GSTR 2019/2EC - Compendium

Australian Government
Australian Taxation Office

Public advice and guidance compendium – GSTR 2019/2

Relying on this Compendium

This Compendium of comments provides responses to comments received on draft Goods and Services Tax Determination GSTD 2018/D1 *Goods and services tax: determining the creditable purpose of acquisitions in a credit card issuing business*. It is not a publication that has been approved to allow you to rely on it for any purpose and is not intended to provide you with advice or guidance, nor does it set out the ATO's general administrative practice. Therefore, this Compendium does not provide protection from primary tax, penalties or interest for any taxpayer that purports to rely on any views expressed in it.

Summary of issues raised and responses

Issue number	Issue raised	ATO response
1	**Application of paragraph 11-15(2)(a) with regard to a credit card issuing business (CCIB)** Unlike the scenario in *Rio Tinto Services Limited v Commissioner of Taxation* [2015] FCAFC 117 (*Rio Tinto – appeal*), a CCIB makes simultaneous supplies (that is, the supply of an interchange service and the supply of credit) that are inextricably linked as a result of the use of the credit card by the cardholder. That is, the supply of credit cannot be made prior to or without the supply of interchange services. This clearly distinguishes the facts surrounding the CCIB scenario from those at issue in that case. The submitter therefore disagrees that establishing a relevant connection between direct CCIB acquisitions and both the supply of credit and the supply of interchange services is analogous to the creation of an unsupported general proposition or principle. Rather, when the facts and surrounding circumstances of a CCIB enterprise are fully and properly described, it is evidently clear that the listed cost categories have a relevant connection (that is, a connection that is not 'trivial' or 'remote') to the supply of interchange services. The Commissioner's approach of narrowly viewing the operation of an open loop credit card payment system through the single prism of the credit card facility component has affected the Commissioner's	While we acknowledge that the supplies made by a CCIB are interrelated from a commercial perspective, with revenue generated from both supplies, this is not determinative of the treatment of acquisitions under paragraph 11-15(2)(a), given the principles for the objective test to be applied that are set out in the Ruling. The fact that the supplies are interrelated from a commercial perspective does not necessarily mean that every acquisition is partly creditable. If an objective assessment shows that an acquisition only has a relevant connection to making an input taxed supply then there is no creditable acquisition. Similarly, the supplies made by a CCIB are interrelated from an operational perspective as the payment system operates such that each credit card transaction requires the CCIB to make a supply of interchange services (except for on-us transactions). Conversely, the supply of interchange services is dependent on the credit card transaction, initiated by the provision of credit under the credit card facility to the cardholder. However, the sequence of these steps is not determinative of the question of whether there is a relevant connection between an acquisition and an input taxed supply. This is reflected in our approach in the final Ruling, as some acquisitions that are related to the completion of credit card transactions are identified as relating to both supplies.

Issue number	Issue raised	ATO response
	assessment of the application of paragraph 11-15(2)(a) of the *A New Tax System (Goods and Services) Tax Act 1999*[1], such that the guidance provided is not in line with the objective facts of the situation. The submitter generally agrees with the statements in paragraph 19 to 25 of the draft Determination on the nature of the legal test contemplated by paragraph 11-15(2)(a). However, the draft Determination would benefit from a more detailed explanation of the surrounding legislative scheme in order to place the application of paragraph 11-15(2)(a) in its proper context. Furthermore, the submitter suggests that the relevant principles are mainly drawn from the observations of Hill J in *HP Mercantile Pty Limited v Commissioner of Taxation* [2005] FCAFC 126 (*HP Mercantile*) and that the decisions in *Axa Asia Pacific Holdings Limited v Commissioner of Taxation* [2008] FCA 1834 (*Axa*) and *Rio Tinto – appeal*, while consistent, do not add to these principles. Another submitter commented that legally, commercially and operationally the credit card facility and the interchange services are intrinsically linked and do not operate in isolation to each other – this is a fundamental and critical aspect of a four-party payment system and was recognised by the Full Federal Court in *Commissioner of Taxation v American Express Wholesale Currency Services Pty Limited* [2010] FCAFC 122 (*Amex*). The CCIB generates interchange income from providing access to the payment system as 'a cardholder's presentation of card triggers the subsequent operation of the system provided the merchant accepts the card.' In particular, the right to present a card as payment embodied in the supply of the credit facility can only be made where there is an arrangement with a payment system operator under which the credit facility provider supplies interchange services. It is incorrect to view the relationship between acquisitions made in opening and maintaining a credit card facility and the interchange	However, the degree of interrelatedness of the two supplies does not necessarily lead to a conclusion that, as a matter of objective fact, all acquisitions in the CCIB area have a real and substantial connection to making both supplies. Instead, paragraph 11-15(2)(a) requires an objective analysis of particular acquisitions to determine their intended use. What was endorsed in *Rio Tinto – appeal* was the requirement to precisely identify the relevant acquisition and a factual enquiry into the connection between the acquisition and the making of supplies that would be input taxed. When viewed objectively, we consider that some acquisitions are only intended for use in making the financial supply to the cardholder (as they are intended for use and consumed in managing the relationship with the cardholder, or to originate the supply of the credit card facility). These acquisitions are not relevantly connected with the performance of the credit card transactions themselves, and we consider that the relationship to the supply of interchange services is too remote for the purposes of paragraph 11-15(2)(a). Paragraph 16 of GSTR 2019/2 now provides additional factual context, including that the completion of a credit card transaction requires the supply of interchange services (unless the transaction is 'on-us'). Further explanation of the surrounding legislative scheme is not needed, as this is provided in other products such as Goods and Services Tax Ruling GSTR 2008/1 *Goods and services tax: when do you acquire anything or import goods solely or partly for a creditable purpose?*.

[1] All legislative references in this Compendium are to the *A New Tax System (Goods and Services) Tax Act 1999* (GST Act) unless otherwise indicated. A reference to GST Regulations is to the *A New Tax System (Goods and Services Tax) Regulations 2019*.

Issue number	Issue raised	ATO response
	supplies as being 'a broader commercial objective or purpose'. It is of particular concern that the Commissioner appears to determine a relevant relationship for acquisitions made in opening and maintaining a credit card facility based on whether they wholly relate to the potential provision of credit. This suggests that the two elements of a credit card facility, being the right to present a card as payment (and the associated supplies of interchange services) and the provision of credit are separable. There is no legal basis for this view and it is artificial from an operational and commercial perspective. In *Rio Tinto – appeal*, the distinction between the immediate supply (that is, the provision of the leased accommodation to employees) and the broader enterprise/commercial objective (that is, the mining operations) can clearly be delineated. One can undertake mining operations without providing leased accommodation to one's employees. The circumstances are quite unique to the facts of the case. In a CCIB, the provision of the credit card facility and the, spend by the account holder utilising the facility through the payment system are inextricably linked. Another submitter stated that the principles in *Rio Tinto Services Limited v Commissioner of Taxation* [2015] FCA 94 (*Rio Tinto – first instance*) and *Rio Tinto – appeal* are not directly applicable to determining the creditable purpose of acquisitions in a CCIB. Rio Tinto's argument in that case involved a tenuous connection between the input taxed supplies of residential rent and eventually the taxable/GST-free supplies of iron ore, whereas the CCIB makes both input taxed supplies and taxable supplies as part of the same arrangement to enable cardholders to make purchases. The denial of the direct and consequential relationship between the issuing and use of cards and the consequent deriving of revenue from interchange services reflects an unduly narrow application of paragraph 11-15(2)(a).	

Issue number	Issue raised	ATO response
2	**Commissioner's characterisation of the supply of the credit card facility** The parties to the proceedings in *Amex* agreed on the description of what is supplied[2] and there was no dispute between the parties on this point.[3] The Court in *Amex* did not fully turn its mind to what constitutes the 'relevant thing supplied' to the cardholder and it is therefore open to conclude that *Amex* is not binding authority for this proposition. According to *Resource Capital Fund IV LP v Commissioner of Taxation* [2018] FCA 41, where a Court assumes the correctness of the law on a particular issue, a judge in a later case is not bound to hold that law is decided in that sense. On this basis, the consideration of the 'relevant thing supplied' in the context of a credit card facility is not limited to what was agreed to by the parties in *Amex*. Rather, the supplies made under a credit card facility are apt to be characterised by reference to the High Court's observations in *Commissioner of Taxation v MBI Properties Pty Ltd* [2014] HCA 49 (*MBI Properties)* (similar to any other executory contract). The High Court stated in *MBI Properties* that there is a supply every time something of value is provided to the customer.[4] In general terms, 'something of value' is supplied by a CCIB to a cardholder under a credit card facility when: • a card facility (that is, a bundle of rights) is established • a merchant accepts the card as payment for a transaction • credit is provided to a customer • currency is exchanged to settle a transaction in a foreign currency • cash is advanced either via an ATM or by a merchant. Consistent with the High Court in *MBI Properties*, a credit card facility is an executory contract which involves the CCIB making two categories	In our view, the cardholder makes progressive use of their rights under the supply of the credit card facility, but each transaction does not constitute a separate supply. **Comments on *MBI Properties*** In *MBI Properties* after observing at [34] that there is a supply whenever one entity (the supplier) provides something of value to another entity (the recipient) the Court goes on at [35], to state: > A transaction which involves a supplier entering into and performing an executory contract will in general involve the supplier making at least two supplies: a supply which occurs at the time of entering into the contract, in the form of both the creation of a contractual right to performance and the corresponding entering into of a contractual obligation to perform; and a supply which occurs at the time of contractual performance, even if contractual performance involves nothing more than the supplier observing a contractual obligation to refrain from taking some action or to tolerate some situation during a contractually defined period. *MBI Properties* focused on what is sufficient to constitute a supply, rather than whether a course of action that might involve more than one thing satisfying the definition of supply should be characterised as one or more supplies. *Amex* is the relevant authority in this instance, as it specifically considered how a credit card facility should be characterised in the context of the financial supply provisions.[5] This distinction is reflected in the High Court's observations in *Commissioner of Taxation v Reliance Carpet Co Pty Limited* [2008] HCA 22 at [5] that: > The composite expression 'a taxable supply' is of critical importance for the creation of liability to GST. In the facts and circumstances of

[2] See *Amex* at [133].
[3] See *Amex* at [150].
[4] *MBI Properties* at [34].
[5] In any event, the supply of the contractual performance of the issuer's obligations (referred to in *MBI Properties* at [35]) would be a single ongoing supply.

Issue number	Issue raised	ATO response
	of financial supplies: (a) At the time of entering into the contract, the CCIB creates in favour of the customer a bundle of contractual rights, referred to generically as the supply of a credit card facility. These rights will typically involve such things as: • the right to present the card as payment and incur a corresponding obligation to pay the CCIB at a later date (Payment Right). The Payment Right also encompasses the cardholder obtaining the ability to use the card facility to make payments in a number of different ways including payments expressed in a foreign currency • the right to credit whereby the customer may elect to pay the CCIB less than the full balance and accrue interest as a result (Credit Right) • the right to access ancillary features of the facility (sometimes for additional consideration) such as loyalty reward scheme membership and travel insurance. (b) At the time of the cardholder using the Payment Right, the CCIB supplies the cardholder with an interest under a credit arrangement in relation to the transacted amount (which the cardholder can either repay by the due date, or elect to defer past the due date by using their Credit Right) – a separate and distinct 'debt' is created on each use of the Payment Right. When a cardholder uses their Payment Right, this triggers the activation of contractual arrangements between the CCIB and the merchant's CCAB (credit card acquiring business) and results in the CCIB supplying the cardholder with an interest for the purposes of item 2 of subsection 40-5.09(3) of the GST Regulations including the creation of a debt for the payment amount. Where the cardholder elects to defer payment of the credit card debt past the due date and incurs interest	a given case there may be disclosed consecutive acts each of which answers the statutory description of 'supply', but upon examination it may appear that there is no more than one 'taxable supply'. The GST Regulations further support this analysis, as Schedule 2 of Chapter 7 to the GST Regulations refers to the 'opening, keeping, operating, and maintaining charge and credit card facilities' as an example of a financial supply. The submitter's view is at odds with *Amex* and artificially splits the supply into separate components for each transaction, rather than focusing on the entire contractual arrangement considered contextually and as a whole.[6] **Comments on *Amex*** The Court in *Amex* did turn its mind to the characterisation of the supply in resolving the dispute about the existence of a financial supply of a right to credit or credit arrangement at [154], [155], and [174]. Therefore the Commissioner should take the Court's observations into account. We also note that the parties were in dispute about what is supplied under a charge card facility.[7] On appeal, the majority found that credit was supplied from the point at which the cardholder presents the card and incurs an obligation to pay at a later time. Therefore the supply of the right to use a charge card was found to be a supply of an interest in or under a credit arrangement or right to credit. The characterisation of the supply of a credit card facility is consistent with the characterisation of the supply in *Amex* at [148] and [174]. The majority accepted the Commissioner's submissions at [148] that: … a cardholder's rights under the card terms and conditions – (1) to possess the card during its currency; (2) to tender the card as payment; and (3) not to make payment to Amex Intl until the date of the statement – together constitute an interest under regulation

[6] See *Amex* at [154].
[7] See *Amex* at [149–157].

Issue number	Issue raised	ATO response
	('consideration' for GST purposes), this represents the use of the cardholder's Credit Right (and a separate financial supply distinct from the initial provision of rights). Further, the consideration of the 'relevant thing supplied' in the context of a credit card facility is not limited by a description given in Schedule 2 of Chapter 7 of the GST Regulations. While we acknowledge, per subsection 182-1(1), that 'examples' (however described) form part of the GST Act, we also note per paragraph 15AD(a) of the *Acts Interpretation Act 1901* that an example is not exhaustive. Accordingly, similar to any other executory contract, the transactions arising from a credit card facility are apt to be characterised by reference to the High Court's observations in *MBI Properties* and there is no sense that Parliament sought to limit such constructions by reference to the description given in table item 2 of Schedule 2 of Chapter 7 of the GST Regulations. The notion that a credit card facility constitutes a single input taxed supply provided at the time the card agreement is accepted by the cardholder is not reflected by the commercial reality of the arrangement, and is also at odds with the views of the High Court in *MBI Properties*.	40-5.02, supplied to the cardholder. At [174], the majority observed that: … the relevant thing supplied by Amex Intl to customers is the right to present a card as payment for goods or services and incur a corresponding obligation to pay Amex Intl at a later date. We have already concluded that this constitutes an interest, and that the interest is an interest in or under a credit arrangement or right to credit. This is because what a cardholder receives is the ability to access, by presenting a card, something that fits a common understanding of credit (as reflected in the regulations' illustrative examples). That is, a cardholder obtains the ability to initiate Amex Intl's provision of payment to a third party (the merchant) in exchange for an obligation to pay Amex Intl at a later date. The GST scheme does not evidence an intention that such an interest count as an interest in a payment system. It was also noted at [154] that the identification of a credit arrangement requires the focus to be on the entire contractual arrangement considered contextually and as a whole. **Consequences of the submitter's view** In any event, our characterisation of the relationship between supplies and acquisitions for the purposes of paragraph 11-15(2)(a) does not in our view give rise to a different outcome, even if there were multiple supplies. We recognise that the exercise of the cardholder's rights to present the card as payment and to obtain credit forms part of the supply of the credit card facility. The submitter instead views the provision of credit for each transaction as a separate supply. As the consideration includes the cardholder's obligation to repay the debt owed (see issue 4 of this Compendium), in our view these supplies are for consideration even if the cardholder does not pay fees or interest. Under either view, acquisitions that have a relevant connection to the provision of credit to the cardholder will relate to a financial supply. The relationship an acquisition has to the supply of interchange services is the same whether there is a single or multiple financial supplies. A relevant

Issue number	Issue raised	ATO response
		connection to the supply of interchange services is not established merely on a temporal basis in that the two supplies are made at the same time.
3	**Application of subsection 38-190(1) based on the Commissioner's characterisation of a credit card facility** As discussed in *Travelex Ltd v Commissioner of Taxation* [2010] HCA 33 (*Travelex*) the phrase 'in relation to' is wider than merely 'of' and so has the effect of widening the scope of table item 4 of subsection 38-190(1). When a cardholder transacts with an overseas merchant in a foreign currency, and incurs a foreign currency conversion fee for that payment, this represents a use of the cardholder's Payment Right, in relation to the GST-free supply which gave rise to the payment. Consequently, the fee charged to the cardholder is consideration for a supply made in relation to (and directly flowing from) rights for use outside Australia (and actually used outside Australia) which is GST-free under table item 4 of subsection 38-190(1). The foreign transaction fee charged by the CCIB to the cardholder is a direct result of the foreign currency conversion transaction. It represents the price the cardholder pays for that service involving foreign currency for use outside Australia. It is unclear what basis the Commissioner is using to assert that table item 4 of subsection 38-190(1) has a broader application than table item 3 of 38-190(1) in this context. The submitter requests that the Commissioner clarify the application of both provisions in order to provide taxpayers with a complete understanding of his approach to the GST-free treatment of credit card transactions. Another submitter submitted that the Commissioner's position regarding overseas transaction fees forming part of the consideration for the supply of the credit card facility should be reconsidered. There are sufficient grounds for concluding that the CCIB makes separate GST-free supplies under either table items 3 or 4 of subsection 38-190(1) for which it receives the overseas transaction fees, particularly in light of the *Travelex* case where the High Court held that sales of foreign currency involved separate GST-free supplies	These submissions mainly relate to our finalised view on the application of table item 4 of subsection 38-190(1) to the supply of the credit card facility, which is in Goods and Services Tax Determination GSTD 2017/1 *Goods and services tax: when is the supply of a credit card facility GST-free under paragraph (a) of Item 4 in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999 (GST Act)?*. In our finalised view, the supply of the credit card facility encompasses the totality of the supply made to the cardholder under the contractual arrangements with the issuer. The facility offered is worldwide, with the ability to undertake transactions with overseas merchants being an integral part of the supply of the credit card facility. Therefore overseas transaction fees form part of the consideration for this supply, instead of an overseas transaction being a separate supply. Our statement in the final Ruling, that table item 3 of subsection 38-190(1) has a broader application than table item 4 of subsection 38–190(1), in this context reflects the ATO view in Goods and Services Tax Ruling GSTR 2007/2 *Goods and services tax: in the application of paragraph (b) of item 3 in the table in subsection 38-190(1) of the A New Tax System (Goods and Services Tax) Act 1999 to a supply, when does 'effective use or enjoyment' of the supply 'take place outside Australia'?*. Paragraphs 106 and 294 of GSTR 2007/2 indicate that the 'effective use or enjoyment outside Australia' of a supply, occurs if the supply is provided to an individual that is located outside Australia, provided the individual's presence at that location is integral to, as distinct from being merely coincidental with, the provision of the supply. This indicates that table item 3 will only be relevant where a cardholder is physically outside Australia and their presence at that location is integral to their use of the credit card facility. By contrast, our view in GSTD 2017/1 is that when the cardholder is physically outside Australia, there is offshore use of the credit card facility (regardless of whether their presence is integral or merely coincidental to the use of the credit card facility).

Issue number	Issue raised	ATO response
	made in relation to rights which were for use outside Australia.	
4	**Commissioner's view on 'consideration' given by a cardholder** The totality of the consideration given by a customer who incurs debts as a result of the use of their payment right, and who pays those debts by the due date, is the annual fee charged by the CCIB. The terms and conditions of a credit card application form sets out the consideration to be paid by the cardholder for various supplies provided under the credit card facility. Where a customer exercises their right to credit under the credit card contract, and the CCIB provides the credit for no charge of interest, then with regard to paragraph 9-17(1)(b), there is no additional consideration provided for the supply of credit and therefore no financial supply under the GST Regulations. In relation to the supply of credit over the interest-free period, no money is paid by the cardholder to a CCIB. While the debt may be repaid by the cardholder, this repayment of the debt is not itself 'consideration' for the interest-free period, particularly when read in the context of the GST law. The obligation to repay the principal of a debt is a fundamental contractual term agreed to by the cardholder at the time the card agreement is accepted and cannot practically be considered consideration in relation to ongoing debts incurred as the result of the future use of the credit facility. The submitter is not aware of anyone valuing the obligation to repay a credit card debt, nor has the Commissioner suggested any means of doing so. The submitter therefore maintains that where, under an executory credit card agreement, the cardholder exercises their right to be provided credit for an interest-free period, then under ordinary commercial terms it is evident that the CCIB does not make a financial supply because no additional consideration is provided for that supply of credit by the cardholder. Accordingly, the submitter considers that there is no support for the	Paragraph 13 of the final Ruling does not say that the repayment of the debt itself is consideration for the interest-free period. Rather, it is the cardholder's *obligation* to repay the debt owed, which is a debt created by the cardholder and is money (as defined) that is the consideration. This reflects the Commissioner's long-standing view that an obligation to repay debt owed is 'consideration' – refer to paragraphs 37 to 41 of GSTR 2002/2 and Example 2 of GSTR 2002/2 (Consideration for an interest-free loan). Line B28 of Schedule 2 to GSTR 2002/2 is about the actual repayment of the principal of a loan itself, not the interest in the debt created by a debtor when the loan was established. The view in the final Ruling does not contradict this. The final Ruling has been updated to clarify these points.

Issue number	Issue raised	ATO response
	Commissioner's views expressed in paragraph 15 of the draft Determination. Another submitter commented that the view that a cardholder's obligation to repay debt owed on a credit card is included as consideration for the CCIB's supply of the credit card facility, is contrary to the position taken by the Commissioner in previous GST public rulings (for example, line B28 of Schedule 2 to Goods and Services Tax Ruling GSTR 2002/2 *Goods and services tax: GST treatment of financial supplies and related supplies and acquisitions* states that repayment of the principal of a loan by a borrower to a lender is not consideration for a financial supply of a credit arrangement).	
5	**GST treatment of 'on-us' transactions** The submitter acknowledges that where CCIB and CCAB units are within the one entity and are not separately registered GST branches, then Proposition 7 in paragraph 22 of GSTR 2006/9 *Goods and services tax: supplies* confirms that the entity is not making a supply in that context. However, where the CCIB and CCAB units reside in different entities which are grouped for GST purposes, then there is no question that the CCIB is making a supply of interchange services to the CCAB. Regardless, the absence of a supply being made does not mean that resources are not being consumed by the CCIB in performing such services. Accordingly, the value of 'on-us' revenue is relevant because the taxpayer's CCIB and CCAB operations are functionally separate business units, and the 'on-us' revenue properly recognises the CCIB's critical role in processing 'on-us' transactions. In particular, the CCIB is involved in authorising and settling 'on-us' transactions when the issuer's credit card is presented for payment at their merchant terminal. Merchant services such as these are taxable for GST purposes. This is no different from the role played by the CCIB when an 'off-us' transaction is effected. The only material difference with 'on-us' transactions is that the settlement process is directly routed through the individual taxpayer's network, rather than using the relevant scheme operator to facilitate the	Section 48-45 provides that a GST group is treated as a single entity for the purposes of deciding whether acquisitions by a member are for a creditable purpose. When considering the application of paragraph 11-15(2)(a) to acquisitions, the issuing entity and acquiring entity that are members of the same GST group are treated as a single entity, meaning that there is taken to be no supply of interchange services between them. This Ruling does not address the extent that acquisitions relate to supplies made in a credit card acquiring business. See further commentary on 'on-us' transactions in the Compendium to Practical Compliance Guideline PCG 2019/8 *ATO compliance approach to GST apportionment of acquisitions that relate to certain financial supplies*.

Issue number	Issue raised	ATO response
	authorisation and settlement processes. On this basis, it is entirely appropriate to recognise 'on-us' revenue as a proxy for the CCIB's consumption of resources in processing 'on-us' transactions, which are not taken into account by the CCAB when it recovers the GST incurred on its costs. There is nothing 'notional' with regard to 'on-us' revenue as it represents the CCIB's portion of the (taxable) merchant service fee received by the CCAB. This is the actual amount which is transferred within the taxpayer's accounts to reflect the CCIB area's involvement in the transaction. The exclusion of 'on-us' revenue will place taxpayers operating 'open loop' payment systems at a potential disadvantage to the operators of 'closed loop' payment systems.	
6	**Facts surrounding the operation of a four-party (open loop) payment system** The submitter considers the draft Determination would benefit from the inclusion of the analysis accepted in *Visa International Service Association v Reserve Bank of Australia* [2003] FCA 977 (*Visa*) at [265], which demonstrates (albeit in a non-tax context) the interconnectedness of the various stages of the process which combine to facilitate payment by the use of credit card. The submitter asks the Commissioner to also include the comments of Tamberlin J in *Visa* at [296–305] where His Honour provides responses to the question posed under section 7 of the *Payment Systems (Regulation) Act 1998*, being whether the credit card procedure below the level of clearing, settlement and final exchange settlement at the Reserve Bank of Australia stage (upper level of credit card transactions) can be said to relate to the 'instruments' and 'procedures' at the lower retail level of a credit card transaction.	Accepted in part. As indicated at Issue 1 of this Compendium, we have added additional factual context in paragraph 16 of the final Ruling and have included footnote 13 in the final Ruling to state that the interrelated nature of the payment system is described in detail in *Visa*. However, we note the comments in *Amex* at [169–170] that the analysis applied in *Visa* is not determinative in the GST context. We consider that the passages in the judgment of Tamberlin J in *Visa* would not add clarity to the description of the scheme.
7	**The Commissioner's expression of the alternative view** The submitter is not asserting that, as a matter of principle, all CCIB acquisitions automatically have relevant connection to both the supply of the credit card facility and the supply of interchange services. Rather,	We note the concerns raised and consequently provided an expanded alternative view in draft Goods and Services Tax Ruling GSTR 2019/D1 *Goods and services tax: determining the creditable purpose of acquisitions in relation to transaction accounts.*

Issue number	Issue raised	ATO response
	the submitter asserts this as a matter of objective fact when you take into account the underlying assumptions, facts and surrounding circumstances associated with the operation of a four-party credit card system. The submitter further rejects the equivalence argument mounted by the Commissioner in paragraph 117 of the draft Determination which seeks to align this 'alternative view' with the unsuccessful arguments mounted in *AXA* and *Rio Tinto – appeal* to justify input tax credit entitlements. By doing so, the Commissioner fails to acknowledge that the facts and circumstances of CCIB enterprises are so fundamentally different as to make the comparison with the *Axa* and *Rio Tinto – appeal* arguments meaningless. The submitter requests that the Commissioner revise the alternative view to fully and properly outline the submitter's position concerning the application of 11-15(2)(a) to CCIB acquisitions.	The alternative view was intended to succinctly summarise views expressed by multiple stakeholders, and was not intended to capture the extensive consultation with industry on these matters. We considered the detailed submissions on alternative views from various stakeholders in finalising this Ruling, as covered in this Compendium. The final Ruling provides the Commissioner's view and does not include an alternative view. *AXA*, *Rio Tinto – appeal* and *Rio Tinto – first instance* affirmed the Commissioner's view in GSTR 2008/1 that the application of paragraph 11-15(2)(a) requires an objective assessment of the surrounding facts and circumstances to determine whether the acquisition is intended to be used in making those supplies. They establish principles relevant to the application of paragraph 11-15(2)(a) more generally, notwithstanding their particular factual matrix.
8	**The practicality of adopting the Commissioner's views and consistency with other public rulings** Adopting the Commissioner's view would be highly impractical and connotes an inappropriate and unreasonable expectation of tracing, and would impose a significant cost and compliance burden on taxpayers. The ATO's view requires the allocation and apportionment of classes of acquisitions in an entirely different manner to that expressed by the Commissioner in Goods and Services Tax Ruling GSTR 2006/3 *Goods and services tax: determining the extent of creditable purpose for providers of financial supplies* (in particular, paragraph 38 and the endorsement of direct estimation methods in paragraphs 35 and 90 to 101) and GSTR 2008/1 (in particular, the reference to 'tracing' in paragraph 106). This is made clear from Examples 1 to 7 of the draft Determination and the quote provided from *Rio Tinto – appeal* that the application of paragraph 11-15(2)(a) requires 'the precise identification of the relevant acquisition and a factual enquiry into the connection between the acquisition and the making of supplies that would be input taxed'. The Full Federal Court was expressing a broad observation in the context of	This Ruling discusses the first step in the operation of Division 11, by identifying the relevant connection between acquisitions and supplies in a CCIB for the purposes of paragraph 11-15(2)(a). The second step in the operation of Division 11 is determining an apportionment method that gives a fair and reasonable reflection of the extent of the relationships between those acquisitions and supplies. PCG 2019/8 reflects our practical expectations for applying the Commissioner's views in this Ruling in designing an apportionment method. We consider that the final Ruling and PCG 2019/8 are consistent with GSTR 2006/3 and GSTR 2008/1. **GSTR 2008/1** Paragraph 106 of GSTR 2008/1 states that: 'Paragraph 11-15(2)(a) does not require tracing to a specific supply. Nevertheless, unlike subsection 11-15(1), it requires some form of connection to the supplies that the entity makes, made or intends to make.' The final Ruling focuses on that connection between acquisitions and the

Issue number	Issue raised	ATO response
	the facts in *Rio Tinto – appeal* rather than a hard and fast rule that must be applied in all circumstances. At paragraph 35 of GSTR 2006/3, the Commissioner endorses the use of direct methods of allocating or apportioning acquisitions, as they best accord with the basic principles in paragraph 33 of GSTR 2006/3. Practically, it is through a cost allocation approach (by way of a management costing or financial accounting system), which the Commissioner accepts is a 'direct estimation method' that costs in a CCIB are identified as relating to the various supplies made in that business. Such systems would not generally differentiate fully creditable acquisitions from others. The use of externally audited accounting systems have the attributes of being accurate and objective and preclude the capacity for manipulation for GST purposes. Indeed, GSTR 2006/3 is clear that a direct estimation method being a cost allocation approach provides an accurate reflection of intended use. There is insufficient guidance concerning how taxpayers can practically implement or comply with the conclusions in the draft Ruling.	supplies that the entity makes. The reference to 'tracing' should be read in the context of paragraphs 107 and 108 of GSTR 2008/1, which focus on the principle that there is no requirement to trace an acquisition to an actual supply, as an acquisition may relate to supplies that an entity intends to make (but that may never eventuate). This principle is established in Hill J's comments in *HP Mercantile* at [46], from which the reference to 'tracing' is taken. We consider that the statement in *Rio Tinto – appeal* at [7] that: 'the application of s 11-15(2)(a) requires, therefore, the precise identification of the relevant acquisition and a factual inquiry into the relationship between that acquisition and the making of supplies that would be input taxed' is a relevant expression of the principles for applying paragraph 11-15(2)(a). It is not expressed as an observation limited to the facts in that case. The points raised in relation to GSTR 2006/3 have been taken into account in the finalised update to that Ruling in order to clarify the views expressed in GSTR 2006/3 and to remove any potential for uncertainty. We consider that the views expressed in the final Ruling are consistent with the principles already expressed in GSTR 2006/3.
9	**Trade terms arrangements** The view expressed by the ATO concerning the treatment of the supply of credit over an interest-free period is inconsistent with the ATO's historical position with respect to 'trade terms' arrangements. These arrangements typically involve sales of goods to customers on terms that allow for payment at a later date (usually 30 to 60 days) without fees or interest being charged. The submitter understands the ATO considers the obligation to repay attaches to the supply of goods, rather than the supply of the credit arrangement. The ATO has taken a pragmatic approach for trade terms arrangements, but this is not applied to credit cards. The ATO should confirm the technical basis for this distinction.	The ATO's position on interest-free loans (which includes the interest-free period provided via credit cards and charge cards) is set out in GSTR 2002/2 and this Ruling does not change that position. Similarly, our position on trade terms arrangements is long-standing (for instance, see paragraph 87 of Goods and Services Tax Ruling GSTR 2003/11 *Goods and services tax: payment on early termination of a lease of goods*). There is no inconsistency with the ATO view in this Ruling. In a trade terms arrangement, the obligation to pay is an obligation to pay the consideration for the supply of the underlying goods and services themselves. The supply of a credit card facility is factually fundamentally different, and as such the cardholder's obligation to repay also relates to the 'underlying supply', which in this case is the supply of the credit card facility.
10	**Potential conflict between the draft Determination and Practical**	PCG 2017/15 reflects how the Commissioner will apply his compliance

Issue number	Issue raised	ATO response
	Compliance Guideline PCG 2017/15 *GST and Customer Owned Banking Institutions* PCG 2017/15 provides a concession to customer owned banking institutions (COBIs) which enables such entities to claim up to 18% in input tax credits on their partly creditable acquisitions. In some circumstances, where the COBI does not have the accounting/system resources to determine whether their costs are fully creditable or not fully creditable, the PCG allows for the COBI to apply a rate up to 18% to all their acquisitions. As some of these entities could be of a sufficient size that they are able to offer credit card products to their customers, it is unclear to the submitter how the guidance provided in the draft Determination interacts with the practical guidance provided by way of PCG 2017/15. The submitter considers that irrespective of their size and access to resources, in the context of CCIB acquisitions, non-COBIs are in a similar situation to COBIs who are unable to determine the application of paragraph 11-15(2)(a) in their particular circumstances. The submitter asks the Commissioner to clarify his position on the application of PCG 2017/15 in light of the issue of the draft Determination.	resources in respect of apportionment for COBIs, and applies to all eligible acquisitions across the whole entity. By contrast, this Ruling sets out our view of the application of paragraph 11-15(2)(a) to acquisitions in a CCIB. PCG 2017/15 is targeted to the particular circumstances of COBIs and recognises that these entities may experience difficulties in strictly meeting the requirements of the GST law. PCG 2017/15 provides practical compliance guidance as to the Commissioner's application of resources in obtaining assurance in relation to the application of the law as outlined in the final Ruling in the circumstances described in the Guideline. We will review the rate and scope of PCG 2017/15 at least every two years. Our risk assessment framework for acquisitions in a CCIB is provided in PCG 2019/8. Taxpayers applying PCG 2017/15 will fall within the white zone of PCG 2019/8.
11	**Connection to interchange supplies** Can the ATO explain how costs of a credit card issuer's gym, advertising of the brand or general car parking expenses can have a more real and substantial relationship to the taxable interchange supplies made by the CCIB when compared to the commissions paid by the CCIB for the introduction of new cardholders or debt collection services incurred as a result of card transactions the CCIB authorises?	As per paragraphs 136 to 143 of GSTR 2008/1, some acquisitions have a direct relationship to supplies. Acquisitions such as those in Example 6 of the final Ruling (services to facilitate the introduction of new cardholders) and 1 (debt collection services) directly relate to the financial supply of the credit card facility. Acquisitions that do not directly relate to any specific type of supplies instead have an indirect relationship to all the supplies that the entity makes in carrying on its enterprise and should be apportioned on that basis (that is, enterprise costs). Gym, brand advertising (as stated in Example 8 of the final Ruling) or general car parking acquisitions typically fall in this category and should be apportioned on the basis of all supplies made by the enterprise, including the supply of the credit card facility and the supply of interchange services.

Issue number	Issue raised	ATO response
12	**Rationale for revisiting the approach** The views expressed in the draft Determination in relation to a number of acquisitions are contrary to positions that the Commissioner has previously held or accepted. It would be very helpful to understand why the Commissioner has changed his view on these acquisitions now, particularly given there has been no change in the law – what has changed for a change of view to occur?	We have not previously issued public advice or guidance on the application of paragraph 11-15(2)(a) in the specific practical context of acquisitions in a CCIB. This Ruling considers the creditable purpose of common acquisitions made by a CCIB, following extensive engagement with industry. This analysis is needed to determine whether methods used by taxpayers are fair and reasonable in practice. PCG 2019/8 complements the final Ruling by outlining our expectations on how these views are to be implemented in practice. This enables taxpayers to consider their position in our risk assessment framework.
13	**Date of effect and compliance approach for past periods** The proposed date of effect has seriously underestimated the extent to which taxpayers will be required to alter their current practices in order to comply with the views expressed. The Commissioner must negotiate a suitable transition period with taxpayers. The submitter believes it is incumbent on the Commissioner (consistent with Law Administration Practice Statement PS LA 2011/27 *Determining whether the ATO's views of the law should be applied prospectively only*) to determine whether previous publications or conduct on his part could have conveyed a different view in relation to the application of paragraph 11-15(2)(a) in this context. The finalised version of the draft Determination should contain a statement on whether compliance action would be on a go-forward basis or not and provide reasons for such a position.	The final Ruling has prospective effect from tax periods commencing on or after 1 January 2020 (which aligns with the date of effect of PCG 2019/8). We have sought to minimise the compliance impact for taxpayers through extensive consultation and the practical compliance approach provided in PCG 2019/8. Where ATO review activity for a particular taxpayer involves apportionment of CCIB acquisitions for earlier tax periods, we will apply PS LA 2011/27 in determining whether it is appropriate to apply the ATO view on a prospective basis only, in relation to specific issues identified. These decisions must be made in the context of each taxpayer's particular facts and circumstances.
14	**Application of table item 4 of subsection 38-190(1) in GSTD 2017/1** The submitter disagrees with the Commissioner's formulation that the supply of a credit card is essentially a single supply of a bundle of rights that is input taxed. The submitter further takes issue that any GST-free treatment will be limited to the application of table item 4 of subsection 38-190(1) to the extent that it is anticipated that the credit card facility will be used by the cardholder to undertake transactions while they are physically overseas (consistent with the views expressed	Our position that cardholder location is used to measure offshore use under table item 4 of subsection 38-190(1) for the entirety of the supply of the credit card facility has been finalised in GSTD 2017/1. See issues 1 and 3 of this Compendium for related commentary.

Issue number	Issue raised	ATO response
	in GSTD 2017/1). The Payment Right is used in the location where the credit card details are accepted by the merchant (as this is the point at which the merchant accepts the card as payment, and the supply of the goods or services by the merchant is made to the customer and a new debt is created as between the CCIB and the cardholder). Accordingly, where the merchant is located overseas, the Payment Right is being used outside Australia by the cardholder giving rise to the application of table item 4 of subsection 38-190(1) with respect to the CCIB's supply of the credit card facility.	
15	**Use of revenue-based apportionment methods** The observations of the majority in *Amex* at [126] that the respondent's formula in that case employed revenue as a proxy for the relationship between acquisitions and the making of supplies and that the basis for using such a proxy was founded on the assumption that there was: … a roughly proportional relationship between: (a) the relative amount of revenue an entity derives from the making of particular supplies; and (b) the proportion of the total supplies made by an entity represented by those particular supplies. Furthermore, their Honours went on to state that at [127]: … Although not directly stated in the Commissioner's rulings, it seems clear that the foundation for the assumption is the expectation that a rational profit-driven corporation will, in general, only dedicate its resources (including, relevantly, its potentially creditable acquisitions) to making particular supplies to the extent that doing so maximizes revenue. Consistent with these observations, taxpayers have historically employed a 'revenue-based' approach to determine the extent of creditable purpose for CCIB acquisitions that has been modified to reflect the commercial reality that a CCIB (being a rational profit driven corporation) does not incur costs or derive revenues consistently for all	*Amex* at [127] is consistent with paragraph 105 of GSTR 2006/3 in observing that a revenue-based method is fair and reasonable if the assumption holds that there is a proportionate relationship between the revenue used to measure the supplies made, and the use of the acquisitions that the revenue method applies to. The Court did not conclude that this assumption was correct in this context or that a revenue method would always be appropriate for CCIB's, as in *Amex* both parties had agreed at [119] that the revenue method used was appropriate. The Court noted at [123–127] that under the GST Act the extent of creditable purpose of an acquisition is based on its relationship to the making of particular supplies (that is, its use or intended use), and that revenue is only an indirect method of approximating this relationship. As stated at paragraph 4 of the final Ruling, this Ruling does not address whether specific apportionment methods are fair and reasonable. Our risk assessment framework for the apportionment method used for acquisitions in a CCIB is set out in PCG 2019/8.

Issue number	Issue raised	ATO response
	types of credit card customers. That is, a basic revenue-based formula has been made more accurate through the agency of the 'Transactor'/'Revolver' modification. Indeed, rational profit-driven corporations make decisions affecting costs and revenues through properly understanding the many commercial drivers that inform the dynamics of a CCIB. These include product design features as well as externalities such as customer behaviour, regulatory change and economic conditions.	
16	The examples and fact patterns are underdeveloped and rudimentary and do not match the commercial realities of modern commerce.	No change. The submitter did not provide any further explanation of how to improve the examples.
17	**Acquisitions to originate the supply of the credit card facility** The analysis in Examples 3 (acquisition of credit check services), 6 (acquisitions of services to facilitate the introduction of new cardholders) and 7 (acquisition of advertising services to sign up new cardholders) of the draft Determination fails to take into account that a complementary purpose of entering into the credit card facility may include the making of taxable supplies of interchange services. The Commissioner is relying on an unduly narrow interpretation of the principles in *Rio Tinto – first instance* to look for a 'direct and immediate' connection to the making of supplies. This is inconsistent with the view in Example 13 (acquisition of credit card production services) of the draft Determination where the physical credit card is recognised as initiating the operation of the payment system and therefore relates to making both supplies.	These acquisitions are intended for use only in originating the supply of the credit card facility to the cardholder (for the reasons stated in each example). For each of these examples, the connection between the acquisition and the supply of interchange services occurs only as a result of the intervening activity of the cardholder in initiating transactions, once the supply of the credit card facility is originated. In our view, this connection is not sufficient for the purposes of paragraph 11-15(2)(a). This contrasts with other acquisitions (such as the acquisition of credit card production services) that are intended for use and are consumed in performing the credit card transaction itself, and which therefore relate to both supplies.
18	**Framing of the examples** The Commissioner has not articulated why the conclusions in each example have been reached. Example 1 of the draft Determination states: 'Whilst it is true that Lilac Bank also supplies interchange services to acquiring entities in authorising, clearing and settling the transactions that gave rise to the debt, that fact in itself is insufficient to support a conclusion that a relevant connection has	As stated at issue 1 of this Compendium, we acknowledge that the financial supply of the credit card facility (leading to the creation of the debt), and the supply of interchange services in authorising, clearing and settling the credit card transactions that gave rise to the debt, are interrelated. However, this fact alone is insufficient to establish a relevant connection between the acquisition and the supply of interchange services. In Example 1 of the final Ruling, debt collection services relate directly to

Issue number	Issue raised	ATO response
	been established between the interchange and the acquisition of the debt collection services.' We would like further clarification. In our view, the supply of interchange services and the creation of a debt are intrinsically linked. 'Put another way, the fact that the debts and the supply of interchange services arise from the same transaction is not sufficient to establish a real and substantial connection between the acquisition and the supply of interchange services.' We seek further clarification on why this interpretation has been adopted. Another submitter disagreed with the Commissioner's view that the acquisition of debt collection services only has a relevant connection to the supply of the credit card facility, as the debt collection service also serves to recover the capital element of the payment arising from the cardholder's initial request that the merchant use the payment system to be reimbursed.	the supply of the credit card facility, as viewed objectively they are used in enforcing the cardholder's obligation to repay debts under the credit card facility.
19	**Acquisitions to prepare credit card statements** A real and substantial connection to the supply of interchange services can be established in that the statement issued to the customer primarily consists of a history of payment transactions (that is, the movement between opening and closing balances on the account, reflecting an overall reconciliation of all the activities on the account). Most cardholders use the statement as a means to reconcile their purchases for the period with their credit balance. Fees and credit charges are also shown and the fees can often relate directly to the form (channel) through which transactions were made. Credit charges are related to the account relationship. In the case of a 'transactor', no credit charges will be disclosed, and so the only charge specifically referable to the account is likely to be the annual fee, when (if) this is charged. Where applicable, non-account information, such as information about loyalty reward balances is also shown.	The credit card statement sets out information about the credit provided under the credit card facility. Although the CCIB may supply interchange services when a cardholder uses the card to access the credit, it is information about the credit itself that is set out in the statement. As such, acquisitions to prepare the statement have a relevant connection only to the supply of the credit card facility and the connection to the supply of the interchange service is too remote.
20	**Acquisition of credit check services**	The credit check services relate to originating supplies of credit card

Issue number	Issue raised	ATO response
	Credit check services ascertain the risk of extending credit and granting the prospective cardholder access to the payment system. It is an establishment cost necessary for the CCIB to provide one of its core services – interchange services.	facilities. The fact that the use of the credit will also give rise to the CCIB making taxable supplies of interchange services does not of itself establish a relevant connection between those supplies and the acquisition of credit check services.
21	**Acquisition of branch network costs** Taxpayers incur branch network costs to provide customer facing services including the promotion of credit card products and the provision of customer assistance with application forms and responses to queries. As such, branch network costs support the activities of branch staff who in turn perform introductory and call centre-like functions, which are anterior and posterior costs associated with the overall operation of the CCIB. Of itself, this evidences a real and substantial relationship with all supplies made by a CCIB. Consequently, the submitter disagrees with the Commissioner's view that the acquisition only has a relevant connection to the supply of the credit card facility. The submitter also raised whether Example 4 of the draft Determination is inconsistent with GSTR 2006/3 and Example 5 of GSTR 2008/1.	We consider that the activities of the branch are to provide service to cardholders and manage the relationship with cardholders, and only have a relevant connection to the supply of the credit card facility. We do not see any inconsistency with GSTR 2006/3 or GSTR 2008/1. Paragraph 141 of GSTR 2008/1 provides the rental of premises by a financier who makes both taxable and input taxed supplies as an example of the first type of expenditure from *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15 (*Ronpibon*). As discussed in GSTR 2008/1, the first type of expenditure is undivided items of expenditure with distinct and severable parts devoted to different objects, where it is possible to divide the expenditure in accordance with the applications which have been made to those objects. The second type of expenditure is a single outlay or charge which serves multiple objects indifferently, requiring a fair and reasonable basis of apportionment to be adopted – it is an indiscriminate sum apportionable, but hardly capable of arithmetical or rateable division because it is common to both objects. Financial institutions typically recognise that branch network costs are capable of division between different uses by dividing these costs between the different activities undertaken at the bank branch (for example, home loans, transaction accounts, credit cards and insurance). Having divided branch network costs between these uses, one must then determine the extent of creditable purpose for each of the parts that have been allocated to different uses. This is addressed in Example 4 of the final Ruling, which considers the creditable purpose of the part of the acquisition that has been allocated to the CCIB.
22	**Acquisition of call centre services** Call centre operators regularly handle customer queries dealing with all aspects of the creation and ongoing use of a credit card. This can include a cardholder querying a particular transaction, or seeking to	Although call centre queries include queries in relation to credit card transactions, the activities of the call centre are to provide service to cardholders and manage the relationship with cardholders (rather than with acquiring entities that the CCIB supplies interchange services to).

Issue number	Issue raised	ATO response
	cancel a transaction. The call centre also contacts cardholders in the case of suspicious activity on their card. Of itself, this evidences a real and substantial relationship with all supplies made by a CCIB.	Our view remains that the acquisition in Example 5 of the final Ruling only has a real and substantial connection to the supply of the credit card facility.
23	**Acquisition of services to facilitate the introduction of new cardholders** The submitter disagrees with the Commissioner's view. CCIBs pay commissions to authorised deposit-taking institutions under white labelling and co-branding arrangements in order to encourage both the sale of new credit card products and the continued and expanded use of an existing credit card portfolio through increases in credit card spend. In turn, the continued use of credit cards as a payment instrument necessarily engages the CCIB in providing payment system services demonstrating the totality of the CCIB's involvement in the credit card scheme.	We note the submission, however our view remains that the acquisition in Example 6 of the final Ruling only has a real and substantial connection to the supply of the credit card facility for the reasons stated in the example.
24	**Acquisition of advertising services to sign up new cardholders** CCIBs advertise their products to new cardholders to achieve particular targets and objectives, such as increasing awareness of rewards, encouraging card use and capturing new card holders. The commercial aim of this expenditure is to encourage the provision and use of as many cards as possible, with the goal of augmenting spend on cards to generate CCIB revenues. The increased distribution of, and spend on, promoted cards/features generates interchange fees, interest and other fees. These characteristics provide an objective basis for identifying that advertising costs to generate new cardholders have a real and substantial relationship with both supplies.	We consider that in Example 7 of the final Ruling, the content of the advertisement and its use in the business (as explained at paragraph 71 of the final Ruling) provide the objective basis for identifying that the advertising costs are intended for use in promoting the supply of the credit card facility. While the commercial aim of generating interchange fees forms part of the CCIB's broader commercial purpose in making the acquisition, we consider this is not of itself sufficient to establish a relevant connection for the purposes of paragraph 11-15(2)(a).

Issue number	Issue raised	ATO response
25	**Acquisition of loyalty rewards points from a loyalty scheme operator** Viewed objectively, the purpose of acquiring loyalty reward acquisitions is to promote increased transactional spend of those cardholders who are members of loyalty reward schemes. This provides an objective basis for identifying that loyalty reward costs have a real and substantial relationship with both supplies. The submitter therefore rejects the premise of the 'alternative view' that loyalty reward acquisitions can be viewed as having a sole connection to the supply of credit by reason of the loyalty program obligations forming either an incidental or composite part of the supply of credit. Arguably, the direct correlation of card spend (promoted by access to loyalty rewards) to the derivation of interchange revenue represents an objective assessment of the relationship that loyalty reward costs have for the purposes of determining the application of paragraph 11-15(2)(a) (that is, that such costs are made wholly for a creditable purpose). The same arguments apply to Example 11 of the draft Determination.	Following consideration of the submissions received, we are adopting our preliminary view in the draft Determination that this acquisition relates to both supplies (for the reasons stated in Example 9 of the final Ruling), and we have removed the alternative view from the final Ruling. We do not agree that the acquisitions of loyalty rewards solely relate to the making of interchange supplies, within the context of either Examples 9 or 10 of the final Ruling. In particular, the transactional spend that gives rise to issuer making the supply of interchange services arises from the cardholder being provided with credit under the supply of the credit card facility.
26	**Acquisition of loyalty rewards to retain cardholders** Viewed objectively, the commercial purpose for acquiring loyalty rewards to retain cardholders is to promote increased transactional spend of those cardholders who are members of loyalty reward schemes. These acquisitions, as a matter of objective fact, have a real and substantial relationship with making both supplies.	We have not included this example in the final Ruling as we understand this factual scenario is not common in the industry (with allocation of loyalty points typically tied to cardholders' transactional spend in some way, rather than the payment of the annual fee).
27	**Acquisition of goods and services as loyalty rewards** Where loyalty reward scheme membership is separately charged for and treated as a taxable supply, it is open to consider, based on *Rio Tinto – appeal*, that any connection to the supply of credit represents a broader 'enterprise' purpose that is too remote for the purposes of the application of paragraph 11-15(2)(a).	Where there is a separate taxable supply of loyalty program membership, a connection between the acquisition and the supply of the credit card facility is established because: • membership and loyalty points are contingent on being a cardholder of the associated credit card facility • the loyalty rewards allocated correspond to the value of the cardholder's purchase transactions made using the credit card

Issue number	Issue raised	ATO response
		facility. The acquisition of loyalty points is solely contingent on the occurrence of these transactions, and the CCIB provides credit under the credit card facility (and supplies interchange services) for each purchase transaction.
28	**Acquisition of advertising services to raise public awareness of the entity, issuer scheme services and card production services** This submission agreed with Examples 8, 12 and 13 of the draft Determination.	Submission noted.
29	**Acquisitions of credit card processing services** There is a distinction drawn with regard to acquisition of credit card processing services between 'managing and operating the credit card facility account' (Example 14 of the draft Determination) and 'processing credit card transactions via the payment system' (Example 15 of the draft Determination). Credit card processing services are composite supplies. As a practical matter it is not possible to dissect these services into 'account maintenance' and 'payment system' cost category pools. The CCIB acquires services that facilitate the real-time processing of transactions via the payment system, and which then produce results affecting the client's account. This category of acquisition has a relevant connection with both supplies because the totality of the service is used throughout the life cycle of the credit card arrangement. Therefore it should be treated as being made partly for a creditable purpose. The examples highlight a lack of legal, commercial and economic reality by suggesting that CCIBs should delineate costs along these lines. To require taxpayers to create such delineations 'only for tax purposes' would seem to force taxpayers to depart from the reality of how the arrangements operate legally, commercially and economically where such a delineation would not otherwise be required. This has the potential to create distortions in the claiming of input tax credits. In such circumstances, an apportionment methodology would seem to	We have changed Examples 13 and 14 in the final Ruling to make each of these separate acquisitions of the credit card issuer. The examples now focus on determining the creditable purpose of processing services acquired in relation to particular applications (rather than apportionment where some parts of the acquisition of processing services relate only to the supply of the credit card facility and other parts relate to both supplies). If one acquisition encompasses the services in both examples, the application of paragraph 11-15(2)(a) to this acquisition would require an objective analysis of the nature of specific IT processing services being acquired to determine the extent to which the acquisition relates to an input taxed supply. It is an established principle of apportionment that some acquisitions have distinct and severable parts that are devoted to particular uses, and which can be allocated between these uses (that is, the first category of expenditure from *Ronpibon,* as explained in GSTR 2008/1). Our risk assessment framework for the apportionment method used for acquisitions in a CCIB is set out in PCG 2019/8.

Issue number	Issue raised	ATO response
	be appropriate mechanism for determining the extent of creditable purpose.	
30	**Application of principles in three-party payment systems** The Commissioner should state how the principles are intended to apply to CCIBs in a three-party or 'closed loop' payment system. The Commissioner's approach of strictly applying the principles of the *Rio Tinto – first instance* and *Rio Tinto – appeal* cases to determine the creditable purpose of CCIBs in arrangements involving four-party payment systems may not result in the correct application of section 11-15(2)(a) in relation to three-party payment systems.	Given the small number of entities operating a closed loop system, the private ruling system is more appropriate to address the issues in determining the creditable purpose of their acquisitions. While these entities cannot rely on the final Ruling, where acquisitions are objectively intended for use solely in making the supply of the credit card facility to the cardholder in the final Ruling, we would generally expect the same outcome to arise in the context of a three-party payment system.