

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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

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**If You Were Subject to the Data Breaches of the U.S. Office of Personnel Management and Its Contractor, and You Experienced an Out-of-Pocket Loss After the Breaches, You Could Be Eligible for a Payment from a Class Action Settlement**

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- You may be eligible to receive a payment from a proposed \$63,000,000 class action settlement.
- The lawsuit is about the data breaches of the U.S. Office of Personnel Management (“OPM”) and its security contractor that were reported in 2015 and allegedly compromised personal information of then-current and former federal government employees and contractors, as well as certain applicants for federal employment. The Defendants in the case—OPM and its contractor, known now as Peraton Risk Decision Inc. (“Peraton”) and previously as KeyPoint Government Solutions, Inc.—deny that they did anything wrong and dispute that they have any liability, but have agreed to settle the lawsuit.
- To be eligible to make a claim, your personal information must have been compromised in the data breaches, and you must also have suffered an out-of-pocket expense or lost compensable time:
  - (1) to purchase a credit monitoring product, credit or identity theft protection product, or other product or service designed to identify or remediate the data breaches;
  - (2) to access, freeze or unfreeze a credit report with a credit reporting agency; or
  - (3) as a result of an identity theft incident or to mitigate an identity theft incident.
- Eligible claimants under the Settlement will receive \$700 or the actual amount of the claim—whichever is greater—up to a maximum of \$10,000, unless the total value of all valid claims, plus any incentive awards to named plaintiffs, exceeds the amount of money in the fund.
- The Settlement does not affect or release claims of anyone who was subject to the data breaches and who did not experience losses within any of the three categories listed above.
- Visit [www.OPMDataBreach.com](http://www.OPMDataBreach.com) to make a claim. You can also opt out of or object to the Settlement.
- OPM (as authorized by Congress) has made free credit monitoring and identity theft protection services available to all individuals whose personal information was compromised in the data breaches. If you have not signed up for these services but wish to do so, visit <https://www.opm.gov/cybersecurity/> or call 1-800-750-3004 Monday through Saturday, between 9:00 a.m. and 9:00 p.m. Eastern Time.
- Please read this notice carefully. Your legal rights will be affected, and you have a choice to make now.

**Questions? Go to [www.OPMDataBreach.com](http://www.OPMDataBreach.com) or call 1-855-917-3567**

Summary of Your Legal Rights and Options		Deadline
<b>SUBMIT A CLAIM FORM</b>	The only way to get a payment.	Postmarked by <b>December 23, 2022</b>
<b>EXCLUDE YOURSELF BY OPTING OUT</b>	Get no payment. This is the only option that allows you to keep your right to bring any other lawsuit against the Defendants if you are a class member—meaning you were subject to the data breaches and experienced economic loss in at least one of the three categories listed above.	Postmarked by <b>September 9, 2022</b>
<b>OBJECT TO THE SETTLEMENT AND/OR ATTEND A HEARING</b>	You can write the Court about why you like or do not like the Settlement. The Court cannot order a different settlement. You can also ask to speak to the Court at the hearing on <b>October 14, 2022</b> about the fairness of the Settlement, with or without your own attorney.	Received by the Court by <b>September 9, 2022</b>
<b>DO NOTHING</b>	Get no payment. Give up rights if you are a class member.	No Deadline

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved.

**What This Notice Contains**

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## BASIC INFORMATION

### 1. Why did I get this notice?

A court authorized this notice because people described in Question 5 of this notice have the right to know about a legal settlement. If you qualify, you could be eligible to receive a payment.

**To know if you qualify, see the answer to Question 5 below.**

The people who sued are called the Plaintiffs. The entities they sued—OPM and Peraton—are called the Defendants.

### 2. What is this lawsuit about?

In the summer of 2015, OPM announced that some of its electronic systems had been breached, resulting in the compromise of personal information of approximately 22.1 million federal government employees, job applicants, and their family members. The Plaintiffs claim that OPM acted in gross disregard of their privacy by failing to put in place adequate data security safeguards, and that Peraton acted negligently by allowing hackers to obtain its security credentials, which were allegedly used to breach OPM's database. The Defendants deny these claims. OPM denies that it acted "willfully or intentionally"—the standard for holding a federal agency liable for privacy violations under the Privacy Act of 1974, 5 U.S.C. § 552a—and denies that Plaintiffs suffered compensable losses caused by any such violation. Peraton denies that it acted negligently and denies that Plaintiffs can show that their alleged harm was caused by any conduct of Peraton.

### 3. What is a class action?

In a class action the plaintiffs act as "class representatives" and sue on behalf of themselves and other people who have similar claims. This group of people is called the "class," and the people in the class are called "class members." One court resolves the issues for all class members, except for people who exclude themselves from the class. Judge Amy Berman Jackson of the United States District Court for the District of Columbia is in charge of this case. The case is *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, No. 15-1394 (ABJ) (D.D.C.).

### 4. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to a Settlement. That way, they avoid the costs and risks of a trial, and class members can get benefits or compensation. The Class Representatives and Class Counsel think the Settlement is in the best interest of the Class.

## WHO IS IN THE SETTLEMENT

### 5. Who is in the Settlement?

You are a class member, and are included in the Settlement, if you are a U.S. citizen or permanent resident whose personal information was compromised as a result of the breaches of the U.S. Office of Personnel Management's electronic information systems in 2014 and 2015 or the breach of Peraton's electronic information systems in 2013 and 2014; and if, after May 7, 2014, you suffered an out-of-pocket expense or lost compensable time: (1) to purchase a credit monitoring

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product, credit or identity theft protection product, or other product or service designed to identify or remediate the data breaches at issue in this case; (2) to access, freeze or unfreeze a credit report with a credit reporting agency; or (3) as a result of an identity theft incident or to mitigate an identity theft incident.

Excluded from this Class are Class Counsel and their employees; any judicial officers to whom this case is assigned and their respective staffs; mediators and their respective staffs; and attorneys from the Department of Justice and the Office of Personnel Management, and their respective staffs, who worked directly and personally on this matter.

## **6. What should I do if I am not sure whether I am included?**

If you are not sure whether you are included in the Class, you can ask for free help by calling the Claims Administrator at 1-855-917-3567 for more information.

## **THE SETTLEMENT BENEFITS**

### **7. What does the Settlement provide?**

The Defendants will pay \$63,000,000 into a Settlement Fund, which will be distributed to class members who submit valid claims, after deducting incentive awards to named plaintiffs if such awards are approved by the Court. Government records will be used to verify that claimants were subject to the data breaches, but the parties will have no role in determining the validity of claims.

### **8. Why is the Settlement limited to individuals who suffered out-of-pocket losses?**

Settlement payments are only available to individuals subject to the data breaches who experienced economic loss. This limitation results from the Supreme Court's ruling that compensable damages under the Privacy Act are limited to economic (pecuniary) loss: "The basic idea is that Privacy Act victims ... are barred from any recovery unless they can first show actual—that is, pecuniary or material—harm." *FAA v. Cooper*, 566 U.S. 284, 296 (2012).

### **9. Who can get money from the Settlement, and how much?**

To get money from the Settlement, you must be a class member—meaning that you were subject to the data breaches and that, after May 7, 2014, you suffered an out-of-pocket expense or lost compensable time:

- (1) to purchase a credit monitoring product, credit or identity theft protection product, or other product or service designed to identify or remediate the data breaches at issue in this case;
- (2) to access, freeze or unfreeze a credit report with a credit reporting agency; or
- (3) as a result of an identity theft incident or to mitigate an identity theft incident.

Claimants who submit valid claims will each be paid \$700 or the actual amount of the claim—whichever is higher—to a maximum of \$10,000, unless the total value of all valid claims, plus any incentive award payments to named plaintiffs that the Court approves, exceeds the \$63,000,000 in the Settlement Fund; in that case, the value of those individual claims will be reduced in equal proportion before claimants are paid.

**Questions? Go to [www.OPMDataBreach.com](http://www.OPMDataBreach.com) or call 1-855-917-3567**

For information on how to make a claim, including the proof required to support a claim, see Question 12 below and [www.OPMDataBreach.com](http://www.OPMDataBreach.com).

### **10. How can I protect myself from identity theft?**

Congress authorized “complimentary identity protection coverage”—including “not less than \$5,000,000 in identity theft insurance”—for the 22.1 million individuals whose personal information was impacted in the data breaches at issue in this case, through September 2026. (Consolidated Appropriations Act of 2017, Pub. L. 115-31, tit. VI, sec. 633 (May 5, 2017)). OPM contracted with ID Experts (now known as IDX), which has been providing such individuals, at no charge, a comprehensive set of credit monitoring, identity theft protection services, and data theft insurance products known as MyIDCare.

These services remain available to you if your personal information was compromised in the data breaches. If you are eligible and have not already done so, you can sign up for the free credit monitoring and identity protection services. Visit <https://www.opm.gov/cybersecurity/> or call 1-800-750-3004 Monday through Saturday, between 9:00 a.m. and 9:00 p.m. Eastern Time.

### **11. What am I giving up if I stay in the Class?**

If you are a class member (see Question 5 above), unless you exclude yourself with an opt-out request (see Question 18 below), you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the issues in this case. The “Releases” section in the Settlement Agreement describes the legal claims that you give up if you remain in the settlement Class. The Settlement Agreement can be viewed at [www.OPMDataBreach.com](http://www.OPMDataBreach.com).

## **HOW TO GET A PAYMENT—MAKING A CLAIM**

### **12. How can I get a payment?**

If you were subject to the data breaches and experienced an out-of-pocket loss that you believe is attributable to the breaches in any of the three categories listed in Questions 5 and 9 above, you can make a claim by filling out and submitting the claim form available at [www.OPMDataBreach.com](http://www.OPMDataBreach.com).

If you are claiming out-of-pocket expenses under the Settlement, you must describe the expenses, their amount, and when and why you incurred them. If your claim is for expenses or compensable time related to a credit freeze, credit monitoring, identity theft protection, or similar services, you must also attest that you incurred those losses in response to the data breaches in this case and not as a result of any other compromise of your personal information.

Your claim must be reasonably documented—you must enclose or upload documentation sufficient to show (a) the amount of unreimbursed loss that you suffered, and (b) why you believe that the loss is reasonably attributable to the data breaches in the case. For expenditures of money, this documentation may include credit card or bank statements, emails, invoices, receipts, or telephone records, including photographs of the same. For compensable lost time, this documentation may include pay stubs, invoices, other billing records, or emails or other communications or records reflecting time taken off work. Personal statements or declarations are not reasonable documentation under the Settlement, but they may be used to provide clarification, context, or support for other documentation submitted in support of a claim.

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If you are claiming compensable lost time, you must describe the relevant actions you took and the time each action took, and enclose or attach documentation showing that the lost time was compensable—in other words, showing leave from hourly work or paid time off from salaried work. Government benefits, such as Social Security retirement or disability payments, do not constitute income that can be lost for purposes of a Settlement claim. A \$25 hourly rate will apply to compensable lost time, except that if you are claiming compensable time and the total value of your claim exceeds \$700, you must submit documentation demonstrating a specific hourly rate.

You can contact the Claims Administrator to request a paper claim form by telephone (1-855-917-3567), email ([info@OPMDataBreach.com](mailto:info@OPMDataBreach.com)) or U.S. mail (Claims Administrator, P.O. Box 4719, Portland, OR 97208-4719).

Submit the claim form by filing it through the “Submit a Claim” page of the Settlement Website or by sending it to the U.S. mail address listed above.

### 13. What is the deadline for submitting a claim form?

To be eligible for payment, claim forms must be filed online or **postmarked no later than December 23, 2022**.

### 14. When will I get my payment?

The Court will hold a hearing on **October 14, 2022 at 10:00 a.m.**, to decide whether to approve the Settlement. Payments will be made after the Settlement is approved and becomes final (meaning there is no appeal from the order approving the Settlement).

Updates regarding the Settlement will be posted on the Settlement website, [www.OPMDataBreach.com](http://www.OPMDataBreach.com).

## THE LAWYERS REPRESENTING YOU

### 15. Do I have a lawyer in the case?

Yes. The Court appointed Daniel C. Girard of Girard Sharp LLP and other attorneys to represent you and the other class members. These lawyers are called Class Counsel. You will not be charged for their services.

### 16. Should I get my own lawyer?

You do not need to hire your own lawyer. If you want your own lawyer, you may hire one, but you will be responsible for any payment for that lawyer’s services. For example, you can ask your own lawyer to appear in court for you if you want someone other than Class Counsel to speak for you. You may also appear for yourself without a lawyer.

### 17. How will the lawyers be paid?

You do not have to pay Class Counsel. Class Counsel, who have not been paid for their services in this case since it began, will seek an award of attorneys’ fees and reimbursement for litigation costs that they advanced in pursuing the claims, to be paid separately by the United States Government. In other words, attorneys’ fees and cost reimbursements approved by the Court will not come out of or reduce the Settlement Fund. The fees will compensate Class Counsel for

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investigating the facts, litigating the case, and negotiating the Settlement. The application for attorneys' fees will be posted on the Settlement website prior to the deadline for objecting to the Settlement.

Class Counsel will also ask the Court to approve incentive award payments of \$3,000 to each of the 36 individuals who served as named plaintiffs. Defendants will have the right to oppose these award payments. If approved, these awards will be paid out of Peraton's contribution to the Settlement Fund.

The costs of providing this notice and administering the Settlement are being paid by OPM separately from the Settlement Fund.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you are a class member and you don't want benefits from the Settlement, and you want to keep your right, if any, to sue Defendants on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself from—or "opting out" of—the Class.

### 18. How do I get out of the Settlement?

You may opt out of the Settlement by **September 9, 2022**. To opt out, you must send a letter or postcard via U.S. mail to the address below. You must include the following in your letter or postcard:

- To confirm that you were a victim of the data breaches, your full name (or, if different, your full name at the time of the data breaches), and one of the following: (1) your date of birth and the last four digits of your Social Security number, or (2) the PIN that you received from the OPM Verification Center in connection with OPM's offer of identity protection services.
- Your current address;
- A statement that you want to opt out of the settlement;
- A statement that you are a class member because you were subject to the data breaches and you experienced one of the forms of loss in the class definition; and
- Your signature.

Class Action Opt Out  
OPM Data Breach Settlement  
P.O. Box 4719  
Portland, OR 97208-4719

Opt-out requests must be **postmarked no later than September 9, 2022**.

### 19. If I am a class member and don't opt out, can I sue the Defendants for the same thing later?

No. If you are a class member (see Question 5 above), unless you opt out, you give up the right to sue OPM and Peraton for the claims resolved by the Settlement. So if you are a class member and you want to try to pursue your own lawsuit, you must opt out.

**Questions? Go to [www.OPMDataBreach.com](http://www.OPMDataBreach.com) or call 1-855-917-3567**

## 20. What happens if I opt out?

If you opt out of the Settlement, you will not have any rights as a member of the Class under the Settlement; you will not receive any payment as part of the Settlement; you will not be bound by any further orders or judgments in this case; and you will keep the right, if any, to sue on the claims alleged in the case at your own expense.

## COMMENTING ON OR OBJECTING TO THE SETTLEMENT

## 21. How do I tell the Court if I don't like the Settlement?

If you are a class member and you do not opt out of the Settlement, you can ask the Court to deny approval of the Settlement by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or deny this Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

You may object to the proposed Settlement in writing. You may also appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

To object, you must file a document with the Epiq, the appointed Claims Administrator, saying that you object to the proposed Settlement in *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, No. 15-1394 (ABJ) (D.D.C.). You must include:

- Your name, address, and signature;
- A statement setting forth the specific reason(s), if any, for the objection, including any legal support for and any evidence that you wish to introduce in connection with your objection;
- A statement as to whether your objection applies only to you, to a specific subset of the Class, or to the entire Class, and
- A statement as to whether you intend to appear at the Fairness Hearing.
- Provide a signed statement that you are a class member because you were subject to the data breaches and you experienced one of the forms of loss in the class definition; and
- To confirm that you were a victim of the data breaches, provide your full name (or, if different, your full name at the time of the data breaches) and one of the following: (1) your date of birth and the last four digits of your Social Security number, or (2) the PIN that you received from the OPM Verification Center in connection with OPM's offer of identity protection services.

You can mail the objection by First Class U.S. Mail to the following address, and it **must be received no later than September 9, 2022**:

Objection Processing  
OPM Data Breach Settlement  
P.O. Box 4719  
Portland, OR 97208-4719

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## 22. What's the difference between objecting and opting out?

Objecting is telling the Court that you don't like something about the Settlement. You can object to the Settlement only if you are a class member and do not opt out of the Settlement. Opting out of the Settlement is telling the Court that you don't want to be part of the Settlement. If you opt out of the Settlement, you cannot object to it because it does not affect you. You cannot both opt out of and object to the Settlement.

## THE COURT'S FAIRNESS HEARING

### 23. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at **10:00 a.m. on October 14, 2022**, at the federal courthouse located at 333 Constitution Ave., N.W., Washington, D.C. 20001.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing.

The Court may also decide how much Class Counsel should receive in fees and expense reimbursements. After the hearing, the Court will decide whether to approve the Settlement.

The Court may reschedule the Fairness Hearing or change any of the deadlines described in this notice. The date of the Fairness Hearing may change without further notice to the class members. Be sure to check the website, [www.OPMDataBreach.com](http://www.OPMDataBreach.com), for news of any such changes. You can also access the case docket via the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.dcd.uscourts.gov/>.

### 24. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you send an objection, you do not have to come to the hearing to talk about it. As long as you mailed or filed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### 25. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include a statement in your written objection (discussed above at Question 21) that you intend to appear at the hearing. Be sure to include your name, address, and signature as well.

You cannot speak at the hearing if you exclude yourself from the Class.

## IF I DO NOTHING

### 26. What happens if I do nothing at all?

If you do nothing and you are a class member, you will get no money from this Settlement, and you will not be able to sue the Defendants for the conduct alleged in this case. If you do nothing

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and you are not a class member, the Settlement will not affect or release any individual claim you may have.

## GETTING MORE INFORMATION

### 27. Are more details about the Settlement available?

Yes. This notice summarizes the proposed Settlement—more details are in the Settlement Agreement and other case documents. You can get a copy of these documents at [www.OPMDataBreach.com](http://www.OPMDataBreach.com), by accessing the docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.dcd.uscourts.gov/>, or by visiting the office of the Clerk of the Court for the United States District Court for the District of Columbia, 333 Constitution Ave., N.W., Washington, D.C. 20001, Room 1225, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

### 28. How do I get more information?

The website [www.OPMDataBreach.com](http://www.OPMDataBreach.com) has the claim form, answers to questions about the Settlement and other information to help you determine whether you are eligible for a payment.

You can also call or write to the Claims Administrator at:

OPM Data Breach Settlement  
Claims Administrator  
P.O. Box 4719  
Portland, OR 97208-4719  
1-855-917-3567

Class Counsel can be reached by calling (415) 981-4800 or emailing [OPM@girardsharp.com](mailto:OPM@girardsharp.com).

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