

Review of Retail Payments Regulation

Conclusions Paper

October 2021

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1 Executive summary

This paper represents the conclusions of the Reserve Bank of Australia’s Review of Retail Payments Regulation. The Review commenced in November 2019 with the publication of an Issues Paper that summarised recent developments in retail payments and highlighted a broad range of potential regulatory issues.¹ After extensive public consultation, the Bank released a Consultation Paper in May that outlined the Payments System Board’s preliminary views on the major issues and presented a draft set of standards for consultation.² The Bank again consulted extensively with a wide range of stakeholders and is now releasing the Board’s conclusions and a final set of standards which, in the opinion of the Board, will contribute to a more efficient and competitive payments system.

The Bank’s Review has coincided with the Treasury’s separate Review of the Australian Payments System (the Treasury Review), which has investigated whether the broader regulatory architecture of the Australian payments system remains fit-for-purpose. The Treasurer released the final report of the Treasury Review in late August, and the Treasury is currently consulting on the recommendations ahead of the Government finalising a response. The Treasury Review noted, as has the Bank’s Review, that the Bank’s powers to regulate new entities and business models emerging in the payments system were relatively limited. However, the recommendations of the Treasury Review, if implemented, could provide the Bank with additional tools that would have some bearing on the policy actions that might be taken in the future.

A summary of the key conclusions of the Bank’s Review is provided below. The changes from the preliminary views set out in the Consultation Paper are summarised in Box A.

1.1 Dual-network debit cards and least-cost routing

The majority of debit cards in Australia are dual-network debit cards (DNDCs), which allow domestic debit payments to be processed via either the domestic scheme (eftpos) or one of the international debit networks (Debit Mastercard or Visa Debit). Least-cost routing (LCR), also known as merchant-choice routing, is functionality that allows contactless (‘tap-and-go’) DNDC transactions at the point-of-sale to be processed through whichever network on the card is less costly for the merchant. This choice can help merchants reduce their payment costs and increase competitive pressure between the debit networks. Indeed, the average cost of accepting debit card transactions has fallen as LCR functionality has been gradually rolled out over the past few years. Given their potential benefits for competition and efficiency in the payments system, the Board has strongly supported the issuance of DNDCs and the provision of LCR functionality to merchants.

At the same time though, the Bank has observed a number of emerging challenges to the viability of LCR over the longer term. One challenge is that technological changes have driven a significant shift away from the use of physical (plastic) cards at the point-of-sale to the use of new ‘form factors’, such

1 See RBA (2019b).

2 See RBA (2021c).

as mobile wallets, which is increasing the pool of transactions that cannot be routed. Another challenge to LCR is a number of small and medium-sized card issuers considering issuing single-network debit cards (SNDCs) instead of DNDCs. SNDCs prevent LCR because they only allow payments to be processed through the one debit network on the card. Card issuers considering or choosing to issue SNDCs have pointed to the additional costs of issuing debit cards enabling two networks instead of one. However, some issuers may also be choosing SNDCs in response to financial incentives from the debit schemes, including higher interchange fees on SNDC transactions (interchange fees are the fees set by card schemes that are paid by the merchant's acquirer to the card issuer on each transaction). The Board is concerned that a significant reduction in DNDC issuance would reduce the benefits of LCR for merchants. Over time, this would likely impose significant costs on the payments system and broader economy due to the loss of competitive tension between the debit schemes. The Board considers that policy action to limit the shift to SNDCs is therefore desirable.

In addition, some merchants have alleged that the international schemes have dis-incentivised the take-up of LCR by making preferential 'strategic' interchange rates on credit card transactions conditional on the value or volume of a merchant's debit card transactions. While the Australian Competition and Consumer Commission (ACCC) has investigated allegations and taken action into such 'tying conduct', there is scope for the Bank to take additional action to prevent any potentially anti-competitive behaviour in this area.

More broadly, given the benefits to date from LCR, the Board has considered whether further policy action is warranted to promote the availability and take-up of LCR functionality for both 'device-present' (in-person) and 'device-not-present' (online) transactions.

Taking these factors and developments into account, the Bank is adopting the following policy framework for DNDCs and LCR:

1. **The Bank expects all debit card issuers with more than \$4 billion in debit transactions each year to continue to issue DNDCs.** Based on 2020 data, this expectation would apply to 8 issuers that account for around 90 per cent of all debit card transactions. If a lower threshold were to be set to capture more issuers, it is probable that the additional costs imposed on smaller issuers to support DNDC issuance would outweigh the public benefit of more DNDCs on issue.
2. **For these issuers, both card schemes on their DNDCs should be provisioned in all form factors that they support, including mobile wallets (where the functionality is also supported by the relevant schemes and mobile-wallet providers).** While there is some uncertainty regarding the Bank's regulatory power over mobile-wallet providers, it has begun engaging with those providers that do not currently support the provision of both networks on DNDCs and will be encouraging them to do so. In combination, this will increase the proportion of mobile payments for which consumers have a choice of debit network, thereby increasing competitive tension between the schemes.
3. **The Bank's interchange standards will be amended by introducing a 'sub-benchmark' for SNDCs, such that the weighted-average interchange fee on SNDCs from a given scheme must be no more than 8 cents.** This will limit the possibility of schemes using interchange rates to incentivise SNDC issuance, which could accelerate the shift towards SNDCs.
4. **The Bank expects all acquirers and payment facilitators (which provide card acceptance services to merchants) to offer and promote LCR functionality to merchants in the device-present (in-**

person) environment. Acquirers and payment facilitators will be expected to report to the Bank on their LCR offerings, and on merchant take-up of LCR, every six months. At this stage, the Board does not see a need for explicit regulatory requirements regarding the provision of LCR. This reflects the progress that has already been made by acquirers and payment facilitators on developing this functionality and the other policy actions being taken to address specific threats to the viability of LCR.

5. **The Bank expects all acquirers, payment facilitators and gateways to offer and promote LCR functionality to merchants in the device-not-present (online) environment by the end of 2022. The Bank also expects the industry to follow a set of principles regarding the implementation of LCR in the online environment.** These measures address the Board's concern that online LCR could be hindered by some industry participants taking slow, divergent, or restrictive, approaches to its implementation.
6. **The Bank will seek voluntary undertakings from the international card schemes that they will not engage in tying conduct. If the schemes are not willing to provide voluntary undertakings, the Bank will consult on the introduction of a new standard to explicitly prohibit such behaviour (separately to this Review).** Such a prohibition would supplement competition law, helping to ensure that the debit schemes compete solely on the basis of their debit card offerings, thereby supporting competition in the debit card market.

1.2 Interchange fees

Interchange fees are wholesale fees set by the card schemes that are paid by acquirers to card issuers on each card transaction. They are passed on to merchants and are a significant component of merchants' cost of accepting card payments. Under the Bank's interchange standards, card schemes must comply with interchange fee benchmarks; specifically, the schemes' average interchange fees, weighted by the value or volume of transactions in each interchange category, are required to be below a benchmark of 0.50 per cent for credit cards, and 8 cents for debit and prepaid cards. The benchmarks are supplemented by caps on individual interchange rates, which limit the disparity between fees applicable to larger merchants that can benefit from lower 'strategic' rates and smaller businesses. These ceilings are currently: 0.80 per cent for credit cards; and 15 cents, or 0.20 per cent if the interchange fee is specified in percentage terms, for debit and prepaid cards.

The Board's long-held view is that interchange fees should generally be as low as possible, especially in mature payments systems. At present, the Board does not see a strong case for significant reforms to the interchange regulations. The current interchange settings have been in effect for only 4 years and appear to be working well. In particular, the Board does not currently see a strong public policy case for lowering the weighted-average benchmarks or the credit card cap.

However, the Bank has noted an increasing tendency for interchange fees on certain debit transactions at smaller merchants to be set at the cents-based cap. The Board is concerned that this can result in smaller merchants facing unreasonably high costs for some low-value transactions (for example, a 15 cent interchange fee on a \$15 transaction is equivalent to 1 per cent of the total value of the transaction). To address this concern without significantly changing the overall interchange framework, **the Bank will reduce the cap on debit (and prepaid) interchange fees that are set in cents terms from 15 cents to 10 cents.** The schemes will still have flexibility to set a range of interchange rates on different types of transactions, including by making greater use of percentage-based fees. Schemes will also have

the ability to restructure their interchange schedules if they wish to minimise the impact of the lower cap on overall issuer revenues.

The Board also sees a case for increasing the transparency of interchange fees on domestic transactions on foreign-issued debit and credit cards. **The Bank will amend the interchange standards to require schemes to publish interchange fees on transactions on foreign-issued cards on their websites**, which will be a low-cost way of shining a light on these relatively high fees.

1.3 Scheme fees

Scheme fees are payable by both acquirers and issuers to the card schemes for the services they provide. They are a significant component of the costs faced by merchants in accepting card payments (because they are passed on by acquirers), as well as the costs borne by issuers for providing card services to their customers. The Board has held concerns for some time about the opacity of scheme fee arrangements to end-users of the payments system, with some indications that this has allowed for scheme fees to increase over recent years. The opacity could also, in principle, make it easier for schemes to implement fees or rules that may be anti-competitive or have the effect of circumventing the Bank's interchange fee regulation.

Meaningful disclosure of scheme fees could partly address these concerns, thereby improving efficiency and promoting competition in the payments system. At the same time, the Board acknowledges that there is a degree of commercial sensitivity around scheme fees, and that disclosure requirements could increase the compliance burden for the industry. The Board considers that the following approach strikes an appropriate balance between these considerations:

- **Schemes will be required to provide the Bank with access to their scheme fee schedules and all scheme rules, and to notify the Bank promptly of any changes to these.**
- **Schemes will also be required to provide quarterly data on scheme fee revenue and rebates to the Bank.** The Bank will consider publishing some of the aggregate data, to provide stakeholders with greater visibility over the average levels and growth rates of these fees across schemes. Larger issuers and acquirers will also be required to provide annual data on scheme fee payments to act as a cross-check on the data reported by the schemes.

1.4 Surcharging

The Bank's existing surcharging rules give merchants the right to levy a fee on customers to recover the costs that merchants face in accepting payments using credit and debit cards. This is supported by rules that prevent merchants from surcharging excessively, which are enforced by the ACCC. While many merchants choose not to surcharge card payments, having the right to do so can help lower their payment costs and promotes competition between card schemes. With the changes that were introduced following the 2015–16 review, **the Board considers the current surcharging framework for card payments to be working well and has decided not to make any further changes.**

A particular issue for this review was whether businesses that accept payments using 'buy now, pay later' (BNPL) services should be allowed to also apply a surcharge to recover the cost of accepting these transactions. BNPL transactions have been growing very strongly in recent years and these services have been adopted by a significant number of consumers and merchants. BNPL services are particularly widely used for certain types of purchases. BNPL services are often free or inexpensive for consumers

to use if payments are made on time, but tend to be expensive for merchants to accept. Despite this, providers of BNPL services typically have ‘no-surcharge’ rules that prevent merchants from passing on these costs to the consumers who benefit from using the BNPL service.

The Board considered the argument that no-surcharge rules can promote innovation and competition in the payments system by helping new payment providers build up the consumer sides of their networks. However, this needs to be weighed against the adverse implications for competitive neutrality in an environment where designated card schemes and some other payment services have been required to remove their no-surcharge rules. Moreover, while BNPL still accounts for a relatively low share of overall transactions in the economy, there are indications that its use is now widespread in certain retail segments. Consistent with this, there was strong feedback from merchants that BNPL has become an essential payment offering for many of them and that the high cost of these services was pushing up their payment costs. The ability to surcharge can be particularly important for promoting competition between payment services where merchants consider it essential to accept a particular payment method to remain competitive.

Taking these factors into account, the Board has concluded that it would be in the public interest and consistent with its mandate to promote competition and efficiency in the Australian payments system for BNPL providers to remove their no-surcharge rules, so that merchants have the ability to apply a surcharge to those payments if they wish. This approach is consistent with the Board’s long-standing principle in relation to no-surcharge rules.

Given the complexity of the regulatory issues, the Bank will continue to engage with Treasury as part of the Treasury Review to ensure a level playing field in relation to no-surcharge rules and to keep downward pressure on merchant payment costs, especially for small businesses.

1.5 Other issues

The Bank will also implement the following policy actions:

- New initiatives to further improve the transparency of payment costs for merchants, to help reduce some impediments to competition in the acquiring market for smaller merchants.
- Some minor revisions to the net compensation provisions in the Bank’s interchange standards, which include formalising recently issued guidance about when and how new issuers should begin certifying compliance with the provisions.
- Revoking the designation of the American Express Companion Card system, given that the four major banks have ceased offering companion cards.

At this stage, no regulatory action in the mobile-wallet market is being proposed. There are important issues to be addressed here, but the *Payment Systems (Regulation) Act 1998* (the PSRA) as currently drafted limits the scope for the Bank to address these issues. The Bank’s power to regulate mobile-wallet providers, and payment service providers more broadly, will be considered by the Government in its response to the Treasury Review. Until then, the Bank will continue to monitor developments in Australia and overseas closely, and will cooperate with the ACCC where needed to address any policy issues relevant to its mandate.

Box A: Changes from the Consultation Paper

The Consultation Paper released in May 2021 contained the Board’s preliminary conclusions and draft standards for consultation. Following stakeholder submissions and consultation with relevant parties, the Board has modified its conclusions and the associated standards. The main changes are as follows:

1. **The expectation regarding DNDC issuance has been extended beyond the major banks, to include all issuers with more than 1 per cent of the debit market by value (or around \$4 billion in annual debit transactions).** However, these issuers are not expected to replace existing SNDCs on issue with DNDCs; these cards, and the accounts they relate to, will be grandfathered.
2. The expectation for these issuers to provision both card schemes on their DNDCs in all form factors, including mobile wallets, offered by the issuer will only apply if the functionality is supported by the relevant schemes *and mobile-wallet providers*. **The Bank will engage with mobile-wallet providers that do not currently support the provision of both networks on DNDCs and encourage them to do so.**
3. Instead of setting a cap on cents-based interchange fees that is lower for SNDC transactions than for DNDC transactions, the Bank will limit interchange-based incentives to issue SNDCs by **introducing a ‘sub-benchmark’ for SNDCs, such that the weighted-average interchange fee on SNDCs from a given scheme must be no more than 8 cents.**
4. **Accordingly, the reduction to 10 cents in the cap on debit interchange fees that are set in cents-based terms – to lower the cost of low-value transactions at small merchants – will apply to all debit and prepaid cards (that is, both DNDCs and SNDCs).**
5. In addition to its expectation that all acquirers and payment facilitators will offer LCR functionality for device-present transactions, and promote the functionality to their merchant customers, **the Bank also expects all acquirers, payment facilitators and gateways to offer and promote LCR functionality to merchants in the online environment by the end of 2022.**
6. Whereas the preliminary view was that the Bank would review BNPL providers’ no-surcharge rules again in the near future, **the Board has now concluded that there is a public interest case for BNPL providers to remove their no-surcharge rules.** The Bank is engaging with Treasury on regulatory approaches.

Box B: Implications of the Review for smaller merchants

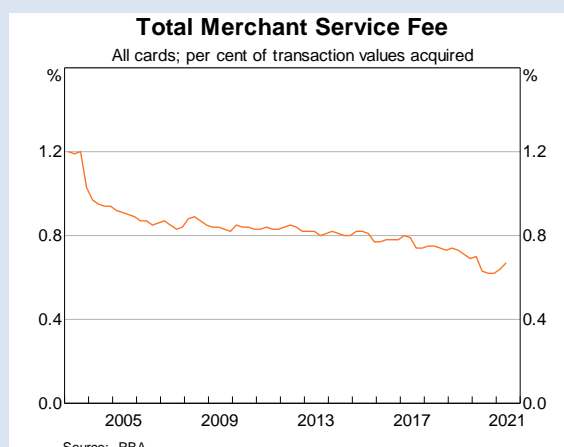
During the consultation for this Review, stakeholders representing smaller merchants argued strongly for a range of policy measures to reduce merchants’ payments costs. In particular, they advocated for requiring very broad DNDC issuance, combined with a formal regulatory requirement for acquirers to provide LCR to merchants on an opt-out basis, across all payment channels (including mobile and online). Central to their concerns was the low take-up of LCR by merchants, arguing that most merchants were not benefiting from the considerable savings that could be made through LCR. This was occurring at a time when changing payment behaviour – such as the ongoing shift towards contactless, mobile and online payments (and card payments more generally), as well as the rising popularity of BNPL products – was putting upward pressure on smaller merchants’ payment costs. Merchant representatives also argued for the removal of the no-surcharge rules that are imposed by

most BNPL providers, consistent with the approach that has already been taken by the Bank in relation to card payments.

The Board has carefully considered the submissions that have been made by stakeholders representing small merchants. The measures being implemented in the conclusions of the Review reflect the Board’s assessment of how the Bank can best serve the interests of all end users of the payments system – consumers, businesses and government entities – and meet the Bank’s mandate to promote the efficiency of the payments system and competition in the market for payment services.

The broad context for the review is that Australia has a relatively low-cost payment system by international standards. The average cost of all card payments has fallen significantly over the past two decades, reflecting the Bank’s policy actions starting with the 2003 reforms (Graph B1). And as documented in Box C ‘The cost of debit transactions in Australia’, the average cost of debit card transactions has also fallen in recent years. While international data are limited, the evidence that is available suggests that the cost of debit card transactions in Australia is amongst the lowest in the world, including for small merchants. An illustration of the low cost of payments in Australia is that the average cost of card payments for the *smallest* Australian merchants is well below the average cost of card payments for *all* US merchants (Graph B2).

Graph B1

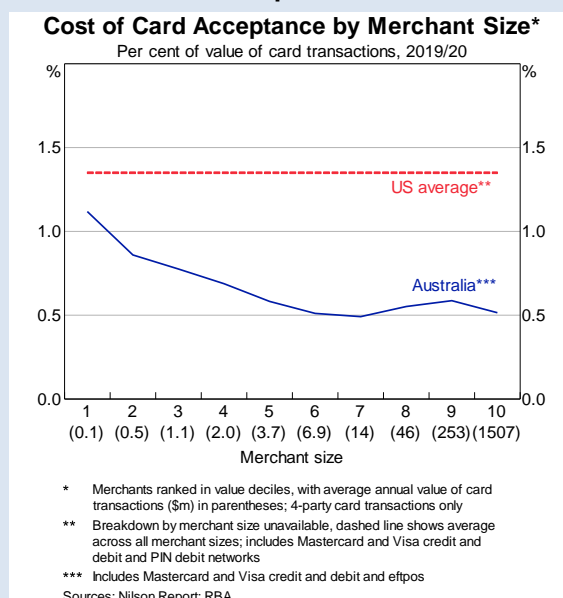


A range of reforms in this Review will benefit smaller merchants by maintaining downward pressure on payment costs. The reduction in the cap on debit interchange fees that are set in cents terms from 15 cents to 10 cents will lower the cost of many transactions for smaller merchants, and narrow the difference between interchange fees paid by small merchants and those paid on transactions at large merchants that can benefit from lower ‘strategic’ rates. In particular, it will lower the cost of some online, mobile and premium debit transactions, given that interchange fees for these transactions are often set at the 15 cents cap by one or more of the debit schemes. This change follows measures taken at the conclusion of the 2015-16 Review, including the reduction in the weighted-average debit benchmark from 12 cents to 8 cents and the introduction of the cap on individual interchange categories, which provided significant benefits to smaller merchants.

The Board’s expectations regarding the provision of LCR in the device-present (or ‘in-person’) environment will maintain pressure on acquirers and payment facilitators to offer and promote the functionality, which should increase take-up by merchants and reduce their payment costs. Recent steps by some of the major banks to offer single-rate plans for smaller merchants with LCR implemented in the background and/or provide LCR for smaller merchants on an opt-out basis are a reflection of the heightened competitive pressure on acquirers and will materially increase the proportion of merchants that directly benefit from LCR. The Board’s expectations regarding the provision of LCR in the device-not-present (or online) environment should also soon lead to lower

payments costs for merchants. It will allow merchants to directly reduce their costs by routing online debit transactions through the cheapest network. But, importantly, the experience with LCR in the device-present environment shows that it will increase the competitive pressure on schemes to also lower their interchange and scheme fees on online transactions, which should flow through to lower merchant service fees (for all merchants).

Graph B2³



The Board's decision to seek the removal of no-surcharge rules in BNPL arrangements, consistent with the approach it has taken previously for card payments, would provide merchants with the ability to impose a surcharge on users of BNPL services, which tend to be quite expensive for merchants to accept. This can help reduce merchants' payment costs directly and also serve as a way to exert competition pressure on providers to keep their fees down.

The Board recognises that the complexity of payments concepts and pricing methods makes it difficult for merchants to engage with LCR and compare pricing plans, which is contributing to limited merchant take-up, and acquirers may not always pass on the full savings from LCR to merchants. Accordingly, the Bank will be providing educational and pricing information to merchants to help address these impediments; the Board is also optimistic that the Consumer Data Right will be expanded to include card acquiring services provided to small businesses, which would make it much easier for merchants to compare the pricing of different acquirers, and possibly even to switch acquirers. Combined with the ongoing entry of technology-focused providers and global players into the Australian acquiring market, this should lead to greater competition, increased take-up of LCR, greater pass-through of the savings from LCR, and lower merchant service fees for smaller merchants.

3 The Australian data in this graph are based on card acceptance costs from a dataset of almost 700,000 merchant accounts, provided to the Bank by 8 large acquirers. The graph shows the cost of accepting card payments by merchant size, with merchants grouped into size 'deciles', such that each decile contains 10 per cent of total transaction values in the dataset. The first decile, for example, contains the smallest merchants; it includes around 480,000 merchant accounts with average four-party card transactions of \$105,000 a year. By contrast, the 10th decile contains the largest merchants; it includes just 31 merchant accounts, each averaging more than \$1.5 billion in card transactions each year.

2 Introduction

This paper is the final document in the Reserve Bank’s review of retail payments regulation (the Review). It presents the Payments System Board’s conclusions on the matters discussed in the Issues Paper and Consultation Paper, reached following an extensive public consultation process. It also includes a copy of the Bank’s standards incorporating the variations which the Bank intends to determine and lodge for registration on the Federal Register of Legislation shortly after the publication of this Conclusions Paper. This chapter outlines the background and process for the Review, in the context of the Board’s mandate and competition and efficiency considerations.

Chapters 3–7 cover the key issues for the review: dual-network debit cards and least-cost routing; interchange fees; the transparency of scheme fees; no-surcharge rules imposed by some BNPL providers; and several other issues examined in the review. Each chapter describes the key issues, the options presented in consultation, stakeholders’ views and the Board’s assessment and conclusions. Chapter 8 describes the varied standards in more detail and implementation timelines.

2.1 Background to the Review

Following the 1996–97 Wallis Inquiry, the Reserve Bank was given new regulatory powers in respect to the payments system and the Payments System Board was created to oversee the exercise of these powers.⁴ The Bank’s powers are to be directed towards controlling risk in the financial system, promoting the efficiency of the payments system and promoting competition in the market for payment services, consistent with the overall stability of the financial system.

In the early 2000s, the Bank began implementing a series of reforms to card payments systems. These reforms included measures that changed the relative prices cardholders faced when using debit and credit cards, reducing the incentives to use higher-cost payment methods. The Bank’s reforms also required changes to certain restrictive rules in card systems, including to allow merchants to apply surcharges on card transactions so that cardholders were more likely to face prices that reflected the cost of the card they were using. The Bank also took steps that reduced the barriers to entry for entities wishing to issue cards or provide card payment services to merchants.

In 2007–08, the Board conducted a review of the Bank’s initial reforms. The review concluded that the reforms had improved access, increased transparency and had led to more appropriate price signals to consumers. This review also explored a number of options for possible changes to the regulatory framework, including stepping back from formal regulation and relying on industry undertakings. However, the industry was unable to arrive at suitable undertakings, so in August 2009 the Board decided against stepping back from interchange regulation and noted that the regulatory framework would remain under review.

4 See Financial System Inquiry (1997).

Over 2015–16, the Bank conducted a comprehensive review of the regulatory framework for card payments. This review concluded in May 2016 with the release of a conclusions paper, and the publication of new surcharging and interchange standards.⁵ The revised surcharging standard sought to address issues around excessive surcharging, while preserving the right of merchants to surcharge. Acquirers and payment facilitators were also required to provide merchants with easy-to-understand information on the cost of acceptance for each designated scheme that would help them in decisions regarding surcharging. The revised interchange standards reduced the weighted-average interchange fee benchmark for debit cards from 12 cents to 8 cents, while the benchmark for credit cards was maintained at 0.50 per cent, and compliance with the benchmarks was made more frequent (quarterly rather than every three years). The benchmarks were also supplemented by ceilings on individual interchange rates: 0.80 per cent for credit; and 15 cents, or 0.20 per cent if the interchange fee was specified in percentage terms, for debit and prepaid. The standard also included new provisions in relation to ‘net compensation’ to prevent circumvention of interchange fee caps and benchmarks. In 2018–19, the Bank conducted a consultation on the operation of the net compensation provisions and made some changes aimed at clarifying and improving their operation.

Several developments informed the timing and direction of this Review. Two reports – one by the Productivity Commission, another by the Black Economy Taskforce – made some recommendations relevant to the Bank’s payments regulations. In addition, the retail payments landscape has changed appreciably in recent years, reflecting technological change, payments innovation, the entry of new providers and changing payment preferences of end users. Given this, it was timely to consider whether the current regulatory settings remained fit-for-purpose to achieve the Bank’s mandate.

More broadly, the growing complexity of the payments ecosystem and the emergence of new entities in the payments chain are raising a range of policy issues in the payments system. These relate to the implications of newer entities – like payment gateways, providers of mobile wallets and buy now, pay later (BNPL) services – for competition, efficiency and risk in the payments system, as well as the regulatory treatment of crypto-assets and so called ‘stable coins’. While the Bank has investigated some aspects of these issues in the Review, the broader question of whether the regulatory architecture remains appropriate for the changing payments system has been considered separately and concurrently in the Treasury’s Review of the Australian Payments System (the Treasury Review). The Treasurer released the final report of this review in late August, and the Treasury is currently consulting on the recommendations ahead of the Government finalising a response.

2.2 The Review process

The Review formally started in November 2019, when the Board approved the publication of an Issues Paper. That paper sought the views of industry stakeholders and other interested parties on a wide range of payments issues. While some of the issues were directly related to the Bank’s existing card payments regulation, the paper also asked whether there were any gaps in the payments system or regulatory issues that needed to be addressed outside the narrower topic of card payments. The Bank received over 50 written submissions from financial institutions, merchants, card schemes, consumer groups and individuals. Around 25 parties accepted the invitation to discuss their submissions with the Bank.

⁵ See Reserve Bank of Australia (2016)

While the Bank originally expected to publish a follow-up paper in mid 2020, the Review was temporarily suspended in March 2020 in response to the COVID-19 pandemic. The Bank recommenced work on the Review in late 2020, and conducted a large number of follow-up meetings with stakeholders about the key issues being considered as part of the Review. The Board approved the publication of a Consultation Paper in May 2021. The Consultation Paper outlined numerous options for regulatory reform to address the policy problems identified in the Issues Paper, as well as the Board's preliminary conclusions on these issues. It also presented some draft variations to the Bank's standards for card payment systems that would implement the preliminary conclusions. The Bank received 35 written submissions to the Consultation Paper; these were published on the Bank's website with the exception of those that were submitted in confidence. The Bank subsequently held additional meetings with over 15 interested parties. The Bank also received estimates of the regulatory compliance costs that would arise under each of the potential policy options from a broad range of stakeholders. The conclusions presented in this document draw on extensive analysis of the costs and benefits of each option proposed in the Consultation Paper, informed by the stakeholder feedback received throughout the Review.

2.3 The Payments System Board's mandate and approach to regulation

The responsibilities of the Payments System Board of the Reserve Bank are set out in the *Reserve Bank Act 1959*, which requires the Board to determine the Bank's payments system policy so as to best contribute to: controlling risk in the financial system; promoting the efficiency of the payments system; and promoting competition in the market for payment services, consistent with the overall stability of the financial system. The Bank's broad approach to payments system regulation has sought to encourage industry to undertake reform, using its powers only when a self- or co-regulatory solution has been unlikely to emerge to address public interest concerns.

The most relevant powers for the current review are those provided to the Reserve Bank under the *Payment Systems (Regulation) Act 1998* (the PSRA). Under the PSRA, the Bank has the power to designate payment systems, and to set standards and access regimes in designated systems. The PSRA also sets out the matters that the Bank must take into account when using these powers.

Under section 18 of the PSRA, the Reserve Bank may impose standards to be complied with by participants in a designated payment system if it considers it to be in the public interest. Section 8 states that in determining whether a particular action is in the public interest, the Bank is to have regard to the desirability of payment systems:

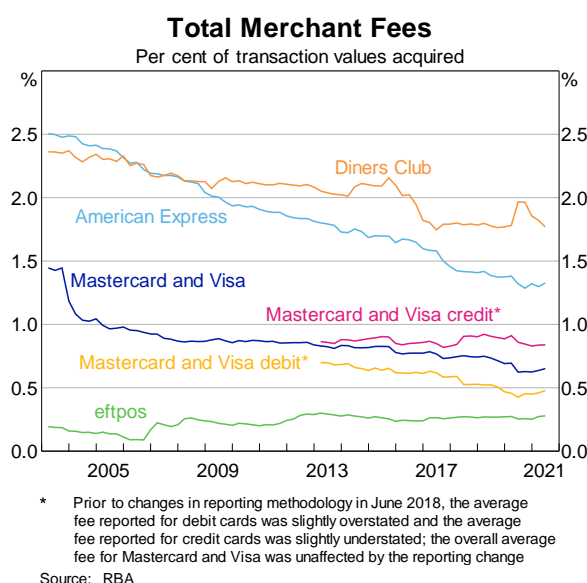
- (a) being (in its opinion):
 - (i) financially safe to use by participants; and
 - (ii) efficient; and
 - (iii) competitive; and
- (b) not (in its opinion) materially causing or contributing to increased risk to the financial system.

The Bank may have regard to other matters that it considers are relevant, but is not required to do so.

2.4 The effects of the Bank’s previous reforms

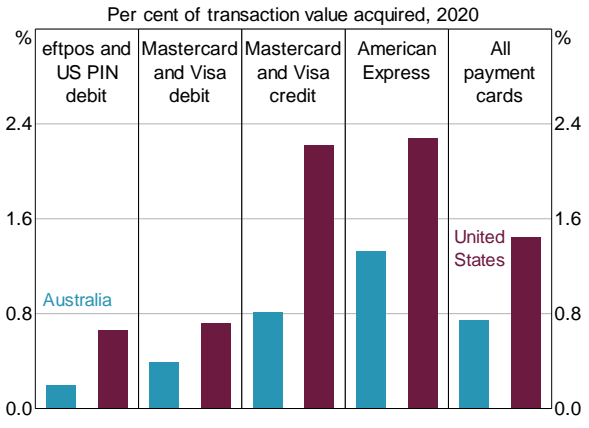
In line with its mandate, the Board has implemented a number of reforms over the past two decades that have contributed to a decline in merchant fees for card payments, as well as enhancing competition and efficiency more broadly. These reforms included imposing caps on interchange fees (which are a key component of merchant service fees), improving the information available to merchants about their payment costs, and generally promoting competition between card schemes.

Graph 1



There has been a significant decrease in merchant fees for most payment systems since the early 2000s (Graph 1). A large decline in average fees for Visa and Mastercard followed the Bank’s initial card payment reforms in the early 2000s, which included the imposition of interchange fee benchmarks and removal of no-surcharge rules. A reduction in the Bank’s interchange fee benchmark for debit cards in 2017 has contributed to a further decline in average fees in the Visa and Mastercard debit schemes in recent years. Despite there being no direct regulation of the ‘three-party’ schemes, the cost to merchants of the American Express and Diners Club systems have also declined, as these schemes significantly reduced their merchant service fees in response to the removal of their no-surcharge rules and to stay competitive with other schemes. Australia has a relatively low-cost payment system by international standards, most notably compared with the United States (Graph 2).

Graph 2
Merchant Service Fees



Sources: RBA; The Nilson Report

3 Dual-network debit cards and least-cost routing

3.1 Issues for the Review

Debit cards are now the most frequently used payment method in Australia. Around 90 per cent of debit cards issued in Australia are dual-network debit cards (DNDCs), which allow domestic payments to be processed via either eftpos or one of the international debit schemes (Debit Mastercard or Visa Debit). Prior to widespread use of contactless ('tap-and-go') technology, consumers would insert their DNDC card into the merchant's payment terminal and then select the network to process the transaction. Many cardholders selected the typically lower-cost eftpos network by pushing the CHQ or SAV button, and merchants could steer the customer to choose the cheaper network (through surcharges, for example). But with the advent of contactless technology, transactions using DNDCs defaulted to the international networks, resulting in an increase in merchant costs. In recent years, therefore, the Bank has been encouraging financial institutions to provide merchants with 'least-cost routing' (LCR) or 'merchant-choice routing' functionality on contactless payments. LCR gives merchants the ability to route contactless DNDC transactions via whichever of the two networks on the card costs them less to accept. This can help merchants reduce their payment costs and increase competitive pressure between the debit schemes, incentivising the schemes to lower the fees that are ultimately incurred by merchants. The Board has strongly supported the issuance of DNDCs and the provision of LCR because of this contribution to efficiency and competition in the payments system.

As LCR functionality has been rolled out, schemes have responded to the increase in competitive pressure by lowering their fees. The weighted-average interchange rates for Visa and Mastercard debit since late 2019 have been comfortably below the 8 cents benchmark, and international scheme fees on some routable transactions have also fallen by 40 per cent since mid-2019. This has translated into a reduction in the average cost of accepting debit card transactions through the international schemes for merchants over the past couple of years (see Graph 1 above). At the same time, however, there have been increases in interchange fees and scheme fees for some non-routable debit transactions, such as those made using mobile wallets, which are making up a growing share of total debit transactions.

Given the benefits to date from LCR, a key focus of this Review was whether policy action was warranted to promote the availability and wider take-up of this functionality. Following pressure from the Bank, most acquirers had implemented some form of LCR functionality by mid 2019. However, there remain some key differences in the LCR capabilities offered by different acquirers, with most not yet offering a version that maximises merchant savings by enabling 'dynamic' routing for each individual transaction. Furthermore, take-up among merchants remains relatively low, which may reflect a lack of awareness or understanding of the potential benefits, along with a lack of promotion by large acquirers. One major bank has automatically switched on LCR for eligible small merchants where it determined that they would benefit from the functionality. Another two major banks have implemented single-rate plans for

smaller merchants with LCR implemented in the background. However, for many merchants the onus remains on them to understand the benefits of LCR and request it from their acquirer.

In addition, there are a number of emerging challenges to the viability of LCR. First, technological changes have driven a significant shift away from the use of physical (plastic) cards at the point-of-sale to the use of new 'form factors', such as mobile wallets, which may increase the pool of transactions that cannot be routed. For mobile wallets, LCR is currently not possible, because each network is separately provisioned and the wallet presents the credentials of only one network during payment; this network is typically the international debit network, which is set as the default, but it can be overridden by the cardholder. Nevertheless, DNDCs can still facilitate competition between schemes in the mobile context, as merchants may be able to attempt to incentivise the customer to choose a particular network in their mobile wallet during the checkout process. However, not all mobile wallets and issuers currently support the provisioning of both networks of a DNDC; in some cases, only the international scheme is provisioned.

A second challenge to LCR is that several smaller and mid-sized issuers have begun moving away from DNDCs towards single-network debit cards (SNDCs) which allow payments to be processed through only one (international) debit network. The switch to SNDCs reflects two factors. First, the international schemes have been keen to facilitate the issuance SNDCs for some time and at least one scheme is offering higher interchange rates on transactions on SNDCs. In making the case for issuance of SNDCs, the international schemes have noted that some issuers still have single-network, eftpos-only 'proprietary' cards on issue (which may also attract higher interchange rates than equivalent transactions on DNDCs); LCR is not feasible on either of these single-network cards. Second, issuers and international schemes pointed during the consultation process to the additional cost of issuing debit cards with two networks instead of one. Given the largely overlapping functionality provided by the three debit schemes, some smaller issuers felt that supporting a second debit network yielded little benefit to their customers but generated significant costs.

SNDCs reduce both customer and merchant choice, and so lessen competition between schemes at the point-of-sale. A particular concern is that a shift towards SNDC issuance could have the effect of making LCR less attractive, especially for large merchants that benefit from lower 'strategic' interchange rates if they send significant volumes through a particular scheme. When larger 'strategic' merchants adopt LCR and most of their DNDC transactions are routed via eftpos rather than an international scheme, they lose access to strategic interchange rates from that international scheme on any debit card transactions that continue to be processed through that international network; the latter transactions would include transactions on DNDCs where the customer actively selects the international network or where routing is not possible because they are online or due to some problem with the chip or the issuer, as well as transactions on SNDCs. An increase in the prevalence of (international scheme) SNDCs would increase the pool of non-routable transactions that must be processed through the international schemes, while decreasing the pool of routable DNDC transactions. This would raise the cost of losing strategic interchange rates – lowering the net savings from LCR – to the point where LCR might not be commercially attractive for large merchants that could benefit from strategic rates.

Stakeholders have highlighted that the ongoing shift towards mobile payments, noted above, is increasing the pool of non-routable transactions that are automatically processed through the international schemes. Accordingly, the financial case for large merchants to use LCR has already become marginal, with the Bank aware of two large retailers that were early adopters of LCR having recently decided to stop using it. Smaller merchants, which do not have access to strategic rates, might

continue to benefit from LCR (albeit to a lesser extent) even with a shift occurring to SNDCs. However, if ePAL⁶ cannot compete for the volume of large merchants, its ability to compete for smaller merchants would also be weakened. In the extreme, as the lowest-cost network, its potential exit from the market would result in a significant lessening of competitive pressure in the debit market and would likely result in an increase in both interchange rates and scheme fees, impacting all merchants.

Online payments functionality is currently being enabled for eftpos, which raises the possibility of LCR in the online (or ‘device-not-present’) environment. Indeed, the Bank is aware of several payments service providers already offering LCR online. The Board supports the provision of LCR online, given the clear benefits that LCR has had in the card-present or ‘device-present’ environment, in terms of stronger competition and lower payment costs.⁷ However, the major banks, which are both the largest acquirers and the largest issuers in Australia, may not have strong incentives to provide LCR online. Further, the online payment process is distinct from the device-present environment, which raises additional policy questions. A key issue is whether customers should be notified when merchants choose to route online transactions and whether customers should be given a choice to override merchants’ routing decisions. Some stakeholders have expressed concerns about the comparability of the debit schemes’ online payment offerings, particularly in regard to security, and stressed the importance of customer choice and notification. Indeed, one of the international schemes has already imposed rules relating to customer notification and choice. However, some other stakeholders are concerned about the frictions that these rules would introduce into the checkout process, in part due to customers’ poor understanding of payments, which could significantly deter the development and/or merchant take-up of LCR online.

Another challenge to the viability of LCR is the potential for the international schemes to link strategic interchange rates on credit card transactions to the value or volume of merchants’ debit card transactions (or their decision to adopt LCR). Such ‘tying conduct’ penalises merchants that route debit card transactions to eftpos through higher interchange rates on their credit transactions, which could offset merchants’ savings from LCR. In effect, the international schemes could leverage their market power in the credit card market to dis-incentivise the take-up of LCR. In early 2018, the Bank sought and received assurances from the international schemes that they would not respond to LCR in ways that would limit the competitive pressure in the debit card market. Despite these assurances, several merchants have alleged that both Visa and Mastercard have engaged in potentially anti-competitive tying conduct, which the Board is particularly concerned about. The ACCC has investigated Visa’s conduct, due to its concerns that Visa may have limited competition by engaging in tying conduct, resulting in the ACCC accepting a court-enforceable undertaking from Visa in March 2021.⁸

6 Eftpos Australia Payments Limited (ePAL) is the company that runs the eftpos network.

7 From now on, this paper will use the terms device-present and device-not-present, rather than card-present and card-not-present, to acknowledge the growing tendency of card payments to move away from the traditional physical card form factor.

8 See ACCC (2021).

3.2 Options presented in consultation

3.2.1 Least-cost routing

In relation to the provision of LCR functionality, the Board requested stakeholder views on three policy options:

Option 1: Maintain current arrangements

The Bank would continue to monitor market developments in the provision of LCR across all relevant payment channels without any formal intervention.

Option 2: Explicit guidance on the provision of LCR by acquirers and payment facilitators

The Bank would state an explicit expectation that all acquirers and payment facilitators would offer and promote LCR functionality to merchants in the device-present environment; acquirers and payment facilitators would be expected to report to the Bank every 6 months on their LCR offerings and on merchant take-up. There would be no similar expectation regarding LCR in the online environment at this stage. However, the Board would set out a list of principles that it expects the industry to follow, to prevent the erection of barriers to the development and adoption of LCR online. If expectations for the provision of LCR are not met, the Board would consider formal regulation.

Option 3: Explicit regulation on the provision of LCR by acquirers and payment facilitators

The Bank would require – through a change to the Bank’s standards – that relevant payments service providers offer or support LCR for both device-present and online DNDC payments. The Bank would also set explicit rules for LCR in the online environment to ensure that the interests of merchants and consumers are appropriately balanced.

For all 3 options, the Board also considered whether the Bank’s information-gathering powers under section 26 of the PSRA should be used to require schemes to notify the Bank of all scheme rules and any changes to those rules (this would overlap with a similar proposal regarding scheme fee-related rules, discussed in the section on ‘Scheme fees’ below).

3.2.2 Dual-network debit card issuance

Given recent industry developments and the issues discussed above, the Board requested stakeholder views on three broad options in relation to the issuance of DNDCs, which represent an escalating degree of regulatory response. The Board in particular called for feedback on Options 2 and 3, because its preliminary view was that the relative merits of these two options was finely balanced:

Option 1: Maintain current arrangements

Issuers would continue to make the choice between issuing DNDCs and SNDCs based on their own commercial considerations. The Bank would continue to monitor market developments without any formal regulatory intervention.

Option 2: Explicit expectation of DNDC issuance for the major banks

The Bank would set an explicit expectation that the major banks would continue to issue DNDCs, with two card schemes to be provisioned in all form factors, including mobile wallets, offered by the issuer

(where the functionality is supported by the scheme). There would be no presumption as to which two debit networks were included by issuers; various combinations of domestic and international schemes might be feasible. The Bank would also set a cap on any cents-based interchange fees that was lower for SNDC transactions than for DNDC transactions, which would lessen the incentive for SNDC issuance.

Option 3: Regulation mandating DNDC issuance for the major banks and medium-sized issuers

The Bank would require – through a change to Standard No. 2 of 2016 – that all issuers above a certain size threshold must issue only DNDCs, with two card schemes to be provisioned in all form factors, including mobile wallets, offered by the issuer (where the functionality is supported by the scheme). In designing the mandate, the Bank could draw on similar rules relating to DNDCs in other jurisdictions, such as the United States.⁹ Under Option 3, there may not be a case for a lower cap on cents-based interchange fees for SNDC transactions, depending on where the issuance size threshold were set.

3.2.3 Potential tying conduct by the international schemes

The Board requested views on two options to address the potential for international schemes to link strategic interchange rates on credit card transactions to merchants' value or volume of debit card transactions ('tying conduct').

Option 1: Leave the ACCC to investigate and take enforcement action against any anti-competitive tying conduct

Consistent with current practice, any alleged anti-competitive tying conduct would be investigated by the ACCC under the *Competition and Consumer Act 2010* (CCA).

Option 2: Explicitly address tying conduct

The Bank would seek voluntary undertakings from the designated card schemes that they will not engage in tying conduct; if this was not feasible, it would introduce a new standard to explicitly prohibit such conduct by designated card schemes.

3.3 Stakeholder views

Many stakeholders expressed support for the continued issuance of DNDCs to some degree. The Government, in particular, through a letter from the Treasurer, strongly encouraged the Board to consider mandating DNDC issuance for major and medium-sized financial institutions. Most merchant groups and some other stakeholders went further, arguing that *all* issuers should be required to support DNDCs in all form factors to maximise the benefits of LCR. However, other stakeholders highlighted that there are significant costs associated with supporting DNDCs, particularly for small and medium-sized issuers, and were in favour of only requiring the major banks to support DNDCs. Issuers noted that there are limited cost synergies from operating two debit networks despite the similarities in their product offering. Issuers flagged that there are cost duplications relating to investment spending, product upgrades and mandate compliance. Small issuers argued that the time and opportunity costs

⁹ The US Federal Reserve's Regulation II (Debit Card Interchange Fees and Routing) implements the so-called 'Durbin Amendment' to the Dodd-Frank Act. Among other things, it prohibits all issuers and networks from: restricting the number of networks over which electronic debit transactions may be processed to less than two unaffiliated networks; and inhibiting a merchant's ability to direct the routing of the electronic debit transaction over any network that the issuer has enabled to process them.

associated with issuing DNDCs hinder their ability to innovate and compete with the major banks; most issuers said that they would like the freedom to make a commercial decision about the issuance of DNDCs. Some stakeholders recognised this cost burden on smaller issuers, but maintained they should still be required to issue DNDCs as part of their 'social responsibility' given the system-wide benefits DNDCs enable. The international card schemes and some major banks argued that mandating DNDCs for all issuers would reduce competitive pressure in the market, eliminating ePAL's incentive to innovate and attract issuers.

Some stakeholders argued that without DNDCs, customers would lose valuable functionality only available through eftpos, such as real-time Medicare rebates and cash-out at the point-of-sale. However, some issuers felt that these additional services provided little value to their customers. Issuers that have begun the process of switching to SNDCs argued that SNDCs reduced the complexity of their product developments and would allow them to launch new product offerings (such as the mobile 'pays') for their customers more quickly. Some stakeholders also noted that the shift towards digital 'form factors' such as mobile wallets made support for DNDCs more costly than was the case in a world with only physical cards.

Several stakeholders noted that the financial case for large merchants to adopt LCR would be undermined if SNDCs became more prevalent, particularly given the growth of non-routable mobile-wallet and online transactions. Merchant groups and some other stakeholders argued that the Bank should take action to ensure LCR is possible on mobile-wallet transactions given their growing importance. More generally, these stakeholders argued that the adoption of LCR remains too low, and that the Bank should mandate the provisioning of LCR on an 'opt-out' basis and require that all merchants be provided with 'dynamic' routing functionality which realises the full possible savings from LCR. On the other hand, some stakeholders agreed that the Bank's suasion has worked, and that regulating LCR is not needed given recent industry progress. Some stakeholders also noted that discussions over LCR risked placing too much emphasis on the cost of accepting payments, and ignoring other functionality valuable to the merchant, such as security.

In the online environment, payments industry stakeholders generally argued that the Bank should not mandate the provisioning of LCR. Some of the major banks contended that developing LCR functionality online would be costly, time-consuming and would likely require a coordinated industry approach. A number of stakeholders also argued that there are material differences between the security and product offerings of the debit card schemes in the online environment. Given the higher incidence of fraud in e-commerce transactions, some of these stakeholders argued that LCR online would increase fraud rates, adversely affecting all stakeholders in the online payments ecosystem. These stakeholders felt that consumer choice should be paramount, and that customers should be given a transparent choice between the debit card schemes or be clearly notified if their transaction is being routed.

However, other stakeholders argued that the Bank should mandate LCR online. They argued that the major banks – which are both the largest acquirers and the largest issuers in Australia – are not incentivised to provide LCR online, due to the resulting reduction in their interchange revenue and their deep relationships with their international scheme partners. These stakeholders also argued that schemes provide customers with comparable product offerings, and that there is (or soon will be) little difference between their security functionalities. They also claimed that customers typically do not have a preferred debit scheme, and have a limited understanding of their debit options, so notifying them would only create confusion. They believed that since merchants bear the cost of payments, merchant choice should take precedence over consumer choice. Nearly all stakeholders were opposed to any

requirement to provide customers with an option to override a merchant’s routing decision given the complexity and friction it would add to the checkout process.

3.4 The Board’s assessment and conclusions

The Board continues to support the issuance of DNDCs and the provision of LCR because they significantly enhance competition and efficiency in the payments system. Since the issues affecting the availability of DNDCs and LCR are highly inter-related, the Board has developed a package of reforms to address its concerns, drawing on the various specific options presented in the Consultation Paper. In doing so, the Board has carefully taken into account the views of stakeholders, the likely costs and benefits of regulatory intervention, and the scope of its mandate and powers, all in the context of a payment ecosystem that is changing rapidly.

3.4.1 Least-cost routing

Mobile wallets

One of the key challenges to LCR, and the competition and efficiency benefits that it brings, is the rapid growth of mobile-wallet transactions, which at present cannot be routed by merchants. Without LCR for mobile-wallet transactions, the pool of non-routable device-present transactions is likely to continue growing, further undermining the viability of LCR for large merchants and limiting the savings from LCR for smaller merchants. Accordingly, some stakeholders argued strongly for the Bank to require industry participants to enable LCR in the mobile-wallet context.

The Board acknowledges that extending LCR to mobile-wallet transactions would yield benefits in terms of lower payment costs for merchants and ultimately lower prices for consumers. Merchants would see a direct benefit by routing to the lowest-cost network, and there would be indirect effects on payment costs from increased competitive tension between the debit schemes (putting downward pressure on the interchange rates and scheme fees that apply to mobile-wallet transactions).

The Bank understands that there are 2 possible implementation models:

1. Under a ‘single token’ model, the mobile wallet would continue to present a single scheme token to payment terminals, but the owner of the scheme token (or token service provider (TSP)) would de-tokenise the payment credentials if needed and route the transaction to the merchant’s preferred network. The card schemes, along with their TSPs and other industry participants, would need to coordinate to develop such a solution.
2. Under a ‘2 tokens’ model, mobile wallets would present tokens from both schemes to the terminal during checkout. Mobile-wallet providers would need to change their solutions so that their devices present 2 tokens simultaneously, which they have indicated may be feasible, but would be a significant and complex change. This model would likely also require all cards on mobile wallets to be reloaded (or ‘reprovisioned’). And many payment terminals would need significant modification (or replacement) to be able to make routing choices based on the 2 scheme tokens (rather than the single physical card number).

Both options would require a significant change to the technical implementation of mobile payments for the whole industry, which would involve significant costs and be time consuming. There is also very limited international precedent for such functionality; the Bank is only aware of the first and second models being used, to a limited extent, in the United States and France respectively. The first model

may be somewhat easier from a technical perspective, but by requiring schemes to detokenize payment credentials for competing schemes, it raises the likelihood of ongoing disputes about the commercial terms of, and access to, this service; it may also partly unwind the benefits of tokenisation in reducing fraud. The second model would be not only more complex but would require the cooperation of some payment service providers – most notably the mobile-wallet providers – in relation to which the application of the Bank’s powers under the PSRA is unclear.

Accordingly, while the benefits of enabling LCR in the mobile-wallet context could be substantial, the Board’s view is that these would likely be outweighed by the significant implementation costs, as well as other legal and practical challenges. The Board is also mindful that mobile payment methods could change significantly in coming years (through, for example, the use of quick response (QR) codes).

However, in the Board’s assessment there are other policy responses that would strengthen competition in mobile payments. **First, the Bank has already begun to engage with mobile-wallet providers that do not currently support the provision of both networks on DNDCs and will be encouraging them to do so;** legislative reforms following Treasury’s Review of the Australian Payments System may allow this outcome to be achieved through regulation if necessary. **Second, as discussed further below, issuers that are expected to issue DNDCs will also be expected to provision both networks in mobile wallets (where supported by the relevant schemes and mobile-wallet provider).** In combination, this will increase the proportion of mobile payments for which consumers have a choice of debit network, thereby increasing competitive tension between the schemes.

LCR for device-present (or in-person) transactions

Another key policy issue is that while the broad availability of LCR for device-present transactions has put downward pressure on payment costs, merchant take-up of LCR has been quite limited. This has raised the question whether policy action is warranted to promote the wider take-up of this functionality, to generate further cost savings for merchants and greater competitive tension between debit schemes. Some stakeholders argued strongly that the Bank should require acquirers and payment facilitators to enable LCR for merchants as their default option (with merchants able to ‘opt-out’ if they wish). These stakeholders argue that the major banks do not have an incentive to provide and promote LCR to their merchant customers, because it results in less interchange revenue for the card issuing side of their business. Also, the complexity of payments issues in general and merchant pricing in particular create significant barriers to merchants understanding LCR and realising its benefits.

Higher merchant take-up of LCR would lead to further cost savings for merchants and benefit payment system efficiency. However, the Board is not convinced that formal regulatory intervention, such as requiring all acquirers and payment facilitators to offer LCR as their default option, is warranted, for the following reasons:

- The payments industry has made considerable progress in the provision of LCR in the device-present environment without any explicit regulatory requirements, albeit following considerable suasion by the Bank over a number of years. All major acquirers now offer LCR in some form, although the functionality offered by some acquirers is rather limited.
- Three of the 4 major banks already provide LCR, or soon will do so – on an opt-out basis, or in the background – for smaller merchants. Most recently, CBA has announced that it is moving all small business customers with annual turnover equal to or less than \$250,000 to a new simple rate plan charging 1.1 per cent for all in-store card transactions, and 1.5 per cent for online transactions,

regardless of the interchange rate or the type of card. This will be a significant reduction relative to previous plans for these merchants, with CBA implementing LCR ‘in the background’.

- Numerous stakeholders have noted that competition in the acquiring market is strong in many respects, with a range of new global and technology-focused providers entering the market in recent years, providing merchants with viable alternatives to the major banks. These new providers, along with existing smaller players, often offer superior technology capabilities to merchants (including more sophisticated LCR functionality) and are putting pressure on the major banks to improve their own payment services and pricing.
- Merchant take-up is not the sole measure of success of LCR. Even with low take-up, there is clear evidence that the availability of LCR has intensified competition between the debit schemes and led to lower wholesale payment costs for all merchants, with both interchange and scheme fees on routable transactions falling over the past few years. This has contributed to further falls in the average fee paid by merchants to accept card payments over recent years, with the evidence that is available suggesting that the cost of accepting debit payments in Australia is amongst the lowest in the world (Box C).
- Requiring acquirers and payment facilitators to enable LCR for merchants as their default option would not necessarily guarantee that the savings would be passed on to merchants.¹⁰ In contrast, strengthening competition in the acquiring market, including by improving merchants’ understanding and awareness of payments issues, and their willingness to switch providers, would both increase the competitive pressure on acquirers and payment facilitators to improve and promote their LCR offerings as well as ensure that more of the savings are passed on to merchants. The Bank is separately proposing reforms in this area, as outlined in the section on ‘Competition in card acquiring’ below; in particular, the Bank is optimistic that extending the Consumer Data Right to smaller merchants’ card transactions would be especially beneficial for boosting competition in that part of the acquiring market.

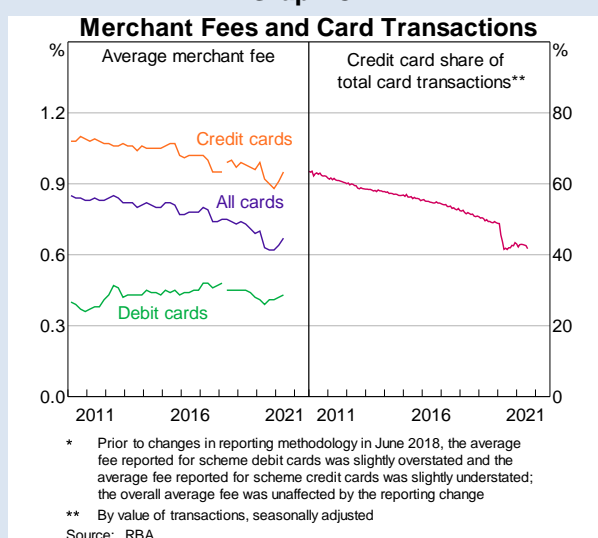
The Board’s preferred policy to promote LCR is to state an explicit expectation that all acquirers and payment facilitators will both offer LCR functionality for device-present transactions and promote the functionality to their merchant customers. Acquirers and payment facilitators will be expected to report to the Bank on their LCR offerings, and on merchant take-up of LCR, every six months. In light of the progress made by the industry to date, combined with the competitive dynamics in the acquiring market and other initiatives in this Review, the Board sees this as a simpler and more balanced approach to achieving the desired improvement in LCR functionality and awareness.

¹⁰ Many merchants are on plans where they are charged directly by their acquirer for the interchange fees (and sometimes also scheme fees) associated with their transactions; any savings on interchange fees (and scheme fees where relevant) due to LCR will be directly passed on to such merchants. However, a sizeable share of merchants are on simpler payment plans where pricing does not reference the cost of interchange and scheme fees; for example plans that charge a single rate for all transactions, regardless of card type and scheme. For these latter merchants, LCR serves to lower these wholesale costs for acquirers, and the extent to which any savings are passed on to merchants will depend on the pricing strategies of acquirers and the degree of competition in the market. If the intention of regulation to require LCR by default were to guarantee that merchant payment costs were lowered, it would probably have to be accompanied by regulation regarding acquirer’s pricing plans and/or mark-ups.

Box C: The cost of debit transactions in Australia

Average merchant fees for all card payments have fallen over the past decade, from more than 0.8 per cent of the value of transactions to just over 0.6 per cent (Graph C1; right-hand panel). The Bank's various card payment reforms have contributed to this decline, with merchant fees for most payment systems falling over the period (see Graph 1 above). The gradual switch from credit to debit cards has also helped lower average card payment costs, because debit cards tend to be less expensive for merchants to accept than credit cards.

Graph C1



Average merchant fees for *debit* card payments have generally fluctuated between 0.4 and 0.5 per cent of the value of transactions over the past decade, despite a sizeable fall in the share of transactions processed through the domestic eftpos network, which tends to be cheaper for merchants to accept on average than the Visa and Mastercard debit networks.

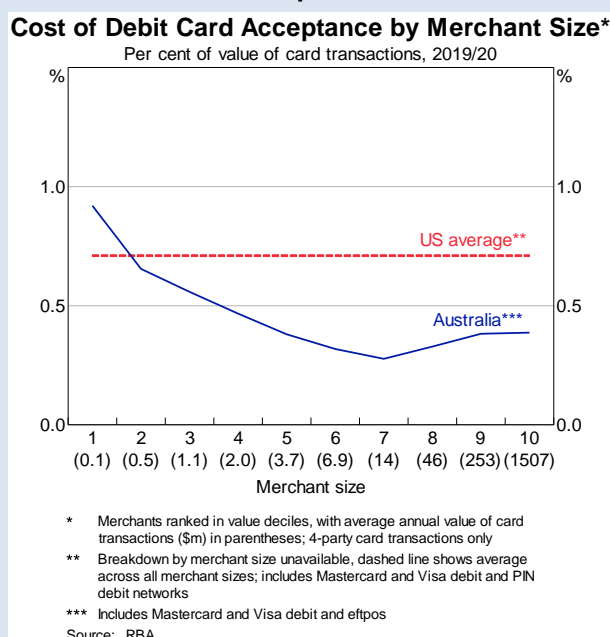
There has been a fall in the average cost of debit payments since 2017. A number of reforms implemented by the Bank are likely to have contributed to this decline, benefitting smaller merchants in particular. Most notably, new standards implemented in July 2017 reduced the weighted-average interchange fee benchmark for debit card transactions, from 12 cents to 8 cents, and introduced caps on individual interchange fees. As noted earlier, larger merchants typically benefit from preferred low (or 'strategic') interchange fees on all their card transactions. Smaller merchants, on the other hand, usually bear the full cost of high interchange fees on some cards and transaction types. Capping interchange fees has therefore put downward pressure on the costs of accepting such payments for smaller merchants. The reduction in the debit interchange cap from 15 cents to 10 cents in this Review, discussed in the 'Interchange fees' section below, will similarly benefit smaller merchants.

More recently, the increased availability of LCR functionality starting in early 2019 has contributed to a modest decline in the average cost of debit card payments. This has lowered debit costs both directly by allowing merchants to route transactions through the lowest-cost network, and indirectly by increasing the competitive pressure on debit schemes to lower their fees. Indeed, over recent years there have been sizeable declines in the interchange and scheme fees charged on *routable* transactions. For example, the interchange fees charged by the international schemes on standard card-present transactions – which are in-person transactions at non-strategic merchants, using physical cards that are not premium cards – have fallen from 12½ cents (Mastercard) and 8 cents

(Visa) in mid 2017 down to 4 cents currently (see Table 1 in the ‘Interchange fees’ section below). However, this has been partly offset by increases in interchange and scheme fees for some *non-routable* debit transactions, such as those made using mobile wallets, which are growing quickly and making up an increasing share of total debit transactions.

While similarly detailed data for other countries are not available, the available evidence suggests that the cost of debit card transactions in Australia is amongst the lowest in the world. As shown in (Graph 3) in the ‘Interchange fees’ chapter below, interchange fees on a \$50 transaction in Australia are lower than in the United States, Canada, Europe and New Zealand. Further, average merchant fees for debit card transactions are much lower in Australia (around 0.4 per cent) than in the United States (around 0.7 per cent); indeed, merchants of all sizes in Australia, except those that are very small, tend to pay average merchant fees for debit transactions that are lower than the economy-wide average for the United States (Graph C2).

Graph C2



While this Review is implementing a number of measures to safeguard competition in the debit card market, the Board will be continuing to monitor the market and there would be a number of additional regulatory responses, including changes to the weighted-average interchange benchmark, that the Bank could consider in the event that there was some reduction in competition and upward pressure on merchant fees.

LCR for device-not-present (or online) transactions

The Board supports the provision of LCR online, given the clear benefits that LCR has had in the ‘device-present’ environment, in terms of stronger competition and lower payment costs. However, the Board is concerned that the provision of online LCR may be hindered by industry participants taking slow, divergent, or restrictive, approaches to its implementation. In particular:

- some stakeholders have argued that the major banks – which are both the largest acquirers and the largest issuers in Australia – are not incentivised to provide LCR online, due to the resulting reduction in their interchange revenue and their deep relationships with their international scheme partners;

- two of the major payment gateways in Australia are owned by the international schemes, and so may have less incentive to provide online LCR, because it would increase competition between the international schemes and eftpos;
- one of the international schemes has implemented a rule requiring acquirers and merchants to notify customers of LCR in the online context and to provide them with an override option; merchant stakeholders argue that this rule would add considerable friction to the checkout process, and could significantly deter the development and take-up of LCR online.

Stakeholders have put forward two main arguments against online LCR, and for rules like the one noted above. First, they maintain that consumer choice should take precedence over merchant choice when paying online. Second, they consider that there are material differences between the security capabilities and other product offerings of eftpos compared with the international schemes.

However, the Board is persuaded that the majority of cardholders do not have a strong preference between debit card schemes. In addition, following extensive liaison, the Bank is not persuaded that differences in the security capabilities of the schemes – once ePAL has finished building its online capabilities – are likely to have a material impact on security or fraud in the online payments ecosystem. Accordingly, given that merchants incur the cost of processing a transaction and bear much of the fraud risk, the Board considers that they should be able to route transactions via their preferred network, without significant friction being added to the checkout process. Regulators have reached a similar view in the United States, where issuers and schemes are not permitted to prevent merchants from routing debit transactions, including in the online environment.¹¹

The Board therefore sees merit in taking action to facilitate the broad-based availability of online LCR for merchants. Given the Bank’s traditional presumption in favour of self-regulation, and that eftpos’ online functionality is still being rolled out, the Board is of the view that it is too early to intervene with formal regulation. Instead, the Board will set two explicit expectations regarding online LCR, and will consider more formal regulation if they are not met:

1. **First, all acquirers, payment facilitators and gateways will be expected to offer and promote LCR functionality to merchants in the online environment by the end of 2022.** In setting this deadline, the Board notes that ePAL is due to finish building out its online capabilities by the end of 2021, with issuers and acquirers due to comply with ePAL’s mandate to enable their systems to process online eftpos transactions (for all risk levels) by mid 2022. In line with the expectation for the device-present environment, acquirers, payment facilitators and gateways will be expected to report to the Bank on their LCR capabilities and offerings, and on merchant take-up of LCR, every six months.
2. **Second, industry participants will be expected to abide by the principles set out in Box D.** These principles are intended to help the industry coalesce around an implementation model that, in the Board’s view, appropriately balances the interests of merchants, consumers and the schemes. Under the principles, merchants would not be required to provide customers with a choice of debit

11 The United States is one of few jurisdictions globally where DNDCs and LCR (or merchant-choice routing) exist. The Federal Reserve has recently proposed amendments to its regulation in this area to make it clear that the requirement for issuers to ensure their cards enable transactions by two unaffiliated networks also applies to online transactions. This will help ensure that merchants are able to route transactions in the online environment (with no requirement for customer notification).

network, but customers would always be informed if routing could occur. Box E provides some stylised examples of how the principles might work in practice.

A number of stakeholders noted that the complexity of the online payments ecosystem means that the development of LCR for online transactions would require considerable changes to infrastructure and systems across a number of participants, and so is best managed through a coordinated industry approach. Accordingly, the Board encourages industry to work together as appropriate to develop online LCR functionality, and welcomes the AusPayNet working group that has begun this process.

Finally, the rule implemented by one international scheme relating to online LCR has highlighted once again that scheme rules can have significant policy implications. **Accordingly, the Board has decided that the Bank should be notified of all scheme rules and any changes to those rules.** This will be implemented as an exercise of the Bank's information gathering powers under section 26 of the PSRA. The Bank expects this to impose minimal compliance burden on the schemes, as they would be required to simply provide the same access to rules and notification of changes that is already provided to scheme participants.

Box D: Principles for LCR in the device-not-present environment

1. Merchants (or their acquirer or gateway) can decide whether or not to give customers the ability to choose which debit network will process their transaction. If a customer has been given the ability to choose their preferred debit network, and they have made an explicit choice, this choice of network should not be overridden by the merchant or any other party in the transaction process. This would apply, for example, where the checkout page provided the explicit choice of debit network or where the customer used a mobile wallet with a preselected debit network.
2. If a customer has not made an explicit choice of network, and the transaction may be routed by the merchant or another party in the transaction process away from the 'front-of-card' network, there should be reasonable notification that routing could occur. In the case of new recurring transactions, it would be appropriate to notify customers only at the time of setting up the arrangement. In the case of existing recurring transactions, merchants should notify customers that their transactions may now be routed. The Bank is not prescribing exactly how such notifications should occur.
3. If transactions may be routed by the merchant or another party in the transaction process, the merchant's website and checkout pages should not mislead customers about the choice of payment methods available, or the network that will process their debit transaction. In particular, the wording or visual cues presented when a customer pays with a debit card should not give the impression that a particular scheme will process the transaction if that is not the case; for example, if a checkout page shows a collection of scheme logos to signal how a customer initiates a card payment, the transaction should not be routed via a network that was not shown amongst the logos.
4. Card schemes should not impose rules or technical standards that have the effect of significantly reducing the likelihood of acquirers and gateways providing, and merchants choosing, LCR. For example, schemes should not have rules that:

- (a) require merchants to give customers an explicit choice of debit network when first choosing their payment method (as this could preclude LCR)
- (b) require merchants to notify customers about routing *in any specific way* (as this could introduce significant friction into the checkout process).
- (c) require merchants to obtain customers' explicit consent to the merchant's routing choice, and/or to give customers the ability to override the merchant's routing choice (as this could introduce significant friction into the checkout process).

Box E: Online LCR in practice

This box steps through two stylised online transactions to clarify some aspects of how the principles outlined above might work in practice. These examples are illustrative only, and in practice merchants would be able to present debit payment options to their customers in many different ways while still adhering to the principles.

Consider a customer shopping online at two different merchant stores. Once the customer finishes adding items to their virtual carts, they proceed to the checkout pages and eventually reach the list of payment options. The customer prefers to use their (dual-network) debit card for online purchases.

At the first online store, the customer is presented with a 'debit card' option, which they select. The customer is then presented with the debit schemes accepted by the merchant, and is required to select their preferred debit network using a checkbox (as shown in Figure E1). Once they select their preferred network, Network 2 in this example, they enter their card details and finalise the payment. The payment is then routed through Network 2, regardless of the merchant's own preference (provided Network 2 is indeed enabled on the customer's card). This is because the customer's explicit choice of network cannot be subsequently overridden by the merchant, or any other party in the transaction process, and routed to another network (**Principle 1**).

Figure E1

PAYMENT	
<input type="radio"/>	REDEEM GIFT CARD OR REWARD POINTS
<input type="radio"/>	CREDIT CARD
<input checked="" type="radio"/>	DEBIT CARD
<input type="radio"/>	Network 1
<input checked="" type="radio"/>	Network 2
<input type="radio"/>	Network 3
Card number*	<input type="text"/>
Expiration date*	<input type="text"/> <input type="text"/>
CVV*	<input type="text"/>
<input type="radio"/>	PAYMENT OPTION 4
<input type="radio"/>	PAYMENT OPTION 5

At the second online store, the customer is presented with a ‘debit or credit card’ option, which they select, before entering their account number and details (as shown in Figure E2). However, they are not asked to explicitly choose a debit network. In this case, the merchant would be free to route the transaction to their preferred network (one of the networks on the card), but the customer should be notified that routing may occur (**Principle 2**). There are a number of ways in which customers could be notified of potential routing without disrupting the online shopping experience. Individual merchants could make their own decision about the most appropriate method of notification for their online store, including the location and the wording of the notice. The image below shows one stylised example (immediately below the scheme logos) of how a merchant could notify customers directly on a guest checkout page without interrupting the payment process. The customer would proceed to fill in their debit card details and finalise the payment (unless they were concerned about not having a choice of debit network, in which case they could instead choose another payment option). The merchant’s payment service provider would then route the transaction through the merchant’s preferred network.

Figure E2

Similar processes would apply if a customer was setting up a recurring payment or saving a DNDC on file with a merchant for future transactions – some merchants might give the customer an explicit choice of debit network for processing their future payments (in which case, the customer’s selection should not be subsequently overridden), while other merchants might choose not to do so (in which case, they should provide some notification to the customer if routing could occur).

If a customer already had a DNDC saved on file with a merchant or had an existing recurring transaction that used a DNDC (and had not explicitly selected a debit network), the merchant – upon adopting LCR – would similarly need to notify the customer if they planned to route any future payments; this could be done, for example, via an email or a notification when the customer next chose to use their saved payment method.¹²

Importantly, when customers were not given an explicit choice of network, the principles require that merchants must not mislead customers about which payment networks their transaction may

12 Routing for existing recurring transactions or for DNDCs saved on file may not be possible if the card details have been tokenised for only one of the schemes on the card. In this case, merchants that wish to route such transactions to a different network would need to ask customers to re-enter their card details to re-establish the relevant arrangements (with appropriate notification about possible routing occurring from that point).

be processed through **(Principle 3)**. Using the second example above, in which the merchant displayed a selection of scheme logos, a DNDC transaction should only be processed through one of the networks displayed in that list.

3.4.2 Dual-network debit card issuance

Another key challenge to LCR, and the competition and efficiency benefits that it brings, is the shift by some smaller and mid-sized issuers away from issuing DNDCs. A widespread shift towards SNDCs would threaten the viability of LCR, which could impose significant efficiency costs on the system as a whole due to the loss of competitive tension between the debit schemes. Accordingly, the Board's view is that policy action to limit the shift to SNDCs is necessary.

However, in determining the appropriate policy response, the system-wide benefits of DNDC issuance must be weighed against the associated costs for individual issuers and others to support two debit networks. Many issuers have told the Bank that they incur significant additional costs from issuing debit cards with two networks instead of one, as there are limited cost synergies in connecting to two debit networks. In particular, technical differences between the networks were said to result in material duplication of issuers' compliance and development costs. Differences in scheme rules and back-office processes also reportedly mean that supporting two networks increases the ongoing day-to-day costs of operating a debit card portfolio. Given the largely overlapping functionality provided by the different debit schemes, some smaller issuers felt that supporting a second debit network yields little benefit to their customers but generates significant costs. The additional cost burden reportedly also makes it harder for small and medium-sized issuers to compete with the major banks, which can spread the costs of supporting two networks over a larger customer base. While estimates vary regarding issuers' costs of supporting two networks, the compliance and development costs alone are estimated to be more than a million dollars per year for mid-sized issuers. They are likely to be lower for smaller issuers, which rely more on aggregators such as Cuscal, ASL and Indue, but they are still significant amounts in the context of the overall costs of running a debit card portfolio (particularly on a per-transaction basis).

Overall, given that the issuance of DNDCs by the major banks is the main influence on the number of DNDCs in the market, the Board's view is that the economy-wide benefits from requiring DNDC issuance by the major banks would easily outweigh the costs to those banks (especially since those banks would likely issue DNDCs in any event). However, for very small issuers it is highly unlikely that the public benefits of DNDC issuance would outweigh the material fixed costs they would incur, because their contribution to the prevalence of DNDCs is not significant. Accordingly, the optimal threshold, at which the public benefits of DNDC issuance match the costs, is likely to lie somewhere between these two outcomes.

After further consideration of the various costs and benefits, informed by stakeholder feedback through the consultation process, **the Board's judgement is that the requirement to issue DNDCs should extend beyond the major banks, to cover any issuers with a market share of more than 1 per cent of the value of debit transactions** (corresponding to around \$4 billion in transactions in 2020); this threshold would currently capture 4 issuers in addition to the major banks, but would increase the proportion of the debit market covered by around 10 percentage points (to almost 90 per cent).¹³ At

13 The four issuers in addition to the major banks are: Bank of Queensland, Bendigo and Adelaide Bank, ING Bank, and Suncorp Bank. These issuers accounted for 10 per cent of the value of debit transactions on Australian-issued cards in 2020, based on the Reserve Bank's Retail Payment Statistics. There may be some additional institutions that exceed the \$4 billion threshold if the proposed mergers of some customer-owned banking organisations go ahead.

lower thresholds, the Board has much less confidence that the cost imposed on issuers to support DNDC issuance would be outweighed by the public benefits. The Board's approach will ensure that DNDCs continue to account for a large majority of all debit cards in the market. Many smaller debit card issuers are likely choose to continue issuing DNDCs reflecting their assessment of the benefits to their customers, though they would not be required to do so. Given the vast majority of cards will be DNDCs, the possibility of LCR should continue to exert significant competitive pressure on interchange fees and scheme fees, even though the commercial case for adopting LCR will be somewhat weaker for large merchants that could benefit from strategic rates than if all debit card issuers were required to issue DNDCs.

There would be no presumption as to which two debit networks will be included on DNDCs by issuers. Various combinations of existing domestic and international schemes might be feasible, or indeed new networks that can process card transactions, provided that the two networks enabled were unaffiliated.

The Board continues to favour setting an explicit expectation for DNDC issuance, rather than imposing a formal regulatory requirement through a standard. This 'expectations' approach, rather than formal regulation, is consistent with the Board's traditional presumption in favour of self-regulation to address policy concerns. However, if this expectation was not met, the Board would consider imposing formal regulation in response. More broadly, if the cost of payments were to rise because LCR was no longer a viable option for many merchants and interchange fees or scheme fees were rising, the Board could consider if any other policy actions might be in the public interest.

An issuer that is expected to issue DNDCs will also be expected to provision both card schemes on their DNDCs in all form factors, including mobile wallets, offered by the issuer (where the functionality is supported by the relevant schemes and mobile-wallet providers). As noted earlier in relation to mobile wallets, this will help ensure that both debit networks are enabled in as many payment contexts as practicable, thereby increasing competition between the debit schemes. The expectation to issue DNDCs will extend to issuance by all divisions and subsidiaries of the relevant banks, because issuance by these entities can be significant and could be used to circumvent the requirement. However, the expectation will not apply to cards issued by a bank under a white-label arrangement, provided the bank's client is not affiliated with the bank.^{14,15}

For those issuers that are expected to issue DNDCs, the Board does not expect them to replace any existing SNDCs – either international scheme SNDCs or eftpos proprietary cards – on issue with DNDCs; SNDCs issued on or before 31 December 2021, and the accounts they relate to, will be grandfathered. In contrast, new SNDCs issued after 31 December 2021 would be expected to be replaced with DNDCs as soon as practicable.¹⁶ A 'new' SNDC is one that relates to a new account or an account that did not previously have an SNDC attached to it; it does not include the reissuance of an SNDC that existed prior to 2022. This is particularly relevant for affected issuers' stock of eftpos proprietary cards; issuers will be able to keep the relevant accounts open and reissue the existing cards, but will not be able to open

14 For example, this exception would include arrangements where financial services providers that are not authorised deposit-taking institutions (ADIs) arrange for an ADI to issue debit cards to their customers (usually branded with the financial service provider's name and logo) through an ADI's 'banking-as-a-service' platform.

15 A definition of DNDCs is included in *Standard No. 2: The Setting of Interchange Fees in the Designated Debit and Prepaid Card Schemes and Net Payments to Issuers* (see Appendix A).

16 The length of time that is 'as soon as practicable' will depend on the relevant institution and its existing capability to issue DNDCs. A similar expectation will apply to issuers that cross the threshold in future, whether through mergers or otherwise. Specifically, any SNDCs on issue when they cross the threshold will be grandfathered, but any debit cards issued after crossing the threshold are expected to be DNDCs (or replaced with DNDCs as soon as practicable).

new proprietary-card accounts. Grandfathering these cards will minimise disruption for issuers and cardholders, with little negative effect on competition for a number of reasons: eftpos proprietary cards account for a relatively small share of cards on issue; they appeal to a limited demographic; and they are declining in importance, with most issuers in the process of phasing them out and ePAL hoping to replace them with DNDCs with eftpos as the first (or ‘front of card’) network. Also, while the average interchange rate on proprietary cards is higher than the average for transactions on eftpos DNDCs, it is similar to the average interchange fees on transactions through the international debit schemes. From a level-playing-field perspective, the important point is that both eftpos and the international card schemes would be similarly able to support and incentivise new SNDC issuance by smaller issuers. As discussed below, all SNDCs, including eftpos proprietary cards, will also be subject to the same regulation regarding interchange fees.

The Board’s view is that it is not appropriate for schemes to provide issuers with interchange-based incentives to issue SNDCs. Switching to SNDCs would reduce the cost burden faced by an issuer, so there is little justification for schemes to provide higher interchange revenue at the same time. Accordingly, the Board’s view is that the interchange standards should be amended to limit the possibility of schemes using interchanges rates in ways that would reduce competition and efficiency in the debit market. The preliminary proposal in the Consultation Paper was for the cap on interchange fees that are set in cents-based terms to be set at a lower level for SNDCs than for DNDCs. However, stakeholder feedback suggested that smaller issuers of SNDCs would be particularly affected by such a cap. In light of this feedback, and the broader coverage of the expectation for DNDC issuance, the Board has decided to take a different approach to interchange on SNDCs. **Specifically, the potential for high interchange rates on SNDCs will be limited by introducing a ‘sub-benchmark’ for SNDCs, such that the weighted-average interchange fee on transactions on SNDCs from a given scheme must be no more than 8 cents.** The Board could consider reducing the level of this sub-benchmark in the future if policy concerns arose regarding a significant shift towards SNDC issuance.

3.4.3 Potential tying conduct by the international schemes

The Board is particularly concerned about alleged tying conduct by the international schemes, which would undermine the benefits of LCR and limit competitive pressure in the debit card market, imposing considerable costs on the payments system. As noted earlier, a recent investigation by the ACCC has resulted in the ACCC accepting a (time-bound) court-enforceable undertaking from Visa that it would not engage in tying conduct.

The Bank could leave it to the relevant provisions of the *Competition and Consumer Act 2010* (CCA) and the ACCC’s enforcement powers to address tying conduct by the international schemes. However, given the potential negative impact of tying conduct by international schemes on competition in the debit card market, coupled with the fact that not all schemes have offered an undertaking and Visa’s undertaking is limited to a 3-year term, the Board will consider separate action by the Bank to prevent such conduct across all international schemes; most stakeholders also supported this option. **The Bank will seek to obtain specific undertakings from the international card schemes that they will not engage in tying conduct; if the schemes are not willing to provide voluntary undertakings, the Bank will consult on the introduction of a new standard to explicitly prohibit such behaviour** (separately to this Review). Such a standard would provide certainty to all parties about permissible conduct and would be expected to prevent tying conduct taking place, rather than relying on regulators to take enforcement action after such conduct has occurred. It would be a low-cost policy that supported

competition in the debit card market by helping to ensure that schemes compete solely on the basis of their debit card offerings.

The provisions of any voluntary undertaking will be underpinned by the principles in Box F. Compliance will be monitored through an annual certification requirement (and potentially enforced through the Bank's ability to issue directions under the PSRA, as well as any actions from the ACCC where there was also a breach of the CCA). If the schemes are not willing to provide voluntary undertakings, they could expect that consultation on a new standard would proceed on the basis of these principles.

Box F: Principles to address tying conduct

Principle 1: Merchants are able to make decisions with regard to the routing of DNDC transactions without implications for the interchange rates that are applied to their credit transactions.

1. If a merchant chooses to route DNDC transactions via a competing debit card network, schemes will not (for that reason, whether solely or in combination with other reasons):
 - (a) withdraw or deny access to, or increase, strategic credit interchange rates otherwise available to the merchant;
 - (b) withdraw or deny access to, or increase, the credit segment interchange rates applicable to that merchant; and/or
 - (c) otherwise increase the merchant's cost of accepting credit card payments.
2. Schemes will not make the offer of strategic credit interchange rates conditional on a merchant's debit volume/value or debit routing decisions.
3. Schemes will provide written reasons to a merchant for any withdrawal or denial of, or increase in, a merchant's strategic credit interchange rate.
4. Schemes will communicate to relevant merchants and acquirers that merchants' debit routing decisions and debit volumes/values will not influence their eligibility for strategic credit interchange rates.

Principle 2: Schemes will not incentivise merchants to route DNDC transactions through their network by leveraging credit during negotiations.

1. Schemes will not unreasonably delay the negotiation of strategic credit interchange rates with merchants. If a merchant requests to negotiate or seek certainty about applicable credit interchange rates prior to the negotiation of debit interchange rates, schemes will accommodate such a request.
2. Prior to commencing negotiations, schemes will provide merchants with clear criteria that apply for determining merchant eligibility for credit interchange rates (including strategic merchant rates and segment rates), including a clear statement that a merchant's volume/value of debit transactions and its debit routing decisions will not impact a merchant's eligibility for credit interchange rates.
3. When determining or applying merchant eligibility criteria for credit interchange rates (including strategic merchant rates and segment rates), schemes will not take into account a merchant's debit transaction volume/value or debit routing decisions. When determining the rate that applies to a category of merchants (including strategic merchants or segment merchants), schemes will not take into account the debit transaction volume/values or debit routing decisions of one or more of the merchants in the relevant category.

3.4.4 Conclusions

1. The Bank expects issuers with a market share of more than 1 per cent of the value of debit transactions (corresponding to around \$4 billion in transactions in 2020) to issue DNDCs. For these issuers, both card schemes on their DNDCs should be provisioned in all form factors, including mobile wallets, offered by the issuer (where the functionality is supported by the relevant schemes and mobile-wallet providers).
2. The potential for high interchange rates to incentivise SNDC issuance will be limited by introducing a 'sub-benchmark' for SNDCs, such that the weighted-average interchange fee on SNDCs from a given scheme must be no more than 8 cents.
3. The Bank will engage with mobile-wallet providers that do not currently support the provision of both networks on DNDCs and encourage them to do so.
4. The Bank expects all acquirers and payment facilitators to offer LCR functionality for device-present transactions and promote the functionality to their merchant customers.
5. Similarly, the Bank expects all acquirers, payment facilitators and gateways to offer and promote LCR functionality to merchants in the online environment by the end of 2022. In implementing LCR online, the Bank also expects industry participants to abide by the principles set out in Box D above.
6. The Bank should be notified of all scheme rules and any changes to those rules.
7. The Bank will seek voluntary undertakings from the international card schemes that they will not engage in tying conduct; if the schemes are not willing to provide voluntary undertakings, the Bank will consult on the introduction of a new standard to explicitly prohibit such behaviour (separately to this Review).

4 Interchange fees

4.1 Issues for the Review

A key issue for the Review was whether the levels of the card scheme interchange benchmarks and caps remained appropriate, particularly in light of:

- recommendations by the Black Economy Taskforce (2017) and the Productivity Commission (2018) that interchange fees should be reduced or even eliminated, on the grounds that there is little justification for such fees in mature card systems such as Australia.
- the continuing decline in the average value of card transactions, particularly for debit cards. The average value of debit card transactions is now around \$48, down from \$56 in 2016 when the Board lowered the weighted-average benchmark for debit and prepaid transactions from 12 cents to 8 cents. This trend is largely attributable to a migration of lower-value payments from cash to debit cards, amid the widespread adoption of contactless ‘tap-and-go’ technology, which has accelerated during the COVID-19 pandemic.
- the increased tendency for schemes to set debit interchange fees for non-routable transactions at smaller (or non-strategic) merchants at the cents-based debit interchange cap of 15 cents (Table 1). The Bank’s regulatory framework, which is based around weighted-average benchmarks, provides schemes with flexibility in setting their interchange schedules, including to incentivise behaviours that support innovation and benefit the payments system. However, in the case of debit cards, the schemes have increasingly been using this flexibility to set low rates on some categories of transactions that are at risk of being routed to another scheme, while – to maintain interchange revenues for their issuers – increasing rates on other transactions that are less at risk of being routed. The result has been increasingly complex interchange fee schedules, which offer lower rates for routable transactions at larger ‘strategic’ merchants, accompanied by rates at the cap for many non-routable transactions (for example, device-not-present and tokenised device-present transactions) at smaller merchants.

The Board has been concerned that the growing practice of setting some interchange rates at the 15-cent cap has resulted in unreasonably high costs for some low-value transactions at smaller merchants. For example, a 15-cent interchange fee on a \$15 transaction is equivalent to 1 per cent of the total value of the transaction. This is up to 15 times the interchange cost of the same transaction for larger strategic merchants. It is also significantly higher than the cost would be if the ad-valorem cap on debit transactions of 0.2 per cent applied, and higher than the interchange fee incurred if a credit card had been used (which is capped at 0.8 per cent).

A second issue was whether the interchange regulations should be expanded to include transactions on foreign-issued cards, which attract interchange fees that are significantly higher than those on domestic cards. There are currently no restrictions on the interchange fees levied on these transactions, and schemes are not required to publish inter-regional interchange fee schedules. In the 2015–16 Review, the Bank decided not to bring transactions on foreign-issued cards into the regulatory

framework, but indicated that it would continue to watch developments in this area. In 2019, the European Commission (EC) announced that it had accepted legally binding commitments from Mastercard and Visa to: reduce their inter-regional interchange fees to caps set by the EC; refrain from circumventing the caps; and publish inter-regional interchange fees.¹⁷ With transactions on foreign-issued cards increasing as a share of card payments at Australian merchants over the past decade, the Review was a timely opportunity to consider whether a similar approach should be adopted in Australia.

A final issue was the regulatory status of three-party schemes, which are currently not subject to the interchange standards and can potentially incentivise greater issuance through higher cardholder rewards, funded by higher merchant fees. The question for the Review was whether the Bank should regulate the merchant service fees charged by these schemes.

Table 1: Selected Debit Card Interchange Fees

Excluding GST; cents unless otherwise indicated; non-routable categories are in bold

Category	Mastercard		Visa		eftpos proprietary		eftpos dual-network (eftpos priority 2)	
	July 2017	Sept 2021	July 2017	Sept 2021	July 2017	Sept 2021	July 2017	Sept 2021
Strategic Merchant 1	2.8	1.0	2.0	1.0	0.0	1.5	0.0	1.0
Strategic Merchant 2	0.15%	2.0	5.0	1.5	1.8	3.0	1.8	2.0
Strategic Merchant 3		3.0	8.0	1.75	3.6	4.5	3.6	3.0
Strategic Merchant 4		4.0		2.0		6.0		4.0
Strategic Merchant 5		8.0		3.0				
Strategic Merchant 6		10.0		4.0				
Tokenised Contactless (<=\$15)		4.0		5.0				
Tokenised Contactless (>\$15)*		15.0		15.0				
Consumer Standard: Card Present	12.5	4.0	8.0	4.0			4.5	4.0
Consumer Standard: Card Present (SNDC)				11.0	13.6	11.0		
Consumer Standard: Card Not Present/ Electronic/Digital	12.5	15.0	0.20%	0.20%	13.6	15.0	13.6	15.0
Consumer Premium: Card Present		15.0		15.0				
Consumer Premium: Card Not Present	0.20%	0.20%	0.20%	0.20%				

* 'Tokenised contactless' transactions are in-person mobile-wallet transactions; eftpos tokenised contactless transactions also attract an interchange rate of 15 cents.

Sources: ePAL; Mastercard; Visa

¹⁷ 'Inter-regional' in this context refers to transactions involving an entity from within the European Economic Area (EEA) and an entity from outside the EEA. The caps set by the EC were 1.50 per cent and 1.15 per cent for device-not-present credit and debit transactions respectively, and 0.3 per cent and 0.2 per cent for device-present credit and debit transactions (compared with caps of 0.3 per cent for credit and 0.2 per cent for debit on all intra-EEA transactions).

4.2 Options presented in consultation

4.2.1 Debit interchange caps

To address the high cost of some low-value debit (and prepaid) transactions that are subject to interchange rates at the 15-cent cap, the Board considered three broad policy options:¹⁸

Option 1: Retain the current debit interchange caps

This option involved no change to the status quo, where schemes can set fees on debit interchange categories up to the current cap of 15 cents per transaction (or up to 0.20 per cent for interchange fees specified in percentage terms).

Option 2: Reduce the cap on debit interchange fees set in cents-based terms

This option involved reducing the cents-based cap for debit (and prepaid) cards. The specific proposal was to lower the cap to 10 cents for transactions on DNDCs (and all prepaid cards) and 6 cents for transactions on SNDCs (with the different cap for DNDCs and SNDCs consistent with the reform options considered for 'Dual-network debit card issuance'). The 6-cent cap would apply equally to SNDCs issued by the international schemes and to the remaining stock of proprietary, eftpos-only cards. There would be no change to the *ad-valorem* cap of 0.20 per cent for interchange fees specified in percentage terms.

Option 3: Require any debit interchange fees to be set in ad-valorem terms

Under this option, the cents-based cap for debit (and prepaid) transactions would be eliminated, and the ad-valorem cap of 0.20 per cent would apply to all debit and prepaid interchange categories.¹⁹ The weighted-average benchmark would be set in ad-valorem terms. With an average debit card transaction value of around \$50 in 2020, a weighted-average benchmark of around 0.16 per cent would be equivalent to the current cents-based benchmark of 8 cents.

4.2.2 Foreign-issued cards

To address the high interchange fees on transactions on foreign-issued cards, the Board considered three possible responses:

Option 1: No regulation of foreign-issued cards

This option would retain the status quo, where foreign-issued cards are outside the scope of the interchange standards.

Option 2: Extend interchange regulation to foreign-issued cards

Under this option, there would be caps on interchange fees on transactions on foreign-issued cards. The interchange standards would be amended to make transactions on foreign cards subject to the same caps as apply to transactions on domestic cards, though they would not be included in the

¹⁸ Unless indicated otherwise, for the remainder of the chapter 'Interchange fees', references to debit card transactions or interchange should be taken as referring also to prepaid card transactions or interchange.

¹⁹ This option would also likely include different *ad-valorem* caps for DNDCs and SNDCs, in line with the reform options considered for 'Dual-network debit card issuance'.

calculations for the observance of the weighted-average benchmarks. The schemes would be required to publish interchange rates for transactions on foreign cards on their websites.

Option 3: Publication of interchange fees on foreign-issued cards, but no regulation regarding fee levels

Under this option, the interchange standards would be amended to require schemes to publish the interchange fees on foreign cards on their websites. However, the fees on foreign cards would not be subject to the interchange caps or benchmarks.

4.3 Stakeholder views

There was little support among card schemes and banks for a further lowering of the interchange benchmarks, with some arguing that the new interchange standards have only been in effect for a few years so it was too early to consider making any further changes. Many stakeholders noted that Australian interchange fees are already low by international standards. Many industry stakeholders argued also that interchange revenue is essential to support continued investment in innovation, security and the provision of services by card issuers. There were some concerns about a reduction in the cap on debit interchange fees that are set in cents-based terms, with stakeholders expecting that this would lead to a corresponding fall in weighted-average interchange rates and limit the schemes' ability to use their interchange schedules to incentivise innovation and the adoption of certain functionality. In response to concerns raised about some smaller merchants paying high cents-based fees on low-value debit card transactions, some stakeholders provided feedback that only a very small share of transactions fall into this category, and argued that it would therefore not be appropriate to further reduce the interchange caps on all debit card transactions.

Several stakeholders noted that the proposed changes would affect individual issuers differently, depending on their transaction mix. It was suggested that smaller issuers would be disproportionately disadvantaged by any further interchange reductions as they have fewer other sources of revenue to offset this; indeed, some issuers claimed that they were making a loss on many transactions due to the low interchange fees paid by strategic merchants. Relatedly, two issuers proposed a floor on interchange fees to reduce the difference between interchange paid by large and small merchants and provide certainty of income to card issuers. Finally, a few industry stakeholders argued that the right of merchants to surcharge provided sufficient competitive pressure on payment costs that restrictions on interchange were not necessary at all.

In contrast, some merchant and consumer groups argued for a further lowering of the benchmarks to place downward pressure on card acceptance costs. Some stakeholders argued also that the cents-based cap on debit transactions has allowed schemes to set unreasonably high interchange rates (in percentage terms) on some low-value transactions. In addition, there were concerns that the wide range of interchange fees has disproportionately benefited larger merchants by enabling them to negotiate discounted rates, with schemes raising some 'standard' interchange rates paid by smaller merchants to maintain a high overall level of interchange fees for issuers.

There were mixed views on whether to extend interchange regulation to transactions on foreign-issued cards. Those in favour generally cited the relatively higher costs of these transactions. Arguments against extending interchange regulation to foreign-issued cards included: the continued limited use of such cards in Australia; the international schemes having rules that prevent circumvention of domestic

interchange caps by issuance of foreign cards; the unfair advantage it would confer on unregulated international schemes; and uncertainty about the eventual impact of the EC's recent move to reduce interchange on foreign-issued cards. The international schemes also highlighted that cross-border transactions have unique risks and complexities (including higher fraud rates) that increase issuer costs and justify higher interchange rates. In contrast, stakeholders were generally supportive of the proposal to require schemes to publish interchange fees for foreign-issued cards on their websites.

Similarly, stakeholder views were mixed on the issue of whether regulation should be extended to three-party schemes. Most stakeholders who argued in favour of extending the regulation pointed to the principle of competitive neutrality between three- and four-party schemes. In contrast, arguments against applying interchange regulation to the three-party schemes included that: competitive pressures have seen merchant fees fall at least as much as those on four-party schemes since interchange regulation was introduced; three-party schemes have not increased their overall market share over the past two decades; and merchants can surcharge three-party cards or choose not to accept them as they are generally seen as optional for both merchants and customers. There was also little indication of what form regulation of three-party schemes might take.

4.4 The Board's assessment and conclusions

4.4.1 No change in some areas

The current interchange settings have been in effect for only 4 years and appear to be working well in most respects. While the Board does not rule out lowering the weighted-average interchange benchmarks (8 cents for debit transactions and 0.50 per cent for credit transactions) or the cap on individual credit card interchange fees (0.80 per cent) at some point in the future, it has assessed that such reform is not required at present.

The Review did not change the Board's long-held view that there is no strong justification for significant interchange fee payments in mature card systems. There could be some benefits associated with lower interchange fees including, among other things: a reduction in payment costs in the economy; downward pressure on retail prices of goods and services for consumers; and lower barriers to entry for potential new methods of payment.

However, a range of factors indicate that there is not a strong public policy case for lowering the benchmarks at present. There has been a significant decline in merchants' average cost of accepting card payments over the past two decades (see Graph 1 above), to levels that are relatively low by international standards. Developments in the payments mix in recent years also suggest that the current settings are contributing to positive outcomes, with a significant shift to debit cards from credit card payments (which have both higher private and total resource costs).²⁰ Further, the Board noted that Australian interchange rates for both debit and credit transactions are already low compared with most other economies (Graph 3).²¹ One exception is the lower cap on credit card interchange fees in Europe (0.30 per cent, versus a weighted-average benchmark of 0.50 per cent and a cap of 0.80 per cent in Australia); however, the Board feels it is too early to assess the European experience and draw

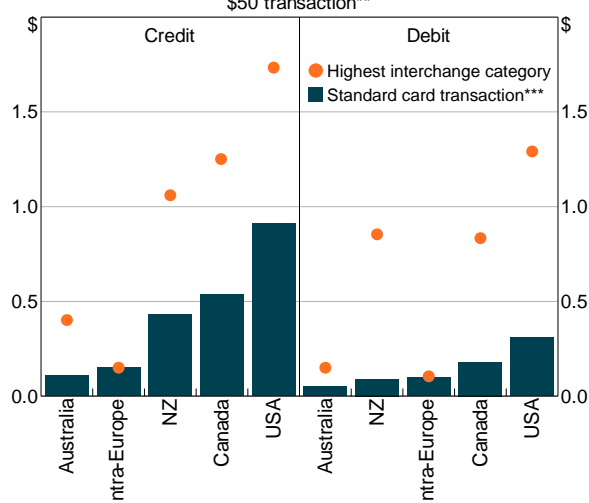
²⁰ See Stewart et al (2014).

²¹ In May 2021, the New Zealand government announced that it will legislate to cap interchange fees for credit card transactions at 0.8 per cent and online debit card transactions at 0.6 per cent. Debit interchange fees are expected to remain at 0.2 per cent or less for card-present contactless transactions and 0 per cent where the card is swiped or inserted into the terminal.

implications for settings in Australia. Finally, while some stakeholders favoured lowering the benchmarks to further drive down the cost of card payments to merchants, most did not support further reductions.

The Board noted that there would also be risks associated with further reductions in the weighted-average benchmarks. Lower interchange on debit transactions could make it harder for new debit issuers to enter the market and could disproportionately disadvantage smaller issuers, which may have fewer other sources of revenue to offset any interchange reduction. There is also a risk that a further reduction in the debit benchmark could incentivise issuers to promote greater issuance and use of (higher-cost) credit cards. In relation to the credit card benchmark, a further reduction could provide an advantage to both the three-party card schemes and other three-party systems such as BNPL arrangements; this is because these arrangements are not subject to the Bank’s interchange regulations, which allows them to fund more benefits for consumers through higher merchant fees. The benefits from lower interchange rates on credit card transactions might therefore be offset by a longer-term shift towards more costly three-party systems.

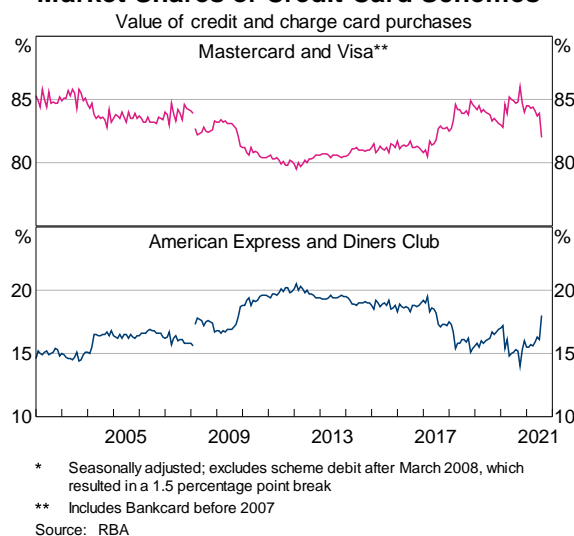
Graph 3
Four-party Scheme Interchange*
\$50 transaction**



* Interchange rates for Visa and Mastercard consumer cards
 ** Exchange rates as at 29 September 2021
 *** Refers to card-present transactions made on standard consumer cards
 Sources: Mastercard; RBA; Visa

The Board did not see a strong case for expanding the scope of the regulations to capture three-party schemes at present. The evidence does not suggest that three-party card schemes have benefited at the expense of the four-party schemes under the current regulatory settings. The market shares of three-party credit card schemes have declined markedly over the past few years (Graph 4). This was largely driven by the closure of the major banks’ companion card programs following reforms introduced in the Bank’s 2015–16 Review of Card Payments Regulation, which resulted in the American Express companion card system being regulated in a similar way to the traditional four-party schemes. The average cost of acceptance of three-party card payments has also declined since the previous review (see Graph 1 above). These changes to merchant service fees charged by three-party schemes reflect the indirect competitive pressure flowing from interchange regulation on four-party schemes (including companion cards), as well as the continuing effectiveness of the ban on schemes imposing no-surcharge and no-steering rules.

Graph 4
Market Shares of Credit Card Schemes*



4.4.2 Debit interchange caps

The current debit caps provide the schemes with considerable flexibility to set a range of rates on different types of transactions to incentivise certain issuer and acquirer behaviours that benefit the entire network (for example, the adoption of new security features such as tokenisation). However, in practice, the three debit schemes appear to have used the ability to set some interchange rates at the 15 cents or 0.20 per cent caps not only for the purpose of incentivising innovation or other actions that improve the payments system, but also for the purpose of holding up overall interchange revenues for their issuers by taking advantage of transactions that are not at risk of being routed to another scheme. The Board was concerned that these actions are particularly disadvantageous for smaller merchants that do not benefit from strategic rates and that they can result in unreasonably high payment costs for some low-value debit transactions. While merchants have the option of recovering higher payment costs by surcharging debit transactions, in practice this may not be feasible due to the risk of customers abandoning the transaction and the potential difficulty of imposing differential surcharges based on transaction value. Routine surcharging of debit transactions would also not be a desirable outcome, given that debit cards are now the most prevalent payment method for retail goods and services, and are increasingly replacing cash for low-value transactions. The Board’s assessment was that the high cost of some low-value debit transactions, particularly for smaller merchants, would likely persist under the current regulatory settings.

However, the Board was wary of making significant changes to the interchange framework, for example by requiring schemes to set all debit interchange fees on an *ad-valorem* basis as suggested by some stakeholders. The Board noted that a key rationale for the original cents-based benchmark and cap was that most of the costs of processing debit card transactions were unrelated to transaction value. For example, the messaging cost of a \$1 payment is no different to that of a \$100 payment, and debit transactions are not subject to many of the *ad-valorem* costs associated with credit cards; they do not provide interest-free periods and typically do not offer rewards programs. While the Board generally expects there will be some correlation between payment cost and transaction size, the original rationale for the cents-based nature of the benchmark remains relevant.

Instead, the Board favoured a reduction in the cap on debit card interchange fees that are set in cents-based terms, which will reduce the possibility of very high effective interchange rates on low-value transactions, without significantly changing the overall interchange framework. More generally, this will result in less cross-subsidisation and price discrimination between large merchants that benefit from strategic rates and smaller merchants. The lower cap will also increase the net benefits of LCR for large merchants that are eligible for strategic rates, by reducing the penalty associated with losing these strategic rates if they adopt LCR.

One concern about a lower cap raised by schemes and some issuers was that decreasing the permissible range of interchange fees would reduce the scope for using differential fees to incentivise behaviour that benefits the system as whole. However, the Board's view was that a lower cents-based cap would still provide considerable scope for differential pricing. Further, the range of fees that could be set in *ad-valorem* terms would be unaffected, with no change to the cap of 0.20 per cent on fees set in *ad-valorem* terms.

Stakeholders also suggested that lowering the cents-based cap would reduce the total interchange revenues flowing to issuers, with concerns that smaller issuers would be disproportionately affected, as they are more dependent on interchange revenues. The Board noted that a reduction in the cap would affect each scheme (and its issuers) differently, depending on the current structure of its interchange schedule and average transaction sizes. However, as the weighted-average benchmark for interchange fees on debit transactions would not change, card schemes would be free to adjust their interchange schedules to seek to maintain issuers' interchange revenue, including by making greater use of *ad-valorem* fees set at the 0.20 per cent cap. To address concerns by stakeholders about the disproportionate impact on smaller issuers of having a lower cap for SNDCs, **the Board favoured a modified version of the proposal for lower caps presented in the Consultation Paper, whereby the 15-cent cap on debit interchange fees set in cents-based terms would be reduced to 10 cents for transactions on both SNDCs and DNDCs.** (As discussed in the 'Dual-network debit cards and least-cost routing' section, the potential for schemes to incentivise SNDC issuance through interchange would instead be addressed by introducing a 'sub-benchmark' for SNDCs, such that the weighted-average interchange fee on SNDCs from a given scheme must be no more than 8 cents).

4.4.3 Foreign-issued cards

While the share of total card payments in Australia made using (more expensive) foreign-issued cards has grown over the past decade, it remains low at 3 per cent in 2019, prior to a significant fall in 2020 due to the reduction in international travel during the pandemic. The impact of foreign-issued cards on system-wide payment costs, therefore, is not significant. There has also been no evidence of issuers attempting to circumvent the Australian interchange regime through offshore card issuance (which has been noted previously as a potential concern). In view of these factors, the Board assessed that applying the interchange caps to foreign card interchange fees is not warranted at present.

Nevertheless, given the higher cost of foreign card transactions, the Board considers it desirable to increase the transparency of the interchange fees that apply to foreign-issued cards. **Accordingly, schemes will be required to publish these fees on their websites.** Greater transparency across schemes of the cost of accepting payments on foreign cards should bring greater competitive pressure on these fees.

4.4.4 Conclusions

- 1. The weighed-average credit interchange benchmark of 0.50 per cent and the cap on individual credit interchange fees of 0.80 per cent will be maintained.**
- 2. The weighted-average interchange benchmark for debit and prepaid cards of 8 cents per transaction will remain unchanged.**

However, as discussed in the section on 'Dual-network debit cards and least-cost routing', to limit the incentives to issue SNDCs, the Bank will introduce a 'sub-benchmark' for SNDCs, such that the weighted-average interchange fee on SNDCs from a given scheme must be no more than 8 cents.

- 3. The cap on cents-based interchange fees on debit and prepaid card transactions will be reduced to 10 cents, to reduce the cost of low-value transactions at small merchants. The cap on debit and prepaid interchange rates expressed in percentage terms will remain unchanged at 0.20 per cent.**
- 4. To increase the transparency of interchange fees that apply to foreign-issued cards, schemes will be required to publish these fees on their websites.**
- 5. The scope of interchange regulation will not be expanded to capture three-party schemes.**

5 Scheme fees

5.1 Issues for the Review

The Issues Paper noted that there was very little transparency around scheme fees. Scheme fees are an important component of the costs faced by merchants to accept card payments, as well as the costs borne by issuers for providing card services to their customers. A number of stakeholders have commented to the Bank that scheme fees have been growing over recent years and represent an increasing proportion of merchant service fees. This has raised concerns that the opacity of scheme fee arrangements may be limiting competitive tension between the card schemes, as well as between acquirers (by obscuring their margins). It could also, in principle, make it easier for schemes to implement fees or rules that may be anti-competitive or have the effect of offsetting or circumventing the Bank's interchange fee regulation. For example, the Consultation Paper noted that one scheme recently introduced a new fixed scheme fee, levied on acquirers for each physical merchant outlet that they service, regardless of the volume of transactions processed at each location. In principle, fees such as this could reduce competition in the market for debit card payments, because they could be used to incentivise acquirers and merchants to route DNDC transactions to that card scheme (in ways that schemes with less market power cannot match). The Bank previously considered some possible mechanisms for scheme fee transparency as part of the 2007-08 Review, but did not proceed with specific regulatory action. However, in light of recent developments the Board felt it was timely to review scheme fee disclosure requirements, particularly with card payments continuing to increase as a share of retail transactions in Australia.

5.2 Options presented in consultation

The Bank consulted on three broad options in relation to scheme fee transparency:

Option 1: No additional disclosure requirements

This option retains the status quo, where the Bank would only seek disclosure of scheme fees to assess compliance with net compensation rules.

Option 2: Schemes to publicly disclose all scheme fee rates and rules

Under this option, the Bank would introduce a requirement in the standards for designated card schemes to publish all multilateral scheme fee rates, as well as all scheme rules relating to scheme fees, that apply to Australian scheme participants.

Option 3: Schemes to disclose to the Bank all scheme fee rates and rules, as well as aggregate data on scheme fees paid by Australian scheme participants, with publication of some aggregate data

Under this option, the Bank would – using its information-gathering powers under s26 of the PSRA – require designated card schemes to provide access to all of their multilateral scheme fees, and scheme rules relating to scheme fees, that apply to Australian scheme participants, and to promptly notify the

Bank of any changes to these. The Bank would also use its information-gathering powers to collect quarterly data from the card schemes on the aggregate value of scheme fees charged and rebates provided to Australian scheme participants (with the data split into categories based on various characteristics, including at a minimum: issuing and acquiring fees, debit and credit transactions, and domestic and international transactions). Schemes would also be required to provide a list of the top 20 fees by value and the share of total scheme fee revenue that each of these fees account for.

The Bank would consider publishing some of the aggregate data provided by the schemes, allowing the industry to compare the average levels and growth rates of these fees across card schemes. Larger scheme participants would also be required to report annually to the Bank the total of scheme fees paid to, and rebates received from, each card scheme they participate in. This information would act as a cross-check on the data reported by the card schemes, and is not intended for publication.

5.3 Stakeholder views

There was widespread support among stakeholders for greater transparency of scheme fees. Several submissions noted that scheme fees are representing an increasing proportion of card payment costs, and that greater transparency could improve merchants' understanding of these costs and promote competition between the schemes. Some stakeholders suggested that smaller acquirers – which may pay higher scheme fees – could also benefit if greater competitive tension led to downward pressure on scheme fees. One stakeholder suggested that the lack of transparency of scheme fees made it impossible for merchants to compare fees under different pricing plans.

Some submissions discussed the form greater transparency should take; suggestions included requiring acquirers to publish the average total scheme fees paid to each scheme or requiring schemes to publish their full fee schedules. One respondent suggested that disclosure would need to be sufficiently detailed to help merchants make more informed decisions on transaction routing for different transaction types.

The international schemes argued against scheme fee disclosure, primarily due to the commercial sensitivity of scheme fee schedules. One scheme suggested that even aggregate scheme fee data are sensitive commercial information, due to the potential for competing schemes to back-out specific price points and their pricing strategy, and for issuers and acquirers to back-out the level of rebates received by their competitors. The other international scheme argued that scheme fee transparency would have little benefit while the lack of transparency of acquirer margins remained. Both schemes questioned the usefulness of scheme fee transparency for smaller merchants (who preferred simplicity and were largely focused on the overall cost of their payments). Another concern raised by the international schemes was that the publication of scheme fee data could have unintended, adverse impacts on competition. For example, one scheme argued that such disclosure might generate a market price point or focal point for services, which could result in implicit price collusion.

Regardless of whether they supported scheme fee transparency, most respondents noted the complexity of these fees and the difficulty of ensuring that disclosures would be meaningful to merchants. Several issuers and acquirers said that it would be difficult for them to report accurate information on scheme fees for specific types of card transactions. One major bank suggested that the collection of annual scheme fee data from large issuers and acquirers under Option 3 would create an unnecessary compliance burden, although others did not raise any issues with this proposal. Many

respondents also noted that the Bank would need to ensure that any assumptions and methodologies used for reporting scheme fee data were consistent across reporting institutions.

5.4 The Board's assessment and conclusions

The Board views transparency as an important mechanism for improving efficiency and competition in the payments system. Scheme fee transparency specifically could lead to a number of benefits. Disclosure requirements could discourage any changes to fee schedules or related rules that may be anti-competitive or could have the effect of circumventing the interchange fee regulations.^{22,23} This could also allow greater visibility over any developments in scheme fees that could push up payment costs. Greater transparency could also help merchants to better understand the composition of their card payment costs, including the size of acquirer margins. This could increase competitive tension in the acquiring market and allow merchants to make more informed decisions about the payment methods they accept, including regarding transaction routing. Increased visibility of scheme fees could also benefit smaller issuers and acquirers, which generally have less bargaining power with schemes than their larger counterparts. The overwhelming feedback from stakeholders was also that greater scheme fee transparency would enhance competition and efficiency in the payments system. However, greater transparency is unlikely to materialise without policy action.

Requiring card schemes to publish all of their multilateral scheme fees and fee-related rules would be a low-cost way of increasing the transparency of these fees. However, the usefulness to stakeholders of detailed scheme fee schedules is questionable, given their complexity. If schemes were to publish their entire fee schedules, it is likely that even payment specialists – let alone non-specialists such as smaller merchants – would find it difficult to understand and effectively make use of the information. Further, the schedules would not capture rebates, which are needed to fully quantify the net flows from issuers and acquirers to card schemes. The international schemes also raised concerns about the commercial confidentiality of scheme fee schedules, which the Board acknowledged during its 2007-08 review. The Board remains of the view that commercial considerations should be appropriately factored into any requirements for transparency.

The Board is not persuaded that even aggregate scheme fee data are commercially sensitive information. The potential for reverse engineering of specific scheme fee price points and rebates received by individual issuers and acquirers will be limited by the fact that each scheme has tens of different participants and fee schedules are typically very complex, often with hundreds of individual line items; any data published by the Bank would be aggregated at a high level. For similar reasons, the Board considers that the publication of aggregate scheme fee data is unlikely to create a focal point for the level of scheme fees. Given the complexity of scheme fee arrangements, users of the payment system would find it difficult – if not impossible – to pinpoint specific price points from the aggregate data that may be published. Further, if average scheme fees did increase and merge to a focal point, the Bank and the ACCC would be more able to identify it and respond. Overall, the Board expects that the increase in competitive tension generated by publishing aggregate scheme fees would outweigh

²² The net compensation provisions implemented by the Bank following the 2015–16 Review are intended to limit the extent to which schemes can circumvent the interchange benchmarks and caps by increasing the level of scheme fees on acquirers to fund payments and other incentives to issuers.

²³ The European Commission (2020), for example, found that the potential merchant savings arising from the interchange caps implemented in Europe in 2015 had been partly offset by higher scheme fees. An international study (CMSPi 2020) also found that higher scheme fees eroded merchant and consumer savings generated by interchange regulation in various jurisdictions.

any adverse consequences, as card schemes compete for issuing and acquiring services and merchant routing.

Based on these considerations, the Board favours Option 3 as the most appropriate way to provide greater scheme fee transparency. **Schemes will be required to share all scheme fees and scheme rules with the Bank, as well as quarterly aggregate data on the value of scheme fees charged and rebates provided to Australian scheme participants;** this will ensure that disclosures to the Bank are both meaningful and comprehensive. The Bank will also consider publishing some of the aggregated scheme fee data. The Board's view is that aggregate data will be more useful to participants of the payment system, including those without payments expertise, than schedules of individual fees. **Larger scheme participants will also be required to report annually to the Bank the total scheme fees paid to, and rebates received from, each card scheme they participate in.**²⁴ The Board considers it important to obtain data directly from issuers and acquirers as a cross-check on the data provided by the schemes, given the complexity of scheme fee data and the associated potential for misreporting.

The Board understands that providing data to the Bank will add somewhat to regulatory compliance costs. Schemes will need to establish and maintain reporting processes for the quarterly scheme fee data. Larger scheme participants will also incur at least some initial costs to set up data collection and reporting processes for the annual scheme fee data. However, the Board's assessment is that these costs will be outweighed by the benefits of meaningful disclosure to both the Bank and industry participants. If scheme fee transparency leads to even slight downward pressure on fees, this will result in a substantial cost saving for the industry relative to the regulatory cost.

5.4.1 Conclusions

- 1. The Bank will – using its information-gathering powers under s26 of the PSRA – require designated card schemes to provide access to all of their multilateral scheme fees, and scheme rules relating to scheme fees, that apply to Australian scheme participants, and to promptly notify the Bank of any changes to these fees and rules.**
 - This intersects somewhat with the conclusion in the section on 'Dual-network debit cards and least-cost routing' that schemes will be required to provide the Bank with access to *all* scheme rules and to notify the Bank of any changes to those rules.
- 2. The Bank will use its information-gathering powers to collect quarterly data from designated card schemes on the aggregate value of scheme fees charged and rebates provided to Australian scheme participants.**
 - At a minimum, the data will be split into issuing and acquiring fees, debit and credit transactions, and domestic and international transactions.
 - Schemes will also be required to provide a list of their top 20 fees by value and the share of total scheme fee revenue that each of these fees account for.
- 3. Larger scheme participants will be required to report annually to the Bank the total scheme fees paid to, and rebates received from, each card scheme they participate in.**

²⁴ The Bank's current expectation is that this will apply to all acquirers and issuers that process or authorise more than \$7 billion in card payments each year, which corresponds to a little over 1 per cent of overall market share (based on data for 2020) and includes the largest 8-9 issuers and acquirers.

6 Surcharging

6.1 Issues for the Review

The Consultation Paper noted that the Bank and most stakeholders were of the view that the revised surcharging framework put in place following the 2015–16 Review was functioning well. This framework gives merchants the right to levy a surcharge to recover the cost of accepting payments in designated card schemes, with the ACCC having enforcement powers to prevent merchants from surcharging excessively.²⁵ The Board has concluded that the current surcharging regime for card payments remains appropriate and will be unchanged following this Review.

The main question the Board considered in relation to surcharging is whether it would be in the public interest for providers of BNPL arrangements to remove their no-surcharge rules. While businesses have the right to apply a surcharge on card payments if they want to, BNPL providers typically have contractual arrangements that prevent businesses from surcharging BNPL transactions. This means most businesses that accept BNPL payments cannot apply a surcharge to help recover the cost of accepting these payments, even though BNPL services are usually more expensive for businesses to accept than cards. The Board's long-standing view is that the right of merchants to pass on costs to users of more expensive payment methods promotes competition and efficiency in the payments system.

6.2 Preliminary assessment presented in consultation

The Board's preliminary assessment outlined in the Consultation Paper was that there may not be a sufficiently strong public interest case for requiring BNPL providers to remove their no-surcharge rules at this time. However, the Consultation Paper noted that the arguments were finely balanced and a case for seeking the removal of no-surcharge rules could emerge before too long if these services were to continue to grow rapidly and become an even more prominent part of the retail payments landscape. Accordingly, the Board's preliminary view was that BNPL no-surcharge rules should be kept under review and the Consultation Paper sought stakeholder views on principles that could potentially be used to help guide future consideration of this issue.

In considering the policy case for removing BNPL providers' no-surcharge rules, the Board took account of a range of factors, including the strong growth in the market, the rapidly growing adoption by consumers of BNPL services and BNPL providers' high merchant fees (compared to other electronic payment methods such as cards). While the available evidence suggested that BNPL services accounted for a material share of online retail payments (particularly in certain segments), BNPL still represented a relatively small share of total transactions in the economy. In assessing the case for regulatory

²⁵ Several payment schemes that are not formally covered by the Bank's surcharging standard – American Express, Diners Club, UnionPay and PayPal – have voluntarily modified their surcharging rules to be consistent with the standard.

intervention, the Board also noted the possibility that competition from new BNPL services could put downward pressure on BNPL providers' relatively high merchant fees.

The Consultation Paper also noted that no-surcharge rules might, in some circumstances, play a role in supporting the ability of newer providers of BNPL services to compete with more established providers. However, competitive neutrality was also important and differences in regulation should not provide newer players with an unfair competitive advantage in the medium term. The preliminary assessment sought to strike a balance between these two positions.

6.3 Stakeholder views

The majority of stakeholders – including merchants, consumer groups, banks and card schemes – were in favour of immediate policy intervention to remove BNPL no-surcharge rules. Consistent with the view that policy action was urgently required, there was limited support from these stakeholders for reviewing the issue again in the future and the Bank received little feedback on the principles for regulatory intervention outlined in the Consultation Paper. The main arguments in favour of policy intervention were:

- allowing BNPL providers to continue to impose no-surcharge rules creates an uneven playing field in the payments market. That is, no-surcharge rules give BNPL providers an unfair competitive advantage over entities, such as card schemes, that are prohibited from imposing no-surcharge rules on merchants (either by regulation or because they have entered into a voluntary undertaking with the Bank).
- BNPL has become an essential payment offering for many merchants, particularly for online transactions in certain retail segments where BNPL use is widespread. It was argued that the high share of BNPL transactions in particular segments should be given more weight in policy deliberations relative to the BNPL share of economy-wide transactions.
- BNPL is increasing payment costs, particularly for smaller merchants, because use is growing strongly and BNPL is typically more expensive to accept than other payment methods. While merchants may not necessarily choose to surcharge, the right to do so could increase merchants' ability to negotiate lower fees from providers.

In contrast, BNPL providers reiterated their views that the industry is still an emerging and competitive part of the retail payments landscape and remains small relative to the size of other electronic payment methods. These stakeholders argued that, despite rapid growth, merchants have discretion over whether or not to accept BNPL services, and that this exerts competitive pressure on BNPL merchant fees. Some BNPL providers have also argued that they provide a suite of services to merchants – including marketing, customer referrals and fraud protection – in addition to payments processing, and so they argue that it would not be appropriate for merchants to be able to pass on the full cost of accepting BNPL to consumers.

Stakeholder views were mixed on the question of whether competition in the BNPL market was resulting in lower merchant fees. Some stakeholders observed that the influx of newer entrants was resulting in increased price competition and noted that some newer providers tended to charge lower fees than established providers. However, others noted that it was difficult for merchants to stop accepting payments from certain established BNPL providers, some of which reportedly charge relatively high fees, which could dull the effects of price competition. Some stakeholders also argued

that removing no-surcharge rules would achieve lower payment costs more quickly than waiting to see how competition in the market plays out.

6.4 The Board's assessment

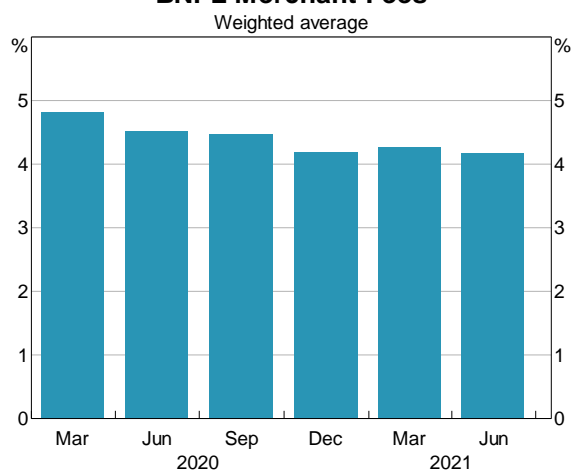
The merchant's right to surcharge promotes a more efficient and competitive payments system

The Board's long-standing view – which has been supported by developments in merchant service fees over the past two decades (see Graph 1 above) – is that the right of merchants to apply a payment surcharge plays an important role in promoting competition in the payments system and keeps downward pressure on payment costs for businesses. If a business chooses to apply a surcharge to recover the cost of accepting more expensive payment methods, it results in more transparent price signals and may encourage customers to use a cheaper payment option. In addition, the possibility that a customer may choose to use a lower-cost payment method when faced with a surcharge puts competitive pressure on payment providers to lower their merchant costs, and may help merchants in negotiating lower prices directly with their payment providers. By helping keep merchants' costs down, the right to apply a surcharge means businesses can offer a lower price for goods and services to all of their customers and thereby reduce the extent to which users of lower-cost payment methods are cross-subsidising users of more expensive payment methods.

The ability to surcharge can be particularly important for promoting competition between payment schemes in cases where merchants consider it to be essential that they offer a particular payment method to remain competitive – that is, where a business is of the view that it cannot refuse to accept a payment method because it might lose sales to competitors that do so. In this case, the possibility of surcharging can put competitive pressure on payment providers to keep their costs down, where otherwise there may not have been as much pressure.

Data collected by the Bank from 9 BNPL providers indicate that the average BNPL merchant fee was a little over 4 per cent in the June quarter 2021 (Graph 5), which is significantly higher than average merchant fees on card transactions (see Graph 1 above). Some stakeholders have also emphasised that BNPL merchant fees can be much higher for individual merchants, particularly smaller businesses, and that there is considerable variation across BNPL providers. While it is possible that competition from newer providers could result in downward pressure on BNPL merchant fees, it was also observed that competition may take some time to have a meaningful impact on BNPL merchant fees.

Graph 5
BNPL Merchant Fees

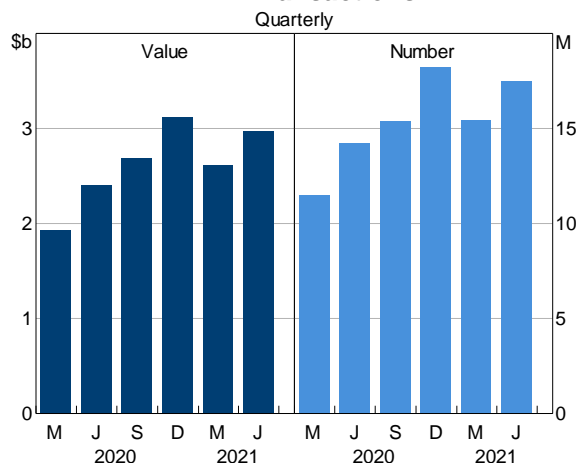


Source: RBA

BNPL is a rapidly growing and widely used payment method

Stakeholders observed that BNPL has become a popular way of making consumer payments in recent years, particularly in certain sectors. Based on the data provided to the Bank by 9 BNPL providers – including the largest providers in Australia – it is estimated that aggregate BNPL transactions grew by around 25 per cent (by both value and number) over the year to the June quarter 2021 (Graph 6). These BNPL providers processed around 67 million transactions worth \$11½ billion in the year. Over a longer period, data from a smaller number of listed providers indicate that the value of BNPL transactions has almost quadrupled over the past three years.

Graph 6
BNPL Transactions



Source: RBA

On the basis of overall spending, BNPL accounts for a relatively small share of the payments market in Australia. For example, in 2020/21 the value of BNPL payments was equivalent to 1.7 per cent of Australian card purchases and 3.1 per cent of total retail purchases. However, some stakeholders emphasised that BNPL providers’ market shares are much higher for online transactions, particularly in certain retail segments; as noted, many argued this should be given more weight in the policy debate

than overall market shares. The Bank estimates that BNPL accounts for about 20 per cent of the value of online retail transactions, which is consistent with estimates cited by some stakeholders on the share of e-commerce transactions accounted for by BNPL. Some stakeholders also noted that transaction shares can be much higher than this in certain segments such as fashion retail, and feedback from merchant representatives indicated that many businesses feel obliged to accept payments from one or more BNPL providers so they do not lose sales to competitors that do offer BNPL as a payment option. A relevant consideration here is that changes in consumer payment behaviour during the COVID-19 pandemic appear to have reinforced the longer-run trend toward retail purchases being made online, where BNPL is a more commonly used and accepted payment option.

The extensive customer and merchant networks of some BNPL providers supports the view that BNPL is now a widely used and accepted way of making consumer payments in Australia. This means that businesses may find it difficult to refuse to accept BNPL; the more consumers that use a particular payment method the more likely a merchant will feel obliged to accept it. And the more merchants that are accepting BNPL, the more likely a merchant will feel obliged to offer it for competitive reasons. According to the Bank’s data on BNPL providers, there were 5.2 million active BNPL accounts at the end of June – equivalent to one quarter of the adult population – and 114,000 merchant accounts (Table 2).²⁶ It is also worth noting that these merchant figures do not include acceptance of ‘open loop’ BNPL virtual cards, which in some cases are accepted at any merchants that take Visa and Mastercard payments (see below).

Table 2: BNPL Indicators
Industry total, year to 30 June 2021^(a)

Value of BNPL transactions	Growth in transaction value	Active customer accounts ^(b)	Active customer accounts ^(c)	Merchant accounts	Growth in merchant accounts
\$ billion	Per cent, year-ended	Millions, as at 30 June 2021	Per cent of adult population	'000s, as at 30 June 2021	Per cent, year-ended
11.4	24	5.2	26	114	40

(a) Calculated from data provided to the RBA by 9 providers.

(b) Active customers defined as having made at least one transaction in the past 12 months.

(c) Adult population refers to ABS estimated resident population aged 18 years and older as at March 2021.

Sources: ABS, RBA

Regulation should be applied consistently (competitive neutrality)

The Board’s long-standing principle is that regulation should seek to be competitively neutral. A range of stakeholders – including banks and card schemes – have argued that BNPL providers should be required to remove their no-surcharge rules because these rules give BNPL providers an unfair competitive advantage. Entities such as card schemes and PayPal are prohibited from imposing no-surcharge rules on merchants, either by regulation or because they have entered into a voluntary undertaking with the Bank.

Recent market developments have focused attention on the fact that the Bank’s policy on no-surcharge rules does not apply consistently to BNPL-type arrangements. In particular, some services with BNPL features have recently been launched by established financial services firms that are subject to the Bank’s prohibition of no-surcharge rules, whereas other providers of BNPL services (including the

²⁶ This is likely to be an upper bound on the share of consumers with a BNPL account, as some consumers will hold accounts with more than one provider. Similarly, many merchants accept more than one BNPL service.

largest providers in the market) are not subject to the same requirements. Inconsistencies may also arise in the application of the surcharging regime to BNPL services using virtual cards, which have become more common. A number of providers now use Visa/Mastercard virtual card arrangements to facilitate in-store transactions at partnered merchants or to enable 'open loop' transactions at non-partnered merchants. In principle, merchants would be able to apply a surcharge to the merchant service fee charged by the acquirer on these transactions because they are indistinguishable from 'regular' card payments at the point of sale.

While no-surcharge rules may play a role in overcoming barriers to entry in the payments system in some circumstances, this needs to be weighed up against the adverse implications of no-surcharge rules for competition and competitive neutrality. Following the consultation process, the Board has given more weight to the efficiency and competition benefits from a more consistent application of surcharging principles across the payment system. In view of the rapid pace of change in the Australian payments system, these principles should also apply to consumer payment services that may emerge in the future.

However, the Board considers that it may be appropriate to have exemptions for new entrants into the market for a limited time while they establish themselves. This recognises that payments is a network industry in which it can be difficult for new entrants to compete with providers that already have an established network of consumers and businesses. Allowing no-surcharge rules for a short period of time may play a role in supporting the ability of newer providers to compete while they are gaining a foothold in the market.

6.5 Conclusions and recommendation

The Consultation Paper noted that the arguments for and against the removal of BNPL providers' no-surcharge rules were finely balanced. **Following the consultation process and further assessment of the policy considerations, the Board has formed the view that the costs of BNPL no-surcharge rules – in terms of efficiency and competition in the payments system – outweigh any potential benefits in terms of supporting the entry of new players into the market.** BNPL has continued to grow in popularity and is now used by a significant number of Australian consumers, particularly for online purchases. Accordingly, it is now likely to be difficult for many businesses to decline to accept BNPL services, even if they wanted to, and the high cost of these services is pushing up their payment costs. As noted earlier, BNPL is, on average, significantly more expensive to accept than other electronic payment methods such as cards, particularly for small businesses, which are likely to find it difficult to negotiate lower merchant fees (as is often the case for other payment services). The right to apply a surcharge could have a material effect on the cost of payments for small businesses in Australia. Moreover, in an environment of significant innovation, there are benefits in having a regulatory approach to surcharging that applies consistently across the payments industry.

Removal of BNPL providers' no-surcharge rules would give merchants the option to levy a surcharge on customers who choose to pay with (and benefit from) a BNPL service. However, as is the case for card schemes where surcharging is permitted but many businesses choose not to surcharge, merchants would not be obliged to surcharge BNPL transactions. If a merchant perceives that they benefit from accepting a particular payment method, they may choose not to apply a payment surcharge. As discussed above, the *right* to surcharge (even if a merchant chooses not to exercise that right) plays an

important role in putting competitive pressure on payment providers to lower their merchant costs, and may help merchants negotiate lower prices directly with their payment providers.

The Board has also considered the question of an appropriate approach to determining maximum surcharges – that is, what could be an allowable surcharge on BNPL or any other transactions. In relation to BNPL, the Consultation Paper outlined two possible options. Option 1 was that merchants would have the right to surcharge up to the total cost of acceptance for a particular BNPL service. Option 2 was that merchants would have the right to recover only the ‘payment’ component of a merchant’s cost of accepting BNPL payments. Some BNPL providers have argued that option 2 would be conceptually more appropriate because BNPL merchant fees incorporate the cost of a range of services provided to merchants, not just payment processing. However, card schemes and other payment providers currently subject to the Bank’s surcharging requirements also provide a variety of services to merchants that are incorporated into the total cost of acceptance. Option 1 would therefore be more consistent with the Bank’s current surcharging regime, and would have the benefit of simplicity and transparency. It is also unclear how the ‘payments’ component of BNPL merchant fees could be measured in a context where BNPL (and other payment) providers typically do not provide separate services and prices for the different components of their offerings. **Accordingly, consistent with the Bank’s current approach to surcharging card payments, the Board’s preferred approach is that merchants should, if they choose, be able to recover an amount up to the total cost of accepting payments, including those from BNPL providers.** As noted, businesses may choose not to surcharge if they perceive that they benefit from accepting BNPL payments.

In terms of regulation, the Bank’s ability to impose standards to achieve this outcome is complicated by the current drafting of the relevant legislation (the PSRA). In particular, while BNPL arrangements facilitate payments between consumers and merchants (just as credit and debit cards do), there is some uncertainty as to whether they meet the legal definition of a ‘payment system’ or whether providers of these arrangements are ‘participants’ in payment systems under the PSRA. The Bank raised this issue in the context of the Treasury Review.²⁷ The Bank noted that the payments system had become more complex in recent years and suggested that all entities that play a material role in facilitating payments should be able to be regulated if doing so would be in the public interest as defined in the PSRA.

The Final Report of the Treasury Review was released in August. Among other things, it suggested that *“the RBA should be better positioned to regulate new and emerging payment systems that are part of the changing and growing payments ecosystem”* and recommended that the PSRA be revised accordingly. At the time of writing, the Treasury was consulting with stakeholders, including the Bank, on the recommendations. **The Board supports changes that would clarify the Bank’s ability to regulate entities that play a material role in facilitating payments, including in relation to no-surcharge rules.** Even with modified regulatory powers, it would remain open for the Bank to seek voluntary undertakings from relevant entities before going down a regulatory route, as the Bank has done in a number of other cases.

A further consideration in this area is the potential interaction between merchant surcharging of BNPL transactions and the *National Consumer Credit Protection Act 2009* (NCCPA) administered by ASIC. BNPL services often have one or more features that result in them falling within regulatory exemptions from the NCCPA, as set out in the National Credit Code in Schedule 1 to the NCCPA. Some stakeholders are of the view that if merchants were to levy a surcharge on consumers who use BNPL services, it could

27 See RBA (2021a).

result in the BNPL provider no longer qualifying for certain regulatory exemptions. The potential interaction between the removal of no-surcharge rules and ASIC's consumer credit regulation points to the benefits of considering the regulation of BNPL holistically.

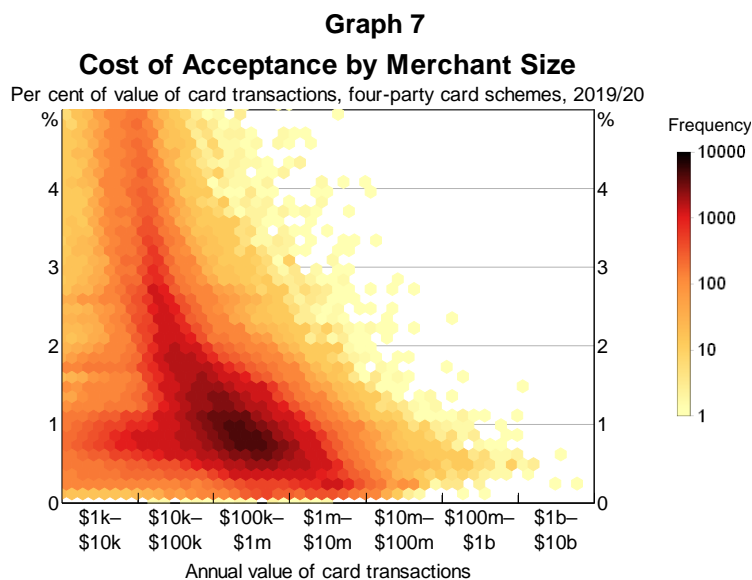
The Bank will continue to work with Treasury in an effort to put in place regulatory arrangements that are competitively neutral, put downward pressure on merchants' payment costs and promote efficiency, innovation and competition in the payments system.

7 Other issues

7.1 Competition in card acquiring

7.1.1 Issues for the Review

The Board's view is that there are some ongoing impediments to competition in the acquiring market, particularly in respect of services provided to smaller merchants. Merchant service fees charged to smaller merchants tend to be significantly higher and much more widely dispersed than those faced by larger merchants (Graph 7). In 2019/20, the average cost of acceptance for four-party scheme cards was around 1.5 per cent for merchants with less than \$100,000 in annual card transactions, and 0.9 per cent for merchants with \$100,000 to \$1 million in card transactions. In contrast, merchants with more than \$10 million in card transactions had an average cost of acceptance of less than 0.6 per cent. Some of this difference in merchant service fees could be explained by cost-related factors, such as economies of scale for acquirers in providing payment services to merchants with larger transaction volumes, and the ability of larger merchants to negotiate 'strategic' interchange rates with the card schemes. In some cases, larger merchants may also be charged lower fees due to a relatively lower risk profile. However, impediments to competition in the acquiring market also appear to be an important factor.



Source: RBA

The Bank has received mixed views on this issue. On one hand, competition and innovation in the broader acquiring market is strong. A range of new technology-focused and/or global firms have entered the market in recent years, acquirer margins appear to have declined, and there are reports of reasonably high rates of switching among some types of smaller merchants. The reforms implemented by the Bank as part of the 2015–16 Review – which sought to improve the information available to

merchants about their payments costs – have also made it easier for merchants to seek quotes from alternative providers.²⁸

However, various factors in the market present ongoing impediments to competition. One issue is that switching to a new acquirer can be costly. This may be due to one-off transitional costs, such as those associated with replacing card terminals and re-integrating back-office systems. Also, given that payment services are often ‘bundled’ with other banking services, merchants may lose access to preferential rates on business banking services such as credit facilities if they source their payments services from another acquirer.

Another issue is that price transparency is still relatively limited. Most acquirers only publicly advertise their fixed-rate or ‘simple merchant plans’, where merchants pay either the same rate per transaction or a fixed dollar amount per month, irrespective of the type of cards used by their customers.²⁹ More competitively priced plans are usually negotiated on a bespoke basis between the acquirer and the merchant. In some cases, acquirers require detailed card transaction information from merchants (such as the shares of standard and premium, and domestic and international card transactions) to determine the most competitive plan and pricing. While this information is available to the incumbent acquirer, it is not typically included in the standard cost of acceptance statements provided by that acquirer, and can be difficult for a merchant to source. This opacity in acquirers’ pricing models and lack of access to transaction data makes it difficult for merchants to compare different plans and acquirers and shop around for a better deal.

There also appear to be some frictions in the market related to behavioural factors. The complexity of payments concepts and the difficulty that merchants face in understanding and comparing acquirers’ offerings generate considerable inertia in merchants’ choice of payment plans and acquirers.³⁰ This can cause merchants to remain with their existing provider even if they could achieve significant net benefits from switching. This, in turn, seems to limit the competitive pressures in the acquiring market, particularly for smaller merchants, which would result from merchants more regularly switching providers.

7.1.2 Stakeholder views

Many stakeholders noted that competition in the acquiring market is strong, pointing to a range of new entrants in recent years and asserted that acquirer margins had been declining. Innovation has increased the breadth of services available to merchants, and some stakeholders noted that technology-focused new entrants have been increasingly capturing market share from traditional (bank) acquirers. Nonetheless, several stakeholders noted that the acquiring market is still very concentrated, and that large bank acquirers have some key competitive advantages over smaller providers. These include the ability to ‘bundle’ acquiring services with broader business banking

28 Under the reforms, acquirers and payment facilitators are required to provide monthly and annual statements to merchants detailing their costs of acceptance for each card payment system regulated by the RBA.

29 Fixed-rate (or bundled) plans charge the same percentage rate for each card transaction, irrespective of the card scheme or type of card. Simple merchant plans typically charge a fixed monthly fee which covers a certain value of transactions (for example, \$30 for up to \$1,500 of card transactions) within a month, with the merchant then paying a fixed percentage fee (often around 1.5 per cent) for any additional transactions above the limit.

30 Many of the behavioural frictions observed in the acquiring market are similar to those that arise in some consumer markets like the energy and mortgage markets. Some frictions related to consumer comprehension of pricing information were explored in a recent study to help inform the implementation of the Australian Energy Regulator’s Retail Pricing Information Guidelines and the ACCC’s Electricity Retail Code (see Behavioural Insights Team (2020)).

services, process 'on-us' transactions (where they are both the issuer and acquirer) which reduces their costs, and provide same-day settlement to merchants.

The Bank heard concerns from many stakeholders that issues regarding complexity and transparency can impede competition in the acquiring market. Many merchants struggle to understand the various cost components that make up their merchant service fees, while others who seek more information about these components may not be provided with the requested information. These issues tend to be exacerbated for smaller merchants, which often do not have the time or resources to investigate whether their pricing plan is competitive and to search for a better deal. Although some large acquirers reported relatively high rates of switching in some market segments, the bulk of stakeholder feedback suggested that there is considerable inertia in merchants' choice of acquirers and pricing plans.

There was significant support from stakeholders for the proposals outlined in the Consultation Paper to improve the transparency of merchants' payments costs. Merchant groups felt that the proposals would help merchants more easily navigate the acquiring market, and compare and switch plans.

Regarding the proposed initiative to publish detailed merchant-level data and provide more educational information for merchants, one major acquirer argued that reporting of merchant-level fee data should apply to all providers regardless of size, rather than just large acquirers. Another acquirer suggested that the Bank should not focus solely on price when designing educational material for merchants, given the range of value-added services offered in the acquiring market.

There were mixed responses to the Bank's proposal to explore extending the Consumer Data Right (CDR) to acquiring services. A number of stakeholders argued that the CDR would help merchants to more easily compare acquirers' offerings and shop around, which could help reduce inertia in the market. However, some larger acquirers expressed concerns about the cost and resourcing requirements involved. One major bank noted that the work agenda for the CDR is already extensive and any plans to broaden it would need to be prioritised appropriately.

Some submissions argued that the Bank should go further to promote transparency in the acquiring market. In particular, one submission argued that acquirers should be required to break down merchant service fees into scheme fees, interchange fees and the acquirer margin on all merchant statements.

7.1.3 The Board's assessment and conclusions

The Bank's reforms following the 2015–16 Review have significantly improved the information available to merchants about their payment costs. However, the Board's assessment is that further policy action is warranted to help reduce some of the remaining impediments to competition in the acquiring market for smaller merchants. Accordingly, the Bank is proposing two initiatives.

First, the Bank will regularly publish summary information on merchant service fees for merchants of different sizes. This will be based on merchant-level data on payment costs collected annually from all acquirers above a certain size; the Bank's current expectation is that this will apply to all acquirers that process more than \$4 billion in card payments annually, which corresponds to a little over ½ per cent of overall market share.³¹ The published pricing information will be accompanied by educational material about key concepts in card payments and acquiring services. The aim is to increase

31 The Bank intends to continue its current practice of requesting these data from acquirers on an informal basis, but will invoke its information collection powers under s26 of the PSRA if necessary (including to help respondents mobilise the necessary resources within their organisation).

merchants' awareness of the pricing available in the market, improve their understanding of different types of merchant plans and payments services, and make it a little easier for merchants to search for a cheaper plan or negotiate a better deal with their existing acquirer. To ensure this information is easily accessible to merchants, **acquirers and other entities that provide card acceptance services will be expected to notify their merchant customers about where to find the information at least once a year**, likely at the same time as they provide the annual cost of acceptance statement.³² This will act as a periodic prompt or 'nudge' for merchants to review their payments services, which could reduce some of the inertia in the market.

The Bank will also continue to explore with Treasury and the ACCC the possibility of extending the CDR to acquiring services provided to small businesses, subject to any constraints around the broader CDR rollout. The CDR is currently being rolled out for consumer banking services, where it is known as Open Banking, and was specifically designed to address the types of market inefficiencies that are evident in the acquiring market. The CDR could make it easier for merchants to seek quotes from alternative payments service providers by allowing them to easily source and share their detailed card transaction data. Over the longer term, third-party providers offering comparison (and possibly switching) services could also emerge, further reducing merchants' search and switching costs.

7.2 Net compensation

7.2.1 Issues for the Review

The Issues Paper noted that the revised net compensation provisions in the interchange standards have been working effectively. The Board, however, was aware of several potential issues relating to the operation of these provisions, based on feedback from the 2019/20 annual certification process for net compensation as well as broader engagement with schemes and issuers. The first issue was that the standards do not expressly state when a new issuer must begin certifying its compliance with the net compensation provisions, and certifications for the year to June 2020 indicated that interpretation of the standards on this point varied across different schemes and issuers. Accordingly, the Bank provided guidance in January to clarify its expectation that:

- a new issuer should begin certifying once it has had a full financial year of operation following the public launch of its card product (with the scheme certifying at the same time as the issuer)
- the new issuer (and scheme) will include in its first certification all issuer receipts and payments relevant to the net compensation calculation that have accrued prior to the first certification.

In reaching this view, the Bank recognised that new issuers are likely to experience low transaction volumes in the early stages of developing and launching a product to the public. This could result in issuer payments to the scheme being insufficient to offset the benefits that schemes often provide to support the entry of new issuers into the market, even after allowing for the amortisation of such benefits over a number of reporting periods that is already provided for in the standards.

³² Merchants sometimes procure their card acceptance services indirectly from a payment facilitator, independent sales organisation (ISO) or other payment service provider, rather than directly from an acquirer. Where this is the case, these entities typically provide their merchant customers with monthly and annual cost of acceptance statements, so the Bank envisages they would also notify merchants about the new pricing and educational information.

The second issue was whether card migration benefits should be excluded from issuer receipts in the net compensation provisions. Migration benefits are payments by a scheme intended to compensate an issuer for all or part of the cost of switching schemes (such as the cost of re-issuing cards). They meet the current definition of an issuer receipt, because they can incentivise entry into a contract for issuing cards of a scheme. However, some stakeholders expressed a concern that including migration benefits in net compensation calculations may create a disincentive for issuers to switch schemes, as it makes it more difficult for the new scheme to match the total value of other benefits offered by the incumbent scheme; this potentially reduces competition between card schemes for issuing arrangements.

Finally, the Bank identified a couple of issues relating to the definition in the standards of a 'Core Service' – the fee for which can be included as an issuer payment in net compensation calculations. The first was that part (a) of the definition in Standard No.2 of 2016, which pertains to both debit and prepaid cards, suggests that only payments for services related to debit cards are issuer payments. The Bank's intent however, is that payments related to prepaid cards should also be treated as issuer payments (provided they meet the other elements of the definition). In their net compensation certifications, schemes and issuers have interpreted 'Core Service' in line with this intent. Second, the Bank was concerned that, as schemes become involved in more parts of the payments value-chain, 'Core Service' (under both Standard No.1 and Standard No. 2 of 2016) could in some cases be interpreted widely to include services that are provided by the schemes but that would traditionally have been performed by issuers themselves, or by third parties (for example, account maintenance, or the transaction authorisation usually performed by the issuer). This would inflate issuer payments, allowing schemes to provide additional benefits to issuers.

The Issues Paper also considered what actions the Bank should take, or should have the power to take, following any breach of the net compensation provisions, particularly given that some potential enforcement actions could have the effect of rewarding a scheme for a breach. For example, requiring an issuer to 'undo' a breach by repayment or adjustment to an accrued entitlement would result in the scheme recouping some of the cost of the excessive up-front incentives it offered to secure the issuing contract. The appropriateness of the Bank's enforcement powers under the PSRA was also raised more generally: see the section on 'Regulation and enforcement' below. A related question was whether greater obligation should be placed on schemes to comply with the net compensation provisions (currently the substantive obligations rest with the issuers).

7.2.2 Stakeholder views

Schemes and issuers generally indicated that the current net compensation provisions were working effectively, although some suggested they were complex and difficult to interpret. Some noted small changes that might be beneficial. For example, some stakeholders suggested that aspects of the provisions may hinder competition between schemes (e.g. requiring payments for card portfolio conversions to be included as issuer receipts may give incumbent schemes an advantage, and the move from cash to accruals may favour international schemes that pay large upfront incentives). Others felt that the burden of monitoring compliance primarily fell on issuers, not schemes, and recommended that substantive obligations should also apply to schemes. While parties generally agreed that there needed to be close monitoring to dissuade and detect potential circumvention, few saw a case to develop new enforcement mechanisms to strengthen observance of the provisions.

Feedback from schemes and issuers was supportive of the Board’s proposal to amend the standards to include the Bank’s recent guidance for new issuers, and of the other minor revisions to the net compensation provisions set out in the Consultation Paper.

7.2.3 The Board’s assessment and conclusions

The Board’s view is that compliance with the net compensation provisions has been satisfactory overall and breaches have been dealt with effectively, despite the Bank’s limited enforcement powers under the PSRA. Accordingly, the Board has decided not to make changes to the net compensation framework or to extend the substantive obligations.

On the issue of when a new issuer must begin certifying its compliance with the net compensation provisions, the Board’s view is that the graduated approach set out in the Bank’s recent guidance supports new entry and competition in the issuing market.³³ **The Bank will therefore amend the standards to formalise these certification requirements for new issuers.** Their inclusion in the interchange standards will bring greater regulatory clarity for issuers entering the market.

The Board does not see a strong case for excluding card migration benefits from net compensation calculations. The Board acknowledged the concerns raised by some stakeholders that the inclusion of migration benefits could create a disincentive for issuers to switch schemes, potentially reducing competition between the card schemes. However, this was weighed up against the fact that the exclusion of such benefits would be inconsistent with the broader intent of the standards to limit interchange-like payments to issuers, and would introduce additional complexity and potential loopholes into the regulation.

In relation to the definition of ‘Core Service’ in Standard No.2, a minor technical revision will be made to part (a) to include prepaid cards, to bring the drafting into line with the Bank’s intent. The Board would also like to reiterate that ‘Core Service’ under both standards should be interpreted narrowly, to exclude services that are provided by a scheme, but that would traditionally have been performed by the issuer or a third party.³⁴ A wide interpretation is inconsistent with the intent of the standards, as it increases the scope for schemes to provide interchange-like benefits to issuers. This would translate to higher costs for acquirers and merchants, and may provide an advantage to schemes over third-party suppliers (as schemes would be able to reimburse service fees to the issuer).

7.3 Mobile wallets

7.3.1 Issues for the Review

In recent years, large multinational technology companies such as Apple, Google and Samsung have launched mobile wallets in Australia for use in their respective mobile platforms. These wallets enable consumers to make contactless (and in some cases online) payments with a smartphone or other consumer device³⁵ using a digital representation of their debit and/or credit cards. The contactless functionality of mobile wallets is typically facilitated by near-field communication (NFC) technology in mobile devices. All of Australia’s major banks and many smaller issuers now support each of the three largest wallets (Apple Pay, Google Pay and Samsung Pay). The use of these wallets by consumers has

33 See RBA (2021b).

34 This is consistent with the conclusions from the 2015-16 Review; see RBA (2019a), p 18.

35 For example, some smart watches and fitness trackers include mobile-wallet functionality.

grown strongly over the past few years. This is evident in the Bank's most recent Consumer Payments Survey, which showed that mobile-wallet transactions made up 8 per cent of in-person card transactions in 2019 (compared with 2 per cent in 2016). Use of mobile wallets has picked up further since the onset of the COVID-19 pandemic; data released by one large card issuer showed that the value of monthly transactions made using mobile wallets more than doubled over the year to March 2021.

Mobile platforms take different approaches regarding access to NFC technology for contactless payments. On Android devices, third parties are able to directly leverage NFC functionality to develop their own mobile payment applications that compete with Google Pay or Samsung Pay. In contrast, on the iPhone, direct access to NFC technology for payments is restricted to Apple's 'Wallet' application, which means that third parties are unable to develop their own mobile payments applications for iOS without transactions going via Apple Pay.

Apple's restriction on access to NFC technology for contactless payments on the iPhone is attracting growing international regulatory scrutiny. The European Commission is currently conducting a formal antitrust investigation into this issue, and is also considering legislation that would ensure third parties can access technologies used for payments (such as NFC) on fair and reasonable terms. German, Swiss and Dutch national authorities have also considered, or are considering, NFC access issues. In Australia, the ACCC has recently commenced an investigation into Apple's restriction on direct access to the iPhone's NFC chip. Several stakeholders have also raised concerns about the restriction in the current Parliamentary Joint Committee inquiry into mobile payment and digital wallet financial services;³⁶ this inquiry is considering some of the potential competition issues noted above and is yet to issue an interim or final report.

7.3.2 Stakeholder views

A number of stakeholders noted that the entry of large multinational technology companies could pose challenges for the local market. Providers of mobile wallets and other mobile payments services are often very large, and even the largest domestic participants in the Australian payments system (such as the major banks) may find themselves in a weak negotiating position when partnering with them.

Some stakeholders argued that certain practices of mobile-wallet providers may be detrimental for competition and introduce new costs into the payments system. In particular, some issuers expressed concerns about the ability of mobile-wallet providers to restrict access to the underlying technology used for contactless mobile payments (such as NFC) and prohibit issuers from passing on mobile-wallet fees to customers. One issuer also noted that issuers may be required to share some aspects of consumers' card transaction data with one of the mobile-wallet providers.

Some stakeholders also highlighted the lack of transparency related to mobile-wallet fees, which represent a new cost in the payments ecosystem that could be passed through indirectly to end users of the payments system. One submission argued that there was a need for greater transparency of wallet providers' fees and rules. Similarly, another submission noted that the Bank does not currently collect data on mobile-wallet transactions in its Retail Payments Statistics, and suggested that the Bank could start to collect these data to monitor trends in the market.

36 The ACCC previously denied an application by four Australian banks (including three of the major banks) to collectively bargain with Apple over access to the iPhone's NFC chip in 2017; however, Apple Pay was much less widely supported by issuers and used by cardholders at the time.

Other stakeholders noted the benefits of mobile wallets, including their convenience and potential to improve security through technologies such as tokenisation and biometric authentication. One stakeholder argued that broadening third-party access to NFC infrastructure in mobile devices could compromise the security and privacy of mobile-wallet transactions.

Overall, a number of submissions argued in favour of regulatory action in the mobile-wallet market to address perceived competition issues. One major bank suggested that the Bank should work with the ACCC to address any competition issues in this part of the payments system. Other submissions were also supportive of a regulatory response, although it was noted that the Bank currently may not have the power to regulate mobile-wallet providers under the PSRA.

7.3.3 The Board's assessment and conclusions

The Board considers that there is a growing case for regulatory authorities to have powers to address potential competition and efficiency issues in the mobile-wallet market. The market is currently dominated by three large multinational providers, and there has been very strong growth in the use of these services in recent years. Some of the potential issues in the mobile-wallet market have been highlighted during the current Parliamentary Joint Committee inquiry, and as noted above, the ACCC has commenced an investigation into Apple Pay. While any regulatory intervention would need to also consider any implications for the safety and security of the payments system, it seems likely that regulatory action (or the prospect of such action) could promote greater competition in the mobile-wallet market and improve the ability of issuers to bargain with mobile-wallet providers.

However, regulating in this area would be complex and the Bank's power to do so currently under the PSRA is not entirely clear. Accordingly, **for the time being, the Bank will continue to monitor developments in Australia and overseas closely, and will cooperate with the ACCC where needed (including on its current investigation into Apple Pay) to address any policy issues relevant to its mandate.** However, the recently released final report of the Treasury Review suggests that a new designation power for the Treasurer, or an expanded scope for the designation power of the Bank under the PSRA, could be relied upon where oversight of a particular mobile wallet would be in the national interest or the public interest. If an expanded designation power for the Bank was implemented by Parliament, this would give the Bank the power to regulate a broader group of payment service providers, including mobile-wallet providers and other new entities in the payments ecosystem, thus ensuring that the Bank was able to address any competition and efficiency issues that arose.

7.4 Other

7.4.1 Access regimes

Stakeholders have noted that they believe the Bank's revised access regimes for the Visa and Mastercard credit card schemes are working well to support competition from new participants in this market. A range of new issuers and acquirers have entered the Australian market over recent years, many of which are smaller technology-focused firms. As noted in the Issues Paper, the processing of applications for scheme membership occasionally falls outside of the timeframes published on schemes' websites, but this has been attributed to applicants taking additional time to supply the requisite information (for example to demonstrate compliance with anti-money laundering regulation). The Bank has received very few complaints from would-be participants regarding delays in access applications. Accordingly, the Board will leave the existing access regimes for credit cards unchanged.

Access issues related to the NPP were considered in a public consultation conducted by the Bank with input from the ACCC in 2018/19. During this consultation, stakeholders raised a number of concerns about access for new participants, and the Bank made a number of recommendations aimed at addressing some of these concerns in its final report; these were addressed by NPP Australia Ltd. Recently, the Treasury Review has made recommendations, particularly around a new licensing regime for payment service providers, which could have implications for payment systems' access rules (including those of the NPP). The Bank and the ACCC will decide on the scope and timing of any follow-up review of NPP functionality and access following the Government's response to the recommendations of the Treasury Review.

7.4.2 Enforcement

The Issues Paper noted that there are some limitations to the Bank's enforcement powers under the PSRA. For example, the penalty for failing to comply with a direction under section 21 of the Act is substantially lower than penalties for offences under other legislation related to the financial sector. However, there have not been any significant issues regarding compliance with the Bank's standards and access regimes, and stakeholders have noted that good outcomes have been achieved under the existing regulatory framework and enforcement mechanisms. Accordingly, the Board has concluded that major changes to its enforcement powers are not necessary at this stage. Nonetheless, in any revision of the PSRA following the recommendations of the Treasury Review, the Government may consider whether the Bank's current enforcement powers remain appropriate.

7.4.3 American Express companion card system

The American Express Companion Card system was designated in October 2015, and Standards No. 1 and No. 3 apply to this system. As noted in the Issues Paper, the major banks have stopped issuing companion cards as a result of the net compensation provisions. Accordingly, the Bank will revoke the designation.

8 Varied standards and implementation

8.1 Summary of varied standards

The Board's conclusions will be implemented, as necessary, through variations to the Bank's standards. Appendix A presents the proposed variations to the following existing standards:

- Standard No. 1 of 2016: The Setting of Interchange Fees in the Designated Credit Card Schemes and Net Payments to Issuers
- Standard No. 2 of 2016: The Setting of Interchange Fees in the Designated Debit and Prepaid Card Schemes and Net Payments to Issuers
- Standard No. 3 of 2016: Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions

Standard No. 1: The Setting of Interchange Fees in the Designated Credit Card Schemes and Net Payments to Issuers

This standard applies to the MasterCard Credit Card System and the Visa Credit Card System. The variations:

1. remove references to the American Express Companion Card system
2. require schemes to publish the interchange fees for domestic transactions on foreign-issued cards on their websites
3. formalise recent guidance about when and how new issuers should begin certifying compliance with the net compensation provisions.

Standard No. 2: The Setting of Interchange Fees in the Designated Debit and Prepaid Card Schemes and Net Payments to Issuers

This standard applies to the eftpos, MasterCard and Visa debit card and prepaid card systems. The variations:

1. implement the second and third changes described above for credit cards (as well as a minor technical revision to the definition of 'Core Service')
2. lower the cap on debit (and prepaid) interchange fees that are set in cents-based terms from 15 cents to 10 cents per transaction
3. introduce a 'sub-benchmark' for SNDCs, such that the weighted-average interchange fee on SNDCs from a given scheme must be no more than 8 cents. The methodology for compliance is the same as that for the current weighted-average interchange fee benchmark for all debit (and prepaid) transactions.

Standard No. 3: Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions

This standard applies to the MasterCard and Visa credit card systems, and the eftpos, MasterCard and Visa debit card and prepaid card systems. The proposed variations remove references to the American Express Companion Card system.

Box G: Likely implications of the reforms

In forming its views on a set of reforms to card payments regulation which, in its opinion, are in the public interest, the Board considered the implications for participants in, and end users of, the payments system. This Box summarises the likely effects of the regulatory reforms on various stakeholders.

Industry participants

- While there are a range of measures to increase competitive tension between the debit schemes and maintain downward pressure on interchange fees, the debit interchange benchmark will be unchanged so there should be limited effects on the overall interchange revenues of issuers. Within the issuing market, the competitiveness of smaller financial institutions should be enhanced by the ability of small entities to issue SNDCs if they wish to do so, combined with the relaxed net compensation rules for new issuers. Some larger issuers that had been considering issuing SNDCs will see a modest increase in their costs from the requirement to continue issuing DNDCs with support for both networks in all form factors (where they are supported by the relevant scheme and mobile-wallet provider).
- Acquirers, payment facilitators and gateways will have to incur some costs to implement LCR for online transactions. Competition in the acquiring market should increase, particularly if the CDR is expanded to include acquiring services provided to small businesses, possibly resulting in smaller acquirer margins and lower merchant service fees.
- Schemes, along with large issuers and acquirers, will incur some compliance costs associated with providing scheme fee data to the Bank. However, the publication of scheme fees may allow smaller acquirers and issuers greater scope for negotiation of rebates or discounts from schemes, enhancing competition in those markets.
- A range of measures – including actions to prevent tying conduct involving credit card interchange fees – should ensure that ePAL is able to compete on a more level playing field in the debit market. Both ePAL and the international card schemes will be free to support and incentivise new SNDC issuance by smaller issuers, and all SNDCs, including eftpos proprietary cards, will be subject to the same interchange fee regulation.
- Mobile-wallet providers that do not currently support DNDCs will incur some costs in ensuring that both networks on DNDCs can be provisioned.

Consumers

- The various measures designed to increase competitive tension between the debit schemes (and acquirers) should maintain downward pressure on merchant payment costs, which will help keep downward pressure on the level of prices for final goods and services.

- The lower cap on debit interchange fees that are set in cents-based terms should result in higher card acceptance (and reduced surcharging) for low-value transactions.
- Where small issuers switch from DNDCs to SNDCs, their customers will lose access to functionality that is currently only provided by eftpos, such as the ability to withdraw cash at most point-of-sale outlets or receive immediate Medicare rebates at many medical practitioners. However, those customers that place a high value on such functionality will be free to switch to other issuers that still offer DNDCs.

Businesses

- The various reforms designed to increase competitive tension between the debit schemes will result in lower payment costs for businesses. The increase in pricing information available to merchants, particularly if the CDR is expanded to include acquiring services provided to small businesses, is expected to make it easier for merchants to compare prices from different acquirers and negotiate better deals, putting downward pressure on merchant service fees.
- The expansion of LCR to online transactions will allow merchants to reduce their payment costs by increasing the pool of debit transactions that can be routed to the cheapest network. The expectation that larger issuers will continue to issue DNDCs will limit any possible shift to SNDCs which do not allow for LCR.
- The lower cap on debit interchange fees that are expressed in cents terms will reduce the cost of some debit transactions, particularly for smaller merchants that do not benefit from strategic interchange rates. This will result in less cross-subsidisation and price discrimination between large and small merchants. The lower cap will also increase the net benefits of LCR for large merchants that are eligible for strategic rates, by reducing the penalty associated with losing these strategic rates if they adopt LCR.

8.2 Implementation

The revised standards will take effect from 1 January 2022. Accordingly:

- Interchange fees on foreign-issued card transactions must be published on schemes' websites from 1 January 2022.
- The new lower cap on debit interchange fees that are expressed in cents terms must be complied with from 1 January 2022 onwards. In schemes' annual certification, they will certify compliance with the old standard (15c) for the first half of the financial year and certify compliance with the new standard (10c) for the second half of the financial year.
- Schemes must report quarterly SNDC data for the March quarter 2022 onwards, but the first Reference Period for which the schemes have to comply with the SNDC benchmark will be the four quarters ending 31 December 2022. While not legally required, the Bank expects schemes to comply with the benchmark on a quarterly basis for each quarter in 2022.

The Board's expectations regarding DNDC issuance will be effective immediately. However, as noted in the main text, for those issuers that are expected to issue DNDCs, the Board does not expect them to replace any existing SNDCs on issue with DNDCs; these cards, and the accounts they relate to, will be entirely grandfathered. By contrast, new SNDCs and accounts issued by such issuers from 1 January 2022 will be expected to be replaced with DNDCs as soon as practicable. Similarly, for issuers that are expected to issue DNDCs, the Board expects them to support the provisioning of both debit networks

in all form factors that they offer – where the functionality is supported by the relevant scheme and/or mobile-wallet provider – as soon as practicable.

The Board's expectations regarding device-present LCR will also be effective immediately. Acquirers that have not yet developed LCR functionality will be allowed an appropriate transition period. Acquirers and payment facilitators will have to report to the Bank on their device-present LCR offering and on merchant take-up every six months, with the first reports due in January 2022.

The Board expects all acquirers, payment facilitators and gateways to offer and promote LCR functionality to merchants in the online environment by the end of 2022. In line with the expectation for the device-present environment, acquirers, payment facilitators and gateways will be expected to report to the Bank on their online LCR capabilities and offerings, and on merchant take-up of online LCR, every six months, with the first reports due in January 2023.

The Bank will issue a formal notice detailing scheme fee disclosure requirements soon after the publication of the Conclusions Paper, with the expectation that the card schemes will provide the Bank with access to their scheme fee schedules and scheme rules from 1 January 2022. The card schemes will be required to report aggregate data on scheme fees and rebates to the Bank on a quarterly basis beginning in August 2022, relating to the quarter ending 30 June 2022. Large scheme participants will be required to report aggregate data on scheme fees and rebates to the Bank on an annual basis beginning in August 2022, relating to the 2021/22 financial year. The Bank will also collect merchant-level data on payment costs each year in September, relating to the previous financial year, from all acquirers that process more than \$4 billion in card payments annually.

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Appendix A: Varied standards

STANDARD NO. 1 OF 2016

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**; [and](#)
- (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);

Debit Card Scheme means each payment system referred to as a 'Scheme' under *Standard No. 2 of 2016 The Setting of Interchange Fees in the Designated Debit and Prepaid Card Schemes and Net Payments to Issuers*;

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;

Initial Reporting Period means, in relation to a New Issuer, the period commencing on the first date on which any Direct Issuer Participant Payments or Direct Issuer Participant Receipts were paid, became payable, were earned or accrued, or became receivable by or to the New Issuer (as applicable) and ending on the last day of the first full Reporting Period following Public Launch by that New Issuer;

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

Interchange Fees means:

~~(, in relation to a) — for each of the VISA System and the MasterCard System Scheme, 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;~~

International Card Transaction means, in relation to a Scheme, a transaction in that Scheme that:

(a) is between a holder of a Device issued by an International Issuer and a merchant in Australia;

(b) involves the purchase of goods or services; and

(c) 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;

International Interchange Fees means, in relation to a Scheme, wholesale fees, known as interchange fees, which are payable between an International Issuer and an Acquirer, directly or indirectly, in relation to International Card Transactions in the Scheme;

International Interchange Fee Category means a category of International Card Transactions in relation to which a particular International Interchange Fee applies, which may be:

(a) determined by reference to the nature of the holder or type of the Device, the identity or nature of the merchant, the means of effecting the transaction, the security or authentication that applies or any other matters; or

(b) a residual category covering transactions not in any other category;

International Issuer means a participant in a Scheme that has a contractual relationship with its customers under which it issues Devices of the Scheme to those customers or their nominees but that is not an Issuer;

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

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;

New Issuer means a [Direct Issuer Participant in a Scheme that has not, before commencing the issue of any Cards of that Scheme, issued in Australia any Devices of any other Scheme or any Debit Card Scheme;](#)

Public Launch in relation to a New Issuer, [occurs when the New Issuer begins offering to issue Credit Cards of a Scheme to its intended customer base and will not be taken to have occurred when a New Issuer has only issued Credit Cards of that Scheme to its staff or a select group of its customers or other persons as part of a trial or test phase;](#)

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~~[Subject to clause 6.5, 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 [on the Scheme's website](#):

(a) 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; and

(b) the International Multilateral Interchange Fee rates or amounts (whichever is applicable) of the Scheme, including the rates or amounts for each International 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~~ Subject to clause 6.5, 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~~ 6.5 Where a Direct Issuer Participant in a Scheme is a New Issuer, each of the administrator of the Scheme in Australia and the New Issuer will be taken to have complied with its obligations under clause 5 and clause 6.4 in respect of the period prior to and including the Initial Reporting Period if it:

- (a) complies with clause 5 as if each reference to 'Reporting Period' is read as a reference to the Initial Reporting Period; and
- (b) certifies in writing to the Reserve Bank of Australia that it was, in respect of the Initial Reporting Period, in compliance with clause 5 read as specified in clause 6.5(a) and provides such certification on or before 31 July in the year that the Initial Reporting Period ends.

6.6 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.~~

7.2 — On and from 1 January 2022, each participant in a Scheme must comply with this Standard as varied with effect from that date.

STANDARD NO. 2 OF 2016

THE SETTING OF INTERCHANGE FEES IN THE DESIGNATED DEBIT AND PREPAID 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 debit card scheme and prepaid 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 Visa Debit, which was designated under the Act as a payment system on 23 February 2004 and which is referred to in this Standard as **Visa Debit**;
- (b) the payment system operated within Australia known as Visa Prepaid, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this Standard as **Visa Prepaid**;
- (c) the payment system operated within Australia known as Debit MasterCard, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this Standard as **Debit MasterCard**;
- (d) the payment system operated within Australia known as MasterCard Prepaid, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this Standard as **MasterCard Prepaid**;
- (e) the debit card payment system operated within Australia known as the EFTPOS payment system, which was designated under the Act as a payment system on 12 June 2012 and which is referred to in this standard as the **EFTPOS System**; and
- (f) the prepaid card payment system operated within Australia under the EFTPOS Scheme Rules, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this standard as **EFTPOS Prepaid**.

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 Card of that Scheme; or
- (b) is a Merchant that accepts, or is a Related Body Corporate of a Merchant that accepts, a Card of that Scheme and bears risk as principal in relation to the payment obligations of the Issuer of that 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;

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

Card of a Scheme or **Card of that Scheme** means a Debit Card of a Scheme or a Prepaid Card of a Scheme;

Card of a Scheme Pair means a Card of a Scheme that is part of a Scheme Pair;

Card Transaction means a Debit Card Transaction or a Prepaid Card Transaction;

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 to make payments for goods or services by:
 - (i) [accessing a deposit account held at an authorised deposit-taking institution or a bank or other financial institution;](#) or
 - (ii) [using a store of value that has been prepaid or pre-funded,](#)
[or in relation to](#) 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 Scheme means each payment system referred to as a 'Scheme' under *Standard No. 1 of 2016 The Setting of Interchange Fees in the Designated Credit Card Schemes and Net Payments to Issuers*;

Debit Card of a Scheme or Debit 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 to make payments for goods or services by accessing a deposit account held at an authorised deposit-taking institution or a bank or other financial institution;

Debit Card Scheme means *Visa Debit, Debit MasterCard or the EFTPOS System*;

Debit Card Transaction means, in relation to a Scheme, a transaction in that Scheme between a holder of a Debit Card of that Scheme and a Merchant involving the purchase of goods or services (whether or not it also involves the obtaining of cash) using a Debit 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:

- (a) Debit MasterCard and MasterCard Prepaid 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;
- (b) VISA Debit and Visa Prepaid 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; or
- (c) EFTPOS System and EFTPOS Prepaid this means:
 - (i) any eftpos Issuer that is not an Indirect Settler; or
 - (ii) any Settlement Agent,
 with each of those expressions having the meaning given in the Rules of the Scheme;

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;

Dual-Network Debit Card or DNDC means a Debit Card of a Scheme (the ‘First Scheme’) that incorporates the functionality necessary to enable a transaction between the holder of the Device and a Merchant to be processed through:

- (a) the payment network of the First Scheme; or
- (b) the payment network of one or more of:
 - (i) the other Debit Card Schemes; and
 - (ii) any other payment system under which the holder of a Device may, using that Device, initiate or effect a transaction to make payments for goods or services by accessing a deposit account held at an authorised deposit-taking institution or a bank or other financial institution (whether or not the transaction also involves the obtaining of cash) provided that other payment system is not administered by the administrator of the First Scheme or any Associated Entity of the administrator of the First Scheme;

EFTPOS Scheme Rules are the rules promulgated under the constitution of EFTPOS Payments Australia Limited (ABN 37 136 180 366) and any schedule, document, specification or rule published by EFTPOS Payments Australia Limited pursuant to those rules;

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 Pair 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 Cards of any Scheme in the Scheme Pair;
- (b) promoting or incentivising the issuance or use of Cards of any Scheme in the Scheme Pair; or
- (c) providing or funding incentives to holders of Cards of any Scheme in the Scheme Pair to use those cards.

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

- (i) incentives to market Cards of any Scheme in the Scheme Pair; and
- (ii) any of the following earned, accrued or receivable by a Direct Issuer Participant for agreeing to issue Cards of any Scheme in the Scheme Pair or for Card Transactions undertaken in any Scheme in the Scheme Pair 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 Cards of any Scheme in the Scheme Pair 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:

- (a) Debit MasterCard and MasterCard Prepaid this means any Affiliate Customer as defined in the Rules of the Scheme in its capacity as Issuer; or
- (b) VISA Debit and Visa Prepaid this means any Participant-Type Member or Associate-Type Member, each as defined in the Rules of the Scheme, in its capacity as Issuer; or
- (c) EFTPOS System and EFTPOS Prepaid this means any eftpos Issuer that is an Indirect Settler, with each of those expressions having the meaning given in the Rules of the Scheme;

Initial Reporting Period means, in relation to a New Issuer, the period commencing on the first date on which any Direct Issuer Participant Payments or Direct Issuer Participant Receipts were paid, became payable, were earned or accrued, or became receivable by or to the New Issuer (as applicable) and ending on the last day of the first full Reporting Period following Public Launch by that New Issuer;

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

Interchange Fees means in relation to a Scheme, wholesale fees, known as interchange fees, which are payable between an Issuer and an Acquirer, directly or indirectly, in relation

to Card Transactions in the Scheme but excluding any such fees to the extent that they are referable only to the obtaining of cash by the Card holder;

International Card Transaction means, in relation to a Scheme, a transaction in that Scheme that:

(a) is between a holder of a Device issued by an International Issuer and a merchant in Australia;

(b) involves the purchase of goods or services (whether or not it also involves the obtaining of cash); and

(c) 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;

International Interchange Fees means, in relation to a Scheme, wholesale fees, known as interchange fees, which are payable between an International Issuer and an Acquirer, directly or indirectly, in relation to International Card Transactions in the Scheme but excluding any such fees to the extent that they are referable only to the obtaining of cash by the Device holder;

International Interchange Fee Category means a category of International Card Transactions in relation to which a particular International Interchange Fee applies, which may be:

(a) determined by reference to the nature of the holder or type of the Device, the identity or nature of the merchant, the means of effecting the transaction, the security or authentication that applies or any other matters; or

(b) a residual category covering transactions not in any other category;

International Issuer means a participant in a Scheme that has a contractual relationship with its customers under which it issues Devices of the Scheme to those customers or their nominees but that is not an Issuer;

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

Issuer means a participant in a Scheme in Australia that has a contractual relationship with its customers under which it issues Debit Cards of a Scheme or Prepaid Cards of a Scheme (as the case may be) to those customers or their nominees;

Merchant means, in relation to a Scheme, a merchant in Australia that accepts a 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;

New Issuer means a Direct Issuer Participant in a Scheme that has not, before commencing the issue of any Cards of that Scheme, issued in Australia any Devices of any other Scheme or any Credit Card Scheme;

Public Launch in relation to a New Issuer, occurs when the New Issuer begins offering to issue Cards of a Scheme to its intended customer base and will not be taken to have occurred when a New Issuer has only issued Cards of that Scheme to its staff or a select group of its customers or other persons as part of a trial or test phase;

Prepaid Card of a Scheme or **Prepaid 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 to make payments for goods or services using a store of value that has been prepaid or pre-funded and is accessible to make payments for goods or services only through the use of that, or a linked or related, Device;

Prepaid Card Transaction means, in relation to a Scheme, a transaction in that Scheme between a holder of a Prepaid Card of that Scheme and a Merchant involving the purchase of goods or services (whether or not it also involves the obtaining of cash) using a Prepaid 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);

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;

Scheme Benchmark is 8.0 cents;

Scheme Pair means:

- (a) VISA Debit and VISA Prepaid;
- (b) Debit MasterCard and MasterCard Prepaid; or
- (c) EFTPOS System and EFTPOS Prepaid;

Scheme Pair Transaction has the meaning given in clause 5.1;

Sponsor means:

- (a) in relation to a Scheme which is VISA Debit, VISA Prepaid, Debit MasterCard or MasterCard Prepaid, a participant in the 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

(b) in relation to a Scheme which is EFTPOS System or EFTPOS Prepaid, a participant in the Scheme in Australia who has accepted responsibility to carry out settlement (the process of exchanging value to discharge payment obligations between Issuers and Acquirers), directly or indirectly, on behalf of one or more other entities,

and **Sponsorship** has a corresponding meaning;

SNDC Transaction means a Debit Card Transaction that is not effected using a DNDC;

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 each of the following Standards:

(a) *The Setting of Interchange Fees in the Visa Debit Payment System*; and

(b) *Interchange Fees in the EFTPOS System*.

Neither the registration nor the terms of this Standard affect those standards 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 Card Transaction must:

(i) where the Interchange Fee is a fixed amount per transaction, not exceed ~~15~~10.0 cents; or

(ii) where the Interchange Fee is calculated by reference to the value or amount of the transaction, not exceed 0.200 per cent of that amount or value.

(b) If an Interchange Fee applies in relation to a category of Card Transactions (whether that category is determined by reference to the nature of the holder, or type of the 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 Card Transaction to which it relates; or

(ii) a fixed amount,

applying to all Card Transactions in the category, and cannot be expressed as a range of rates or amounts.

4.2 If:

~~(a)~~(a) in relation to a Scheme:

(i) the total value of Interchange Fees (exclusive of goods and services tax) payable in relation to Card Transactions undertaken in ~~a~~the Scheme during a Reference Period divided by the number of those Card Transactions exceeds the Scheme Benchmark; and

~~(b)~~(ii) for the Scheme Pair of which the Scheme referred to in sub-paragraph (a)(i) forms part, the total value of Interchange Fees (exclusive of goods and services tax) payable in relation to Card Transactions undertaken in each of the Schemes in the Scheme Pair during the Reference Period divided by the number of those Card Transactions exceeds the Scheme Benchmark; or

(b) in relation to a Debit Card Scheme, the total value of Interchange Fees (exclusive of goods and services tax) payable in relation to SNDC Transactions undertaken in the Scheme during a Reference Period divided by the number of those SNDC Transactions exceeds the Scheme Benchmark,

that Reference Period will be an **Above Benchmark Reference Period** for ~~that Scheme and the participants in~~ the Scheme referred to in paragraph (a) or (b) above (as applicable) and 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 the Above Benchmark Reference Period, that Reference Period would not have been an Above

Benchmark Reference Period for that Scheme unless: [in relation to a Scheme referred to in paragraph \(a\) above:](#)

- (c) prior to the end of that period of 2 months and 1 day, a variation to the rates or amounts of Interchange Fees applicable under the other Scheme in the Scheme Pair takes effect; and
- (d) the varied Interchange Fees referred to in paragraph (c) are such that, had they applied under that other Scheme during the Above Benchmark Reference Period, the 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~~[Subject to clause 6.5, no](#) Direct Issuer Participant in a Scheme may receive, directly or indirectly, Net Compensation in relation to Card Transactions undertaken in any of the Schemes in the Scheme Pair of which that Scheme forms part (**Scheme Pair Transactions**). **Net Compensation** is received by a Direct Issuer Participant if the Direct Issuer Participant Receipts of the Direct Issuer Participant for that Scheme Pair in respect of a Reporting Period exceed the Direct Issuer Participant Payments of the Direct Issuer Participant for that Scheme Pair 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 Pair and a Reporting Period is the total of the Benefits that meet the Incentive Test in relation to that Scheme Pair 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 in Australia of any Scheme in the Scheme Pair or any of the Associated Entities of any administrator in Australia of any Scheme in the Scheme Pair 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 Pair 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 in Australia of any Scheme in the Scheme Pair or any of the Associated Entities of any administrator in Australia of any Scheme in the Scheme Pair in relation to Core Services provided during or in respect of the Reporting Period for any of the Cards of the Schemes in the Scheme Pair or Scheme Pair Transactions.
- (c) if a Benefit referred to in paragraph (a) or (b) does not relate solely to Cards of any Scheme in the Scheme Pair or Scheme Pair Transactions and also relates to other Devices or other transactions:

- (i) the Benefit must be apportioned between:
 - (A) the Cards of any Scheme in the Scheme Pair and Scheme Pair 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 Cards of a Scheme in the Scheme Pair 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 Cards of any Scheme in the Scheme Pair and Scheme Pair 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 Scheme Pair Transactions using Cards of any Scheme in the relevant Scheme Pair 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 a Scheme in Australia or any of its Associated Entities that meets the Incentive Test in relation to the Scheme Pair of which that Scheme is part 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 [on the Scheme's website](#):
- (a) 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; [and](#)
 - (b) [the International Multilateral Interchange Fee rates or amounts \(whichever is applicable\) of the Scheme, including the rates or amounts for each International 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 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~~ [Subject to clause 6.5, 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.

6.56.5 Where a Direct Issuer Participant in a Scheme is a New Issuer, each of the administrator of the Scheme in Australia and the New Issuer will be taken to have complied with its obligations under clause 5 and clause 6.4 in respect of the period prior to and including the Initial Reporting Period if it:

- (a) complies with clause 5 as if each reference to 'Reporting Period' is read as a reference to the Initial Reporting Period; and
- (b) certifies in writing to the Reserve Bank of Australia that it was, in respect of the Initial Reporting Period, in compliance with clause 5 read as specified in clause 6.5(a) and provides such certification on or before 31 July in the year that the Initial Reporting Period ends.

6.6 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 (and in the case of paragraph (e)f), the relevant Scheme Pair):

- (a) the total value of Card Transactions undertaken in the Scheme in that Quarter;
- (b) the number of 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 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 Card Transactions undertaken in the Scheme during the Quarter divided by the total number of the Card Transactions undertaken in the Scheme during the Quarter;

(e)in relation to a Debit Card Scheme:

- (i) the total value of SNDC Transactions undertaken in the Scheme in that Quarter;
- (ii) the number of SNDC Transactions undertaken in the Scheme in that Quarter;
- (iii) the total value of all Interchange Fees (exclusive of goods and services tax) payable in respect of SNDC Transactions undertaken in the Scheme during that Quarter; and
- (iv) the total value of Interchange Fees (exclusive of goods and services tax) payable in respect of SNDC Transactions undertaken in the Scheme during the Quarter divided by the total number of the SNDC Transactions undertaken in the Scheme during the Quarter;
- (f) the total value of Interchange Fees (exclusive of goods and services tax) payable in respect of Scheme Pair Transactions undertaken in the Schemes that form part of that Scheme Pair during the Quarter divided by the total number of the Scheme Pair Transactions undertaken in the Schemes that form part of that Scheme Pair during the Quarter; and

- (f) 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 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 in a Scheme Pair may elect to comply, in relation to both Schemes in that Scheme Pair, 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 each Scheme in the Scheme Pair 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 in a Scheme Pair 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 both Schemes in that Scheme Pair, with this Standard as in effect on 30 June 2019; and~~

~~(b) the administrator of each Scheme in the Scheme Pair 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.~~

7.2 Subject to clauses 7.4 and 7.5, on and from 1 January 2022, each participant in a Scheme must comply with this Standard as varied with effect from that date.

7.3 For the avoidance of doubt and without limiting clause 7.2, an administrator of a Debit Card Scheme in Australia or a representative of the participants of the Debit Card Scheme in Australia must comply with clause 6.6(e) in respect of the Quarter ending 31 March 2022 and all subsequent Quarters. Nothing in clause 7.5 limits this obligation.

7.4 An administrator of a Scheme in Australia or a representative of the participants in the Scheme in Australia must comply with clause 6.3 in respect of the Reporting Period ending on 30 June 2022 by certifying that:

(a) Interchange Fees of the Scheme in Australia were during the period from and including 1 July 2021 to 31 December 2021 in compliance with this Standard as in effect on 31 December 2021; and

(b) Interchange Fees of the Scheme in Australia were during the period from and including 1 January 2022 to 30 June 2022 in compliance with this Standard as in effect on and from 1 January 2022.

7.5 Clause 4.2(b) and the provisions of clause 4.2 that apply as a consequence of the operation of clause 4.2(b) will not apply in respect of any Reference Period prior to the Reference Period ending on 31 December 2022. For the avoidance of doubt, participants in each Debit Card Scheme must comply with all of the provisions of clause 4.2 (as varied with effect from 1 January 2022) in respect of the Reference Period ending on 31 December 2022 and all subsequent Reference Periods.

SCHEME RULES RELATING TO MERCHANT PRICING FOR CREDIT, DEBIT AND PREPAID CARD TRANSACTIONS

1. Objective

The objective of this Standard is to promote:

- *efficiency; and*
- *competition*

in the Australian payments system by providing for scheme rules that require participants to give merchants the freedom to make a charge for accepting payment of a particular kind that reflects the cost to the merchant of accepting that payment type.

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**;

~~(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**;~~

~~(d)~~(c) the payment system operated within Australia known as Visa Debit, which was designated under the Act as a payment system on 23 February 2004 and which is referred to in this Standard as **Visa Debit**;

~~(e)~~(d) the payment system operated within Australia known as Debit MasterCard, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this Standard as **Debit MasterCard**;

~~(f)~~(e) the debit card payment system operated within Australia known as the EFTPOS payment system, which was designated under the Act as a payment system on 12 June 2012 and which is referred to in this Standard as the **EFTPOS System**;

~~(g)~~(f) the prepaid card payment system operated within Australia under the EFTPOS Scheme Rules, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this Standard as **EFTPOS Prepaid**;

~~(h)~~(g) the payment system operated within Australia known as MasterCard Prepaid, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this Standard as **MasterCard Prepaid**; and

(h) the payment system operated within Australia known as Visa Prepaid, which was designated under the Act as a payment system on 15 October 2015 and which is referred to in this Standard as **Visa Prepaid**.

2.3 In this Standard:

Acquired or **Acquiring** includes accepted or accepting;

Acquirer means a participant in a Scheme in Australia that:

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

Acquirer Supplied Element means in relation to an Acquirer, a Merchant and a Scheme, those of the Permitted Cost of Acceptance Elements for that Merchant and that Scheme that are supplied, directly or indirectly, by that Acquirer;

Card, Card of a Scheme or **Card of that Scheme** means a Credit Card of a Scheme, Debit Card of a Scheme or Prepaid Card of a Scheme;

Card Transaction means a Credit Card Transaction, Debit Card Transaction or Prepaid Card Transaction;

Commencement Date means 1 September 2016;

Cost of Acceptance has the meaning given to it in clause 0;

Credit Card, Credit Card of a Scheme or **Credit Card of that Scheme** means, in relation to a Scheme, a Device that can, under the Rules of the Scheme, be used in Australia for purchasing goods or services on credit (irrespective of whether the Device is issued in or outside Australia);

Credit Card Scheme means ~~the American Express Companion Card Scheme,~~ the MasterCard System or the VISA System;

Credit Card Transaction means, in relation to a Credit Card 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 and includes any transaction to reverse such a transaction or provide a credit or make a chargeback in relation to such a transaction;

Debit Card, Debit Card of a Scheme or **Debit Card of that Scheme** means, in relation to a Scheme, a Device that can, under the Rules of the Scheme, be used in Australia to make payments to Merchants for goods or services by accessing a deposit account held at an authorised deposit-taking institution or a bank or other financial institution (irrespective of whether the Device is issued in or outside Australia);

Debit Card Scheme means Debit MasterCard, the EFTPOS System or Visa Debit;

Debit Card Transaction means, in relation to a Debit Card Scheme, a transaction in that Scheme between a holder of a Debit Card of that Scheme and a Merchant involving the purchase of goods or services (whether or not it also involves the obtaining of cash) using a Debit Card of that Scheme that is Acquired by an Acquirer and includes 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;

EFTPOS Scheme Rules means the rules promulgated under the constitution of EFTPOS Payments Australia Limited (ABN 37 136 180 366) and any schedule, document, specification or rule published by EFTPOS Payments Australia Limited pursuant to those rules;

Financial Year means a period from 1 July to the following 30 June;

Issuer means an entity that issues Cards of a Scheme to its customers;

Large Merchant means a Merchant that satisfies two or all of the following:

- (a) the consolidated gross revenue for the Financial Year ended 30 June 2015 of the Merchant and its Related Bodies Corporate was \$25 million or more;
- (b) the value of the consolidated gross assets at 30 June 2015 of the Merchant and its Related Bodies Corporate was \$12.5 million or more;
- (c) as at 30 June 2015 the Merchant and its Related Bodies Corporate between them had 50 or more employees (whether full time, part time, casual or employed on any other basis);

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

Merchant Service Fee means a transaction-based fee (or a time-period-based fee that covers a specified or maximum number of transactions) charged to a Merchant by an Acquirer for Acquiring, or by a Payment Facilitator for arranging the Acquisition of, one or more types of Card Transaction from that Merchant whether collected on an ad valorem or flat-fee basis, or charged as a blended or bundled rate across more than one type of Card Transaction or on an interchange plus acquirer margin basis or any other basis;

Payment Facilitator means an entity which arranges or procures Acquiring services from an Acquirer for one or more Merchants;

Payment Service Provider means, in relation to a Merchant and a Scheme, an entity that is not a Related Body Corporate of the Merchant that provides services and/or equipment to the Merchant that directly relate to, or are directly used for or in connection with, the acceptance by that Merchant of Cards of that Scheme for payment for goods or services;

Permitted Cost of Acceptance Elements in relation to a Merchant and a Scheme are the fees and premiums referred to in clause 2.5.1.1.1(a) for that Merchant and that Scheme;

Permitted Surcharge has the meaning given to it in clause 4.1;

Prepaid Card, Prepaid Card of a Scheme or Prepaid Card of that Scheme means, in relation to a Scheme, a Device that can be used in Australia, under the Rules of the Scheme, to make payments for goods or services using a store of value that has been prepaid or pre-funded and is accessible to make payments for goods or services only through the use of that, or a linked or related, Device (irrespective of whether the Device is issued in or outside Australia);

Prepaid Card Scheme means EFTPOS Prepaid, MasterCard Prepaid or Visa Prepaid;

Prepaid Card Transaction means in relation to a Prepaid Card Scheme a transaction in that Scheme between a holder of a Prepaid Card and a Merchant involving the purchase of goods or services (whether or not it also involves the obtaining of cash) using a Prepaid Card relating to that Scheme and includes any transaction to reverse such a transaction or provide a credit or make a chargeback in relation to such a transaction;

Reference Period has the meaning given to it in clause 0;

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

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

Scheme Pair means:

- (a) Visa Debit and Visa Prepaid;
- (b) Debit MasterCard and MasterCard Prepaid; or
- (c) EFTPOS System and EFTPOS Prepaid;

Statement Period has the meaning given to it in clause 2.5.1.1.1(a);

Surcharge means, in respect of any Card Transaction, any of the following, however named or described:

- (a) an amount charged, in addition to the price of goods or services, for the relevant Merchant accepting payment through the Card Transaction; or
- (b) an amount charged for making payment through the Card Transaction. An amount will be charged for making payment through a Card Transaction if:
 - (i) that amount is charged because the purchase of the relevant goods or services is effected using the relevant Card; or
 - (ii) the goods or services could be purchased from the relevant Merchant by a different payment method without that amount being charged;

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 Each participant in a Scheme must do all things necessary on its part to ensure compliance with this Standard.
- 2.5 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.
- 2.6 This Standard is to be interpreted:
 - (a) in accordance with its objective; and
 - (b) by looking beyond form to substance.
- 2.7 This Standard shall not apply in respect of Rules of a Scheme that relate, or the conduct of participants in a Scheme that relates, to charges made by Merchants for accepting Cards for payment of a taxi fare in a State or Territory of Australia. Accordingly payment of a taxi

fare in any State or Territory of Australia effected using a Card is not a payment of a kind covered by this Standard.

- 2.8 This Standard replaces each of the following Standards or parts of Standards:
- (a) each of Standard No. 2 *Merchant Pricing for Credit Card Purchases* which applied to the MasterCard System and Standard No. 2 *Merchant Pricing for Credit Card Purchases* which applied to the VISA System; and
 - (b) clauses 9 and 10 and sub-clauses 12 (i), (ii) and (iii) of *The Honour All Cards Rule in the Visa Debit and Visa Credit Card Systems and the No Surcharge Rule in the Visa Debit System* Standard.

3. Merchant Pricing

Neither the Rules of a Scheme nor any participant in a Scheme shall prohibit or deter:

- (a) a Merchant from recovering, by charging a Surcharge in respect of a Card Transaction in a Scheme at any time, an amount that does not exceed the Permitted Surcharge for that Merchant and that Scheme at that time; or
- (b) a Merchant, in recovering part or all of the Cost of Acceptance of Cards of the Scheme, from applying different Surcharges in respect of Card Transactions in different Schemes (except that, in relation to a Scheme Pair, the Rules of a Scheme may require that if a Surcharge is applied in respect of Card Transactions in one Scheme in the Scheme Pair, any Surcharge applied in respect of Card Transactions in the other Scheme in the Scheme Pair must be the same).

4. Permitted Surcharge

- 4.1 The Permitted Surcharge for a Merchant and a Scheme at any time is an amount not exceeding the Cost of Acceptance for that Merchant and that Scheme applicable at that time.
- 4.2 For the purpose of clause 0 the Cost of Acceptance of Cards of a Scheme applicable at a time is:
- (a) subject to paragraph (b), the Cost of Acceptance of Cards of the Scheme calculated for a 12 month period that ended not more than 13 months before that time; or
 - (b) if the Cost of Acceptance of Cards of the Scheme for a Merchant for a 12 month period preceding that time is not reasonably ascertainable, an estimate of the average cost of acceptance of Cards of the Scheme for a period of 12 months calculated by the Merchant in good faith using only known and/or estimated Permitted Cost of Acceptance Elements and Card Transaction volumes for Cards of the Scheme.

Each 12 month period referred to in paragraph (a) or paragraph (b) is a **Reference Period**.

5. Cost of Acceptance

- 5.1 Subject to the other provisions of this clause 0, Cost of Acceptance for a Merchant, a Scheme and a Reference Period at any time means, in relation to the Merchant's acceptance of a Card of the Scheme, the average cost per Card Transaction in the Scheme calculated for the Reference Period as follows:

- (a) by adding only the following amounts paid by the Merchant in respect of that Scheme during that Reference Period, which are to be determined taking into account any discount, rebate or other allowance received or receivable by the Merchant to the extent any such discount, rebate or other allowance is ascertainable:
- (i) the applicable Merchant Service Fee or Merchant Service Fees in respect of Card Transactions in the Scheme;
 - (ii) fees paid to any entity that was the Merchant's Acquirer, Payment Facilitator or Payment Service Provider during the Reference Period for:
 - (A) the rental and maintenance of payment card terminals that process Cards of that Scheme; or
 - (B) providing gateway or fraud prevention services referable to that Scheme;
 - (iii) fees incurred in processing Card Transactions in that Scheme and paid to any entity that was the Merchant's Acquirer or Payment Facilitator during the Reference Period including international service assessments or cross-border transaction fees, switching fees and fraud-related chargeback fees (but, for the avoidance of doubt, excluding the amount of chargebacks); and
 - (iv) if the Merchant acts as agent for a principal, fees or premiums paid by the Merchant to an entity that is not a Related Body Corporate of the Merchant to insure against the risk that the Merchant will be liable to a customer for the failure of its principal to deliver goods or services purchased through a Card Transaction provided that such risk arises because payment for the relevant goods or services is effected through a Card Transaction,

but in each case only if those fees or premiums are:

 - (v) directly related to Card Transactions in that Scheme. A fee or premium will not be so directly related if it is incurred in relation to or in connection with a payment, or the sale or purchase to which the payment relates, irrespective of the method used to make the payment; and
 - (vi) subject to clause 2.5.1.1.1(b), documented or recorded in:
 - (A) a contract in effect between the Merchant and its Acquirer, Payment Facilitator or Payment Service Provider that relates to or covers the Scheme or Card Transactions in the Scheme (whether or not it also relates to or covers other Schemes or Card Transactions in other Schemes); or
 - (B) a statement or invoice from the Merchant's Acquirer, Payment Facilitator or Payment Service Provider that relates to or covers the Scheme or Card Transactions in the Scheme; and
- (b) expressing the total of the amounts in paragraph (a) above as a percentage of the total value of Card Transactions in the Scheme between the Merchant and holders of Cards in the Scheme in that Reference Period, with that percentage being the average cost per Card Transaction in the Scheme.

5.2 In relation to a Merchant's acceptance of a Card of a Scheme that is part of a Scheme Pair **Cost of Acceptance** for a Reference Period will be calculated as provided in clause 0, except

that the average cost per Card Transaction for the Reference Period must be calculated across the Scheme Pair using only the Permitted Cost of Acceptance Elements for both Schemes in the Scheme Pair.

- 5.3 If a Permitted Cost of Acceptance Element is not levied or charged on a per transaction basis and is not referable only to Card Transactions undertaken in a single Scheme (or Scheme Pair where clause 0 applies) (for example, a fixed monthly terminal rental cost that allows Card Transactions in more than one Scheme to be made), that Permitted Cost of Acceptance Element is to be apportioned among the relevant Schemes, Scheme Pairs and other payment systems (as the case may be) to which it relates for the purpose of determining Cost of Acceptance on a pro-rata basis. The apportionment is to be based on the value of the Card Transactions in the relevant Scheme or Scheme Pair (as applicable) over the period to which the cost relates as a proportion of the total value of transactions undertaken in any payment system to which the cost relates over that period (in each case, the value of the Card Transactions and transactions excludes the amount of any cash obtained by the holder of a Card of a Scheme or other Device as part of a Card Transaction or other transaction).

6. Card Identification

- 6.1 All Debit Cards issued after 1 July 2017 in Australia by a participant in a Debit Card Scheme that are capable of being visually identified as Debit Cards must be so identified. All Prepaid Cards issued after 1 July 2017 in Australia by a participant in a Prepaid Card Scheme that are capable of being visually identified as Prepaid Cards must be so identified.
- 6.2 All Debit Cards issued in Australia by a participant in a Debit Card Scheme must be issued with a Bank Identification Number (BIN) that allows them to be electronically identified as Debit Cards. All Prepaid Cards issued after 1 July 2017 in Australia by a participant in a Prepaid Card Scheme in Australia must be issued with a BIN that allows them to be electronically identified as Prepaid Cards.
- 6.3 Without limiting clause 0:
- (a) an administrator of a Scheme in Australia or an Acquirer that Acquires both Credit Card Transactions and Debit Card Transactions for a Merchant must provide to the Merchant, or publish, lists of BINs that permit the Merchant to separately identify Credit Card Transactions and Debit Card Transactions electronically; and
 - (b) from 1 July 2017, an administrator of a Scheme in Australia or an Acquirer that Acquires Card Transactions of more than one Scheme for a Merchant must provide to the Merchant, or publish, lists of BINs that permit the Merchant to separately identify Card Transactions of each applicable Scheme electronically.

7. Transparency

- 7.1 Subject to clause 0, each Acquirer must, on or as soon as practicable after the Commencement Date, notify in writing each Merchant for which the Acquirer directly or indirectly provides Acquiring services of the provisions of this Standard.
- 7.2 Subject to clause 0, each Acquirer must issue, or cause to be issued, monthly statements to each Merchant for which the Acquirer provides Acquiring services, directly or indirectly. Each such statement must set out:
- (a) the dates on which the period covered by the statement begins and ends (**Statement Period**). For that purpose, for all statements except the first, the date

a statement period begins must be the day after the day the immediately previous statement period ends;

- (b) for the relevant Statement Period:
 - (i) the aggregate cost of the Acquirer Supplied Elements of the Cost of Acceptance for the Merchant of:
 - (A) Credit Cards of each applicable Credit Card Scheme; and
 - (B) Debit Cards and Prepaid Cards of each applicable Scheme Pair,over the Statement Period (each such aggregate being a **Month Element Cost Total**);
 - (ii) the aggregate value of Card Transactions Acquired for the Merchant for:
 - (A) each applicable Credit Card Scheme; and
 - (B) each applicable Scheme Pair,over the Statement Period (each such aggregate being a **Month Value Total**); and
 - (iii) for each applicable Credit Card Scheme and each applicable Scheme Pair, the Month Element Cost Total expressed as a percentage of the corresponding Month Value Total; and
- (c) if it is the statement for the last full Statement Period within a Financial Year:
 - (i) the aggregate cost of the Acquirer Supplied Elements of the Cost of Acceptance for the Merchant over the 12 month period ending on the last day of that Statement Period (an **Annual Period**) of:
 - (A) Credit Cards of each applicable Credit Card Scheme; and
 - (B) Debit Cards and Prepaid Cards of each applicable Scheme Pair,(each such aggregate being an **Annual Element Cost Total**);
 - (ii) the aggregate value of Card Transactions Acquired for the Merchant for:
 - (A) each applicable Credit Card Scheme; and
 - (B) each applicable Scheme Pair,over the Annual Period (each such aggregate being an **Annual Value Total**); and
 - (iii) for each applicable Credit Card Scheme and each applicable Scheme Pair, the Annual Element Cost Total expressed as a percentage of the corresponding Annual Value Total.

7.3 An Acquirer will not contravene clause 0 or 0 if:

- (a) the Acquirer provided Acquiring services to the Merchant indirectly via a Payment Facilitator;
- (b) prior to the time the Acquirer was required to notify or give a statement under clause 0 or 0 (as applicable), it entered into a written agreement with the Payment Facilitator which obliged the Payment Facilitator to provide the notice and statements described in clauses 0 and 0 at the times described in those clauses;

- (c) after conducting due inquiries of the Payment Facilitator before that agreement was entered into, the Acquirer was satisfied that the Payment Facilitator had sufficient processes in place to provide those notices and statements at the times described in clauses 0 or 0 (as applicable); and
- (d) after entering into that agreement and prior to the time the notice or statement (as the case may be) was required to be sent, the Acquirer had not had cause to suspect that the notice or statement would not be sent to the Merchant by the Payment Facilitator in accordance with clauses 0 or 0 (as applicable).

8. Anti-Avoidance

- 8.1 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.
- 8.2 For the purpose of this Standard, a provision of a plan or arrangement shall be deemed to have a particular purpose if the provision was included in the plan or arrangement by a party or parties for purposes that include that purpose and that purpose was a substantial purpose.
- 8.3 Without limiting clause 0, neither the Rules of a Scheme, nor a participant in a Scheme, shall directly or indirectly deny a Merchant access to Acquiring services or decline to provide Acquiring services to a Merchant for the reason (whether solely or in combination with other reasons) that:
 - (a) the Merchant imposes or intends to impose a Surcharge in relation to Card Transactions in that Scheme; or
 - (b) the amount of any Surcharge charged, or proposed to be charged, by the Merchant in relation to Card Transactions in the Scheme is a particular amount, either in absolute terms or relative to any other Surcharge (unless that amount would exceed the Permitted Surcharge for Card Transactions in that Scheme).

9. Commencement and implementation

- 9.1 This Standard ~~comes~~ came into force on the Commencement Date, but certain provisions in it ~~have a deferred commencement~~ had a transitional application as set out in ~~this~~ clause 0 of this Standard as at the Commencement Date.
- 9.2 On and from 1 January 2022, each participant in a Scheme must comply with this Standard as varied with effect from that date.
- ~~9.2 Without limiting clause 9.1, the provisions of clauses 3, 4 and 5 will apply in relation to a Merchant that is a Large Merchant on and from the Commencement Date.~~
- ~~9.3 The provisions of clauses 3, 4 and 5 will not apply in relation to a Merchant that is not a Large Merchant until 1 September 2017, on which date clauses 3, 4 and 5 will commence to apply in relation to Merchants that are not Large Merchants.~~
- ~~9.4 For the period from the Commencement Date until 31 August 2017 the following will apply in relation to Merchants that are not Large Merchants:~~

- ~~(a) — neither the Rules of a Scheme nor any participant in a Scheme shall prohibit:~~
- ~~(i) — a Merchant from recovering, by charging a Surcharge in respect of a Card Transaction in a Scheme at any time, part or all of the reasonable cost of acceptance of Cards issued under the Scheme at that time; or~~
 - ~~(ii) — a Merchant, in recovering part or all of the reasonable cost of acceptance of Cards of a Scheme, from applying different Surcharges in respect of Card Transactions in different Schemes; and~~
- ~~(b) — for the purposes of paragraph (a), a Merchant’s cost of acceptance of Cards issued under a Scheme may, for the purpose of determination of a Surcharge, be determined by reference to:~~
- ~~(i) — the cost to the Merchant of the Card Transaction in relation to which the Surcharge is to be levied;~~
 - ~~(ii) — the average cost to the Merchant of acceptance of all Cards of all types issued under the Scheme; or~~
 - ~~(iii) — the average cost to the Merchant of acceptance of a subset of Cards issued under the Scheme that includes the type of Card in relation to which the Surcharge is to be levied;~~
- ~~and includes, but is not necessarily limited to, in the case of (i), the applicable Merchant Service Fee and, in the case of (ii) and (iii), all applicable Merchant Service Fees.~~

~~9.5 — The provisions of clauses 7.2 and 7.3 will not apply until 1 June 2017, on which date those clauses will commence to apply. For the avoidance of doubt, a monthly statement issued on or after 1 June 2017 relating to a Statement Period ending during June 2017 must contain:~~

- ~~(a) — the information required by clause 7.2(b) in relation to the Statement Period to which that statement relates even though that Statement Period may have commenced before 1 June 2017; and~~
- ~~(b) — the information required by clause 7.2(c) in relation to the Annual Period ending on the last day of the Statement Period to which that statement relates even though that Annual Period commenced before 1 June 2017.~~