

THE SETTING OF INTERCHANGE FEES IN THE DESIGNATED CREDIT CARD SCHEMES AND NET PAYMENTS TO ISSUERS

1. Objective

The objective of this Standard is to ensure that the setting of interchange fees and payments and other transfers of valuable consideration having an equivalent object or effect to interchange fees in each designated credit card scheme is transparent and promotes:

- *efficiency; and*
- *competition*

in the Australian payments system.

2. Application

2.1 This Standard is determined under Section 18 of the *Payment Systems (Regulation) Act 1998* (the **Act**).

2.2 This Standard applies to each of the following, each of which is referred to in this Standard as a **Scheme**:

- (a) the payment system operated within Australia known as the MasterCard system which was designated under the Act as a payment system on 12 April 2001 and which is referred to in this Standard as the **MasterCard System**;
- (b) the payment system operated within Australia known as the VISA system, which was designated under the Act as a payment system on 12 April 2001 and which is referred to in this Standard as the **VISA System**; and
- (c) the American Express Companion Card payment system operated within Australia, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this Standard as the **American Express Companion Card Scheme**.

2.3 In this Standard:

Above Benchmark Reference Period has the meaning given to it in clause 4.2;

Acquired includes accepted;

Acquirer means a participant in a Scheme in Australia that:

- (a) provides services, directly or indirectly, to a Merchant to allow that Merchant to accept a Credit Card of that Scheme; or
- (b) is a Merchant that accepts, or is a Related Body Corporate of a Merchant that accepts, a Credit Card of that Scheme and bears risk as principal in relation to the payment obligations of the Issuer of that Credit Card in relation to that acceptance;

Associated Entity has the meaning given by section 50AAA of the *Corporations Act 2001*;

Benefit means:

- (a) a payment, receipt, rebate, refund or allowance;
- (b) in relation to any Property or service received or receivable by a Direct Issuer Participant:

- (i) where there is a Regular Price for that Property or service, any discount or deduction from that price;
 - (ii) where there is not a Regular Price for that Property or service, an amount by which the Fair Value of the Property or service exceeds the payment or other similar financial consideration made or given for it by the Direct Issuer Participant; and
- (c) a benefit (however named or described) of a similar nature to, or having the same effect as, a benefit of the kind specified in (a) or (b) above;

Commencement Date means 1 July 2017;

Core Service means, in relation to a Scheme, a service provided by the administrator of the Scheme in Australia or any of its Associated Entities that meets the requirements in the following paragraphs (a), (b) and (c):

- (a) the service is used by a participant in the Scheme in Australia in relation to Devices of the Scheme that can be used for purchasing goods or services on credit or transactions initiated using those Devices; and
- (b) without the service it would not be possible for a Direct Issuer Participant to be an Issuer or for another entity to be an Issuer through Sponsorship by a Direct Issuer Participant of the Scheme; and
- (c) the service (however named or described) relates to one or more of the following (each a Core Function) and only to one or more Core Functions:
 - (i) the licensing of the Scheme's brands and other intellectual property owned by, or licensed to, the administrator of the Scheme in Australia or any of its Associated Entities, a licence (or sub-licence) of which is required in order to be a participant in the Scheme;
 - (ii) connection to, and/or maintenance of a connection to, the systems to which it is necessary to connect in order to be a participant in the Scheme;
 - (iii) transaction processing (including processing of charge-back transactions);
 - (iv) clearing and settlement (including clearing and settlement of charge-back transactions);
 - (v) authentication;
 - (vi) authorisation;
 - (vii) stand-in processing, clearing and settlement;
 - (viii) fraud prevention; and
 - (ix) handling, investigating and settling disputes, and requests or claims for chargebacks, raised by holders of Devices.

A service will relate only to one or more Core Functions for the purpose of this paragraph (c) even if it involves or includes incidental services necessary to support one or more Core Functions;

Credit Card Account means, in relation to a Credit Card of a Scheme, the account that is debited when that Device is used to purchase goods or services on credit;

Credit Card of a Scheme or **Credit Card of that Scheme** means, in relation to a Scheme, a Device issued by a participant in the Scheme in Australia under the Rules of the Scheme that can be used for purchasing goods or services on credit;

Credit Card Transaction means, in relation to a Scheme, a transaction in that Scheme between a holder of a Credit Card of that Scheme and a Merchant involving the purchase of goods or services using a Credit Card of that Scheme that is Acquired by an Acquirer (but does not include any transaction to reverse such a transaction or provide a credit or make a chargeback in relation to such a transaction);

Device means any card, plate or other payment code or device, including a code or device where no physical card or other embodiment is issued and a code or device used or to be used for only one transaction;

Direct Issuer Participant means, in relation to a Scheme, a participant in that Scheme in Australia as an Issuer, or as a Sponsor for one or more Issuers, that is not an Indirect Issuer Participant in that Scheme in Australia. Without limitation, for the:

- (a) MasterCard System this means any Principal Customer or Association Customer, each as defined in the Rules of the Scheme, in its capacity as Issuer or as Sponsor for one or more Issuers; or
- (b) VISA System this means any Principal-Type Member as defined in the Rules of the Scheme in its capacity as Issuer or as Sponsor for one or more Issuers;

Direct Issuer Participant Payments has the meaning given to it in clause 5.2;

Direct Issuer Participant Receipts has the meaning given to it in clause 5.2;

Fair Value means, in relation to any Property or service:

- (a) subject to paragraph (b), the amount that would be paid to acquire the Property or service in an orderly transaction between independent, unrelated and well informed parties at the earlier of:
 - (i) the date the Property or service was first provided; and
 - (ii) the date the Property or service was committed to be provided,to the Direct Issuer Participant; but
- (b) if at any subsequent time the amount that would be paid to acquire the Property or service in an orderly transaction between independent, unrelated and well informed parties (**Revised Value**) is materially different from the amount determined in accordance with paragraph (a) (or, if any adjustment is made in accordance with this paragraph (b), the most recent such adjustment), the Fair Value may be adjusted to that Revised Value provided:
 - (i) use of that Revised Value as Fair Value is fair and reasonable and consistent with the objective of this Standard; and
 - (ii) the Fair Value may be adjusted to a Revised Value no more than once in a Reporting Period;

Incentive Test: a Benefit meets the **Incentive Test** in relation to a Scheme if it is given for a purpose of, or has or will likely have the effect of, any one or more of the following:

- (a) incentivising the entry into of a contract relating to the issue of Credit Cards of the Scheme;
- (b) promoting or incentivising the issuance or use of Credit Cards of the Scheme; or
- (c) providing or funding incentives to holders of Credit Cards of the Scheme to use those cards.

Benefits that meet the Incentive Test in relation to a Scheme include lump-sum, volume based and transaction-specific Benefits such as:

- (i) incentives to market Credit Cards of the Scheme; and

- (ii) any of the following earned, accrued or receivable by a Direct Issuer Participant for agreeing to issue Credit Cards of the Scheme or for Credit Card Transactions undertaken in the Scheme meeting or exceeding a specific transaction volume, percentage share or dollar amount of transactions processed:
 - (A) a rebate on any fees or other costs or charges, whether for a Core Service or for any other product or service;
 - (B) a discount from the Regular Price of any Property or service, whether the Property or service is related to Credit Cards of the Scheme or not;

Indirect Issuer Participant means, in relation to a Scheme, a participant in that Scheme in Australia as an Issuer that participates in the Scheme in Australia as Issuer through the Sponsorship of another participant in that Scheme. Without limitation, for the:

- (a) MasterCard System this means any Affiliate Customer as defined in the Rules of the Scheme in its capacity as Issuer; or
- (b) VISA System this means any Participant-Type Member or Associate-Type Member, each as defined in the Rules of the Scheme, in its capacity as Issuer;

Interchange Fee Category has the meaning given to it in clause 4.1(b);

Interchange Fees means:

- (a) for each of the VISA System and the MasterCard System, wholesale fees, known as interchange fees, which are payable between an Issuer and an Acquirer, directly or indirectly, in relation to Credit Card Transactions in the Scheme; and
- (b) for the American Express Companion Card Scheme, wholesale fees, known as issuer fees or issuer rates, which are payable, directly or indirectly, between an Issuer which is a participant in the Scheme in Australia and the Acquirer or an administrator of the Scheme in Australia, or any Related Body Corporate of either of them, and any other Credit Card Transaction based payments which are functionally equivalent to such issuer fees or issuer rates or to the fees described in paragraph (a) above;

Issuer means a participant in a Scheme in Australia that has a contractual relationship with its customers under which it issues Credit Cards of a Scheme to those customers or their nominees;

Merchant means, in relation to a Scheme, a merchant in Australia that accepts a Credit Card of that Scheme for payment for goods or services;

Multilateral Interchange Fee means, in relation to a Scheme, an Interchange Fee that is determined by an administrator of the Scheme and applies regardless of the identity of the Acquirer or Issuer paying or receiving the Interchange Fee;

Net Compensation has the meaning given to it in clause 5.1;

Property means any property including any good and any proprietary right or interest;

Quarter means a 3 month period ending on 30 June, 30 September, 31 December or 31 March;

Reference Period means a 12 month period ending on the last day of a Quarter;

Regular Price means, in relation to Property or a service, a supplier and a Direct Issuer Participant at any time, the price at which the supplier is regularly supplying Property or services of the same description to entities of a class, group or type that includes the Direct Issuer Participant at that time;

Related Body Corporate has the meaning given in the *Corporations Act 2001*;

Relevant Portion has the meaning given to it in clause 5.2;

Reporting Period means a 12 month period ending 30 June;

Rules of a Scheme or **Rules of the Scheme** means the constitution, rules, by-laws, procedures and instruments of the relevant Scheme as applied in Australia, and any other arrangement relating to the Scheme by which participants in that Scheme in Australia are, or consider themselves to be, bound;

Sponsor means a participant in a Scheme in Australia who has accepted responsibility in whole or in part for, or to act as agent for, another entity under and in accordance with the Rules of the Scheme so that the other entity may participate in the Scheme and **Sponsorship** has a corresponding meaning;

include or **including** or **such as** when introducing an example do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and

terms defined in the Act have the same meaning in this Standard.

2.4 For the purposes of this Standard:

(a) a provision of a plan, arrangement or agreement shall be deemed to have a particular purpose if the provision was included in the plan, arrangement or agreement by a party or parties for purposes that include that purpose and that purpose was a substantial purpose; and

(b) conduct including the payment or receipt of a fee or the giving of a benefit or other valuable consideration shall be deemed to have been made for a particular purpose if the person undertaking the conduct, payment or receipt did so for purposes that include that purpose and that purpose was a substantial purpose.

2.5 Each participant in a Scheme must do all things necessary on its part to ensure compliance with this Standard.

2.6 If any part of this Standard is invalid, this Standard is ineffective only to the extent of such part without invalidating the remaining parts of this Standard.

2.7 This Standard is to be interpreted:

(a) in accordance with its objective; and

(b) by looking beyond form to substance.

2.8 For the purposes of this Standard, an Interchange Fee paid from an Acquirer to an Issuer is to be expressed as a positive number and an Interchange Fee paid from an Issuer to an Acquirer is to be expressed as a negative number.

2.9 On the Commencement Date this Standard replaces *Standard No. 1, The Setting of Wholesale (Interchange) Fees in the Designated Credit Card Schemes* relating to each of the VISA System and MasterCard System. Neither the registration nor the terms of this Standard affect that standard before the Commencement Date.

3. Anti-Avoidance

A participant in a Scheme must not, either alone or together with one or more other persons, enter into, begin to carry out or carry out a plan or arrangement or otherwise be knowingly involved in a plan or arrangement if it would be concluded that the person did so for a purpose of avoiding the application of this Standard, and the plan or arrangement or part of the plan or arrangement has achieved or would but for this provision have achieved or could reasonably be considered to have achieved that purpose.

4. Interchange Fees

- 4.1 (a) An Interchange Fee (exclusive of goods and services tax) in relation to a Credit Card Transaction must not exceed 0.800 per cent of the value of the Credit Card Transaction to which it relates.
- (b) If an Interchange Fee applies in relation to a category of Credit Card Transactions (whether that category is determined by reference to the nature of the holder, or type, of the Credit Card of the Scheme, the identity or nature of the Merchant, the means of effecting the transaction, the security or authentication that applies or any other matter, or is a residual category covering transactions not in any other category) (**Interchange Fee Category**), that Interchange Fee must be:
- (i) a percentage of the value of the Credit Card Transaction to which it relates; or
 - (ii) a fixed amount,
- applying to all Credit Card Transactions in the category, and cannot be expressed as a range of rates or amounts.
- 4.2 If the total value of Interchange Fees (exclusive of goods and services tax) payable in relation to Credit Card Transactions undertaken in a Scheme during a Reference Period exceeds 0.500 per cent of the total value of those Credit Card Transactions:
- (a) that Reference Period will be an **Above Benchmark Reference Period**; and
 - (b) the participants in that Scheme must take all necessary steps to vary the rates or amounts of Interchange Fees applicable under that Scheme, with effect no later than 2 months and 1 day after the end of the Above Benchmark Reference Period, to rates or amounts such that, had those varied rates or amounts applied under the Scheme during that Above Benchmark Reference Period, that Reference Period would not have been an Above Benchmark Reference Period.
- 4.3 If at any time any Interchange Fee applicable under a Scheme is introduced or removed, or the rate or amount of any Interchange Fee under a Scheme is varied, the Interchange Fees applicable under that Scheme following that change must be such that, had they applied for the whole of the most recent Reference Period prior to the date of the change, that Reference Period would not have been an Above Benchmark Reference Period. Nothing in this clause 4.3 limits clause 4.2.

5. Net Payments to Direct Issuer Participants

- 5.1 No Direct Issuer Participant in a Scheme may receive, directly or indirectly, Net Compensation in relation to Credit Card Transactions undertaken in that Scheme. **Net Compensation** is received by a Direct Issuer Participant if the Direct Issuer Participant Receipts of the Direct Issuer Participant for that Scheme in respect of a Reporting Period exceed the Direct Issuer Participant Payments of the Direct Issuer Participant for that Scheme in respect of that Reporting Period.
- 5.2 For the purpose of this clause 5:
- (a) subject to paragraphs (c), (d), (e), (f) and (g), **Direct Issuer Participant Receipts** of the Direct Issuer Participant for a Scheme and a Reporting Period is the total of the Benefits that meet the Incentive Test in relation to the Scheme that are earned or accrued during, or receivable in respect of, the Reporting Period by the Direct Issuer Participant and payable, allowable or otherwise to be provided, directly or indirectly, by the administrator of the Scheme in Australia or any of its Associated Entities but, if such an Associated Entity is an Acquirer, excluding Interchange Fees;

- (b) subject to paragraphs (c), (d), (e), (f) and (g), **Direct Issuer Participant Payments** of the Direct Issuer Participant for a Scheme and a Reporting Period is the total amount paid or payable, directly or indirectly, by the Direct Issuer Participant to or in favour of the administrator of the Scheme in Australia or any of its Associated Entities in relation to Core Services provided during or in respect of the Reporting Period for Credit Cards of the Scheme or Credit Card Transactions undertaken in the Scheme;
- (c) if a Benefit referred to in paragraph (a) or (b) does not relate solely to Credit Cards of the Scheme or Credit Card Transactions undertaken in the Scheme and also relates to other Devices or other transactions:
 - (i) the Benefit must be apportioned between:
 - (A) the Credit Cards of the Scheme and Credit Card Transactions on the one hand; and
 - (B) the other Devices and other transactions on the other,
 fairly and reasonably, having regard to, where relevant, the transaction history on Devices used in the payment systems to which the Benefit relates and the proportion of the Devices to which the Benefit relates that are Credit Cards of the Scheme issued by the Direct Issuer Participant or by any Indirect Issuer Participant through Sponsorship by that Direct Issuer Participant; and
 - (ii) the portion referable to Credit Cards of the Scheme and Credit Card Transactions determined in accordance with sub-paragraph (i) (the **Relevant Portion**) must be included in the determination of Direct Issuer Participant Receipts or Direct Issuer Participant Payments, as applicable;
- (d) one method of apportionment under clause 5.2(c) that will be fair and reasonable for the purpose of that provision is an apportionment on a pro-rata basis, based on the value of Credit Card Transactions undertaken in the Scheme using Credit Cards of the Scheme during the Reporting Period as a proportion of the total value of the transactions undertaken in any payment system to which the Benefit relates during the Reporting Period. This does not preclude an apportionment in another way that meets the requirements of clause 5.2(c);
- (e) where a Benefit referred to in paragraph (a), (b) or (c) relates to a period that spans more than one Reporting Period, the Benefit or, in the case of a Benefit referred to in paragraph (c), the Relevant Portion of the Benefit, may be allocated among Reporting Periods, in which case the allocation must:
 - (i) be on a pro-rata basis based on the number of months in each relevant Reporting Period to which the Benefit relates if an allocation on that basis would fairly and reasonably align the Benefit to the activity to which the Benefit relates; or
 - (ii) otherwise on some other basis that fairly and reasonably aligns the allocation of the Benefit to the activity to which the Benefit relates,
 in each case provided that:
 - (iii) no part of it is allocated to any Reporting Period the whole of which occurs before the term of the contract or arrangement under which the Benefit is payable, receivable or allowable has commenced;
 - (iv) no part of it is allocated to any Reporting Period the whole of which occurs after the term of the contract or arrangement under which the Benefit is payable, receivable or allowable has ended; and

- (v) it may not be allocated among more than 10 consecutive Reporting Periods;
- (f) a Direct Issuer Participant who adopts a particular method permitted by clause 5.2 of this Standard of:
 - (i) determining whether and to what extent:
 - (A) Benefits are earned or accrued during, or are receivable in respect of, a Reporting Period for the purposes of paragraph 5.2(a); or
 - (B) Core Services are provided during or in respect of a Reporting Period for the purposes of paragraph 5.2(b); or
 - (ii) allocating or apportioning Benefits for the purpose of paragraph (c), (d) or (e),
must, unless the Reserve Bank of Australia otherwise agrees in writing, continue to use the same method consistently from one Reporting Period to the next; and
- (g) for the purpose of this clause 5, a Direct Issuer Participant must ensure that:
 - (i) a Benefit paid, allowed or otherwise provided, directly or indirectly, by the administrator of the Scheme in Australia or any of its Associated Entities that meets the Incentive Test is included as a Direct Issuer Participant Receipt in the calculation of Net Compensation in respect of a Reporting Period; and
 - (ii) an amount treated as a Direct Issuer Participant Payment in the calculation of Net Compensation in respect of a Reporting Period is not included as a Direct Issuer Participant Payment in the calculation of Net Compensation for any other Reporting Period.

6. Reporting and Transparency

- 6.1 An administrator of a Scheme in Australia or a representative of the participants in the Scheme in Australia must publish the Multilateral Interchange Fee rates or amounts (whichever is applicable) of the Scheme in Australia on the Scheme's website, including the rates or amounts for each Interchange Fee Category.
- 6.2 Each:
- (a) Acquirer; and
 - (b) Issuer that is a Direct Issuer Participant,
- that is a party to an agreement with one or more other participants in a Scheme to pay or receive Interchange Fees in relation to Credit Card Transactions in the Scheme that are not Multilateral Interchange Fees must report to the Reserve Bank of Australia by 31 July each year the range of Interchange Fee rates or amounts (whichever is applicable) it received or paid in respect of the most recent Reporting Period. The Reserve Bank of Australia may publish the reported range of these Interchange Fees for the Scheme on its website.
- 6.3 An administrator of a Scheme in Australia or a representative of the participants in the Scheme in Australia must on or before 31 July each year certify in writing to the Reserve Bank of Australia in respect of the most recent Reporting Period, that Interchange Fees of the Scheme in Australia were during that Reporting Period in compliance with this Standard.
- 6.4 Each of an administrator of a Scheme in Australia and each Direct Issuer Participant in the Scheme in Australia must on or before 31 July each year certify in writing to the Reserve Bank of Australia that it was, in respect of the most recent Reporting Period, in compliance with clause 5.

- 6.5 An administrator of a Scheme in Australia or a representative of the participants of the Scheme in Australia must, not later than 30 days after the end of each Quarter, certify in writing to the Reserve Bank of Australia each of the following for that Quarter for the Scheme:
- (a) the total value of Credit Card Transactions undertaken in the Scheme in that Quarter;
 - (b) the number of Credit Card Transactions undertaken in the Scheme in that Quarter;
 - (c) the total value of all Interchange Fees (exclusive of goods and services tax) payable in respect of the Credit Card Transactions undertaken in the Scheme during that Quarter;
 - (d) the total value of Interchange Fees (exclusive of goods and services tax) payable in respect of Credit Card Transactions undertaken in the Scheme during the Quarter divided by the total value of the Credit Card Transactions undertaken in the Scheme during the Quarter; and
 - (e) each Interchange Fee Category that applied for some or all of the Quarter and, for each of those categories:
 - (i) the Interchange Fee rates or amounts (whichever is applicable) that applied during the Quarter (expressed as a percentage or an amount, not as a range); and
 - (ii) the total value of Interchange Fees (exclusive of goods and services tax) payable in respect of that Quarter that are referable to Credit Card Transactions undertaken in the Scheme in that Quarter in that category.

7. Commencement and Implementation

- 7.1 This Standard came into force on the Commencement Date, but certain provisions in it had a transitional application as set out in clause 7 of this Standard as at the Commencement Date.
- 7.2 This Standard as varied with effect from 1 July 2019 must be complied with for the Reporting Period ending on 30 June 2020 and all subsequent Reporting Periods. For the Reporting Period ending on 30 June 2019 a Direct Issuer Participant in a Scheme may elect to comply, in relation to that Scheme, with either:
- (a) this Standard as in effect on 30 June 2019; or
 - (b) this Standard as amended with effect on 1 July 2019 as if this Standard so amended had been in effect from 1 July 2018,
- and must notify its election of (a) or (b) (**Transitional Election**) to the administrator of the Scheme no later than 1 July 2019.
- 7.3 An administrator of a Scheme in Australia that receives a notification under clause 7.2 from a Direct Issuer Participant must provide its certification of its compliance under clause 6.4 as that compliance relates to that Direct Issuer Participant and the Reporting Period ending on 30 June 2019 on the same basis as that specified in the Transitional Election made by that Direct Issuer Participant.
- 7.4 If a Direct Issuer Participant in a Scheme does not give a Transitional Election in accordance with clause 7.2 then:
- (a) it is taken to have elected to comply, in relation to that Scheme, with this Standard as in effect on 30 June 2019; and
 - (b) the administrator of the Scheme in Australia must provide its certification under clause 6.4 in relation to that Direct Issuer Participant and the Reporting Period ending on 30 June 2019 accordingly.