target and Country X Target Shareholder stock in the hands of New Parent will include any period during which the New Equity Rights and the shares of Target or Country X Target Shareholder stock were held by a Parent member or a shareholder of Target or Country X Target Shareholder, respectively. § 1223(2).

Except as expressly provided herein, no opinion is expressed as to the tax treatment of the proposed transactions under other provisions of the Code or regulations or as to the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transactions that are not specifically covered by this ruling letter. Specifically, we express no opinion regarding whether the amounts, if any, charged by Parent to a principal member for the right to use brands, trademarks, trade names, or any other intangible property (within the meaning of § 936(h)(3)(B)) are arm's length prices consistent with § 482.

In accordance with a power of attorney on file in this office, copies of this ruling letter are being sent to your authorized representatives.

This ruling letter is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this ruling letter should be attached to the federal income tax return of each affected taxpayer for the taxable year in which the proposed transactions are completed.

Sincerely yours,
Associate Chief Counsel (Corporate)
By: _____
Michael J. Wilder
Senior Technician Reviewer
CC:CORP:1

CC: