

# MERRICKS V MASTERCARD: THE LITIGATION RISKS FOR THE FINANCIAL SERVICES SECTOR

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Legal Briefings

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Herbert Smith Freehills LLP have published an article in *Butterworths Journal of International Banking and Financial Law* on the repercussions of the recent decisions in the *Merricks v Mastercard* litigation for the wider litigation landscape, particularly for the financial services sector.

Historically, the most common procedural mechanism for bringing class actions in the UK has been by way of a Group Litigation Order (**GLO**), which provides a procedural framework for the case management of individual claims giving rise to common or related issues of fact or law. Such claims are often contractual or tortious in nature, and there are a number of examples of high-profile claims against financial services firms in recent years that have proceeded under a GLO (for example, in relation to alleged misstatements in shareholder communications and allegations of financial mis-selling).

However, in one of the most significant rulings on class action procedure to date, the Supreme Court in *Merricks v Mastercard* provided important clarifications on the UK competition class action regime, leading to the first application for a collective proceedings order (**CPO**) being approved by the Competition Appeal Tribunal in August 2021. For the reasons discussed in our article, the competition regime has features that are perceived as “claimant-friendly”, and its endorsement has triggered a series of further CPO applications. The anticipated growth of the regime following the decision in *Merricks* is likely to have an impact beyond the sphere of competition law, and our article explores the potential ramifications for class actions in the financial services sector.

The article can be found here: [Merricks v Mastercard: the litigation risks for the financial services sector](#). This article first appeared in the December 2021 edition of JIBFL.





# KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



**CHRIS BUSHELL**  
PARTNER, LONDON

+44 20 7466 2187  
Chris.Bushell@hsf.com



**CERI MORGAN**  
PROFESSIONAL  
SUPPORT  
CONSULTANT,  
LONDON

+44 20 7466 2948  
Ceri.Morgan@hsf.com



**SARAH PENFOLD**  
SENIOR ASSOCIATE,  
LONDON

+44 20 7466 2619  
Sarah.Penfold@hsf.com



**DANIEL WOODS**  
SENIOR ASSOCIATE,  
LONDON

Daniel.Woods@hsf.com



**NIHAR LOVELL**  
PROFESSIONAL  
SUPPORT LAWYER,  
LONDON

+44 20 7374 8000  
Nihar.Lovell@hsf.com

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