

## **GUIDANCE ON 'CORE SERVICES' IN STANDARD NO.1 OF 2016 AND STANDARD NO.2 OF 2016**

### **Background**

In 2016, the Bank issued Standards No.1 and No.2 of 2016 (each a 'Standard'). These Standards include provisions that, broadly speaking, prohibit an issuer in a designated card scheme from receiving more in incentives and other benefits than the issuer pays in relevant scheme fees (that is, that 'Issuer Receipts' must not exceed 'Issuer Payments'). These are known as the Net Compensation provisions. Following consultation with industry in 2019, the Payments System Board determined that a wide interpretation of what could be included within Issuer Payments was not consistent with the purpose and intent of the Standards.<sup>1</sup> Accordingly, the Standards were varied to clarify that Issuer Payments (or as termed in the varied Standards, 'Direct Issuer Participant Payments') are, broadly speaking, those payments made by a 'Direct Issuer Participant' for the Core Services of the scheme. The variation to the Standards came into effect on 1 July 2019.<sup>2</sup>

The Bank is providing the following guidance to support a consistent interpretation of the definitions of 'Direct Issuer Participant Payments' and 'Core Service' across the industry. This guidance is not a substitute for parties obtaining their own legal advice.

### **Guidance**

The definition of Core Service contained in the Standards has four elements. All four must be satisfied in order for a service to be a Core Service and, correspondingly, for fees for that service to be included in Direct Issuer Participant Payments and in a party's calculation of Net Compensation.<sup>3</sup>

The **first two elements** of the definition of Core Service set out: (i) the parties that can provide a Core Service (these are, the Administrator of the Scheme in Australia or any of its Associated Entities); and, (ii) that the service must be used by a participant in the scheme in Australia in relation to cards of the relevant type (credit for Standard No.1 and prepaid/debit for Standard No.2) issued under the scheme.

The **third element** of the definition (contained in paragraph (b) of the definition), limits a Core Service to be a service that is essential to participating in the scheme either as an issuer or as the sponsor of an issuer. Services that an issuer must use regardless of the particular type of card issued, for example licensing of the relevant Scheme brand and transaction processing services, are clearly essential to participation in the Scheme. The Bank considers that services that are inherent or fundamental to cards of the relevant type (credit for Standard No.1 and prepaid/debit for Standard No.2) meet this test even if, for some categories of cards, the service need not always be offered or taken up. Examples of such fundamental services include the ability to access cash via an ATM and the ability to use the card online or internationally. While the third element of the definition is a separate and independent element, participants are reminded that if a service does not satisfy the fourth element of the definition, then there is little value in practice in deliberating about whether that service does or does not satisfy the third element.

The **fourth element** of the definition of Core Service is that the service must relate to one or more Core Functions (listed in paragraph (c) of the definition). If a service does not relate to one or more of the Core Functions listed, then it is not a Core Service and fees paid for that service should not be

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1 See: The Operation of the Interchange Standards: Conclusions Paper, May 2019 <<https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/pdf/conclusions-paper-the-operation-of-the-interchange-standards-2019-05.pdf>>

2 The Standards are published on the Bank's website, see: <<https://www.rba.gov.au/payments-and-infrastructure/payments-system-regulation/regulations.html>>

3 A discount on fees for both Core and non-Core Services is required to be included in Direct Issuer Participant Receipts if the discount meets the 'Incentive Test', as defined in the Standards.

included in Direct Issuer Participant Payments. Examples of services that do not relate to a Core Function include insurance and concierge services, which are often offered with premium cards.

The Bank does not suggest that all services provided by a Scheme in relation to premium cards are not a Core Service. As noted above, there are some services that an issuer must use regardless of the particular type of card issued, or that are inherent features of credit or prepaid/debit cards. Such services, provided they relate to one or more of the Core Functions (and the first two elements above are satisfied), may be considered Core Services.

Parties should look to the substance of the service for which a fee is charged, rather than merely the name or description of the fee or the way the fee is charged, in determining whether a service relates to a Core Function. A service that does not relate to a Core Function in substance will not satisfy the fourth element of the definition even if the name or description of the fee for that service contains a word (or words) included in the list of Core Functions. Similarly, the fact that fees for a particular service that is provided on all card types are billed separately for each card type does not prevent that service being a Core Service if all elements of the definition of Core Service are satisfied in relation to that service.

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