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Deadline for comment | Aukatinga mō te tākupu: **8 December 2025**

Please quote reference | Whakahuatia te tohutoro: **PUB00515**

Send feedback to | Tukuna mai ngā whakahokinga kōrero ki
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INTERPRETATION STATEMENT | PUTANGA WHAKAMĀORI

GST treatment of supplies of payment processing or facilitation services to merchants

Issued | Tukuna: Issue date

IS XX/XX

This interpretation statement applies to entities that provide payment processing or facilitation services, including payment technology, to merchants. These entities include payment service providers (PSPs), buy now, pay later (BNPL) providers and other suppliers of payment technology or infrastructure.

The statement provides a framework to determine whether services provided to merchants are financial services. When the supply to merchants includes settlement services, there will be a supply of financial services, and these supplies will be GST exempt (or zero-rated if applicable). The statement also explains whether there is a single supply or multiple supplies of services that may have different GST treatments.

Legislative references are to the Goods and Services Tax Act 1985 (GSTA) unless otherwise stated.

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Key terms | Kīanga tau tāpua

Acquirer means the financial institution that provides banking services to the merchant.

BNPL means a buy now, pay later arrangement where the BNPL provider pays the merchant for the purchase, and the customer repays the BNPL provider.

Customer means the person buying goods or services from the merchant using a credit card, debit card, contactless payment method or BNPL service.

Issuer means the financial institution that issues the payment card to the customer.

Merchant means the retailer providing goods or services to the customer.

PSP means, for the purposes of this statement, a service provider that supplies payment processing services, technology or infrastructure and/or facilitates payments between the merchant and its customers. It also includes a BNPL provider.

Summary | Whakarāpopoto

1. This interpretation statement provides a framework for working out whether supplies of payment processing or facilitation services, including payment technology, to merchants are supplies of financial services for GST purposes.
2. When supplies are financial services, they are exempt from GST or may in some cases be treated as zero-rated.¹ In either situation, the supplier does not charge an amount of GST on the supply made to the merchant. When the supplies are not financial services, then generally they are subject to GST (unless other exemptions or zero-rating provisions apply).

Who this statement applies to

3. This statement applies to payment service providers, BNPL providers and other entities that provide payment processing or facilitation services, including payment technology, to merchants. For ease of reference, these service providers are referred to together as PSPs throughout this statement.
4. This statement applies to payment processing or facilitation services, including payment technology. These types of services may include:
 - making the decision to debit or credit accounts and/or bearing the risk of settlement, ensuring payment is made (referred to as “settlement services” in this statement);
 - providing technology such as a payment gateway and other processing services; and
 - facilitating the exchange of information between parties through requesting authorisation from the issuer and relaying that information to the acquirer or merchant.
5. Other services that may be provided along with the above services include:
 - administrative, compliance or reporting services; and
 - marketing, advertising or promotional services.

¹ Supplies of financial services are exempt under s 14(1)(a) or may be zero-rated under s 11A when made between registered persons, an election is made, and certain other requirements are met.

How GST applies to payment processing or facilitation services

6. GST is a transaction-based tax and generally follows from the contractual arrangements entered into. It is important to first identify what services are being supplied to the merchant in exchange for a merchant service fee, and who is supplying those services to the merchant. For example, the PSP may undertake the performance of these services itself, or it may subcontract another entity to perform those services on its behalf or to the PSP.
7. PSPs will need to carefully consider their own arrangements and may wish to seek advice if it is not clear from their contracts what services they have agreed to provide to a merchant and who is providing those services to the merchant.
8. While it will be fact dependent, generally the provision of settlement services to the merchant is a supply of financial services. Settlement services include making the decision to debit or credit accounts and/or bearing the risk of settlement and ensuring payment is made.² When a PSP is not providing these types of services along with its payment processing or facilitation services, then generally it will not be making supplies of financial services. In that situation, the supplies will be taxable supplies and will be subject to GST.
9. When a PSP is involved in providing financial services (eg, settlement services), other supplies that relate to agreeing or arranging the provision of those financial services, or that are reasonably incidental and necessary to that supply are also included as financial services. These other types of supplies may include:
 - facilitating the exchange of information between parties through requesting authorisation from the issuer and relaying that information to the acquirer or merchant;³ and
 - providing technology such as a payment gateway and other processing services.⁴
10. Generally, reasonably incidental and necessary services to the supply of settlement services are unlikely to include:
 - administrative, compliance or reporting services; and
 - marketing, advertising or promotional services.

² These services are financial services under (respectively) s 3(1)(b) and/or s 3(1)(c) or (ka).

³ These types of authorisation services may relate to agreeing or arranging to provide financial services under s 3(1)(l).

⁴ Technology and processing services may be reasonably incidental and necessary to the supply of settlement services under s 14(1)(a).

11. When a PSP is providing some services that are financial services (including those that are reasonably incidental and necessary to settlement services) and other services that are not financial services, it needs to work out, based on its contractual arrangements, whether it is supplying:
 - a single supply of services that has a single GST treatment (taking the treatment of the dominant element of the supply); or
 - multiple supplies that are treated differently for GST purposes.
12. When a PSP's supply of payment processing or facilitation services includes settlement services, it is likely that the settlement of the payments, along with related processing services, is the dominant element of the service. Any administrative services related to the payment processing may be considered part of a single supply of those payment processing services.
13. In some cases, other services may be provided that are not directly related to the payment processing services, like advertising, marketing or promotional services. It will be fact dependent whether these types of additional services are considered part of the supply of settlement and payment processing services, or a separate supply.
14. For a summary of whether a PSP's supplies of services are financial services, see Figure | Hoahoa 1.
15. After considering the steps in Figure | Hoahoa 1 the PSP then needs to consider whether there is a single supply or multiple supplies of its services. What the nature of the supply is will be fact dependent, based on the contracts in place. For more information on how to determine the nature of a supply, see [IS 18/04](#) **Goods and Services Tax – Single supply or multiple supplies**.



Figure | Hoahoa 1 – When certain types of services are financial services

Type of service	Is the service a financial service?	Is the service agreeing or arranging a financial service?	Is the service reasonably incidental and necessary to a supply of financial services?
A Making the decision to debit or credit accounts Bearing the risk of settlement, ensuring payment is made (settlement services)	 s 3(1)(b) s 3(1)(c) or (ka)		
B Payment processing services Providing technology or infrastructure (eg, a payment gateway)			 If (A) service is provided, these (B) services are reasonably incidental and necessary to settlement s 14(1)(a)
C Facilitating information - requesting authorisation from the issuer and relaying that information to the acquirer or merchant		 If (A) service is provided, these (C) services are arranging that financial service s 3(1)(l)	
D Administrative, compliance or reporting services			
E Advertising, marketing or promotional services			

Introduction | Whakataki

16. This statement provides a framework for providers of payment processing or facilitation services, including payment technology (referred to in this statement as “PSPs”) to work out whether they are making supplies of financial services. This is relevant because financial services are generally exempt supplies, and in some cases may be treated as zero-rated supplies.⁵ Because contractual arrangements differ, this statement is intended as a general guide.
17. To determine whether it is supplying financial services, a PSP needs to:
- examine the nature of what it is contractually supplying to the merchants;
 - determine whether it is making a supply of financial services; and
 - consider, when it is providing more than one service, whether it is supplying a single supply or multiple supplies of services to the merchants.
18. GST is a transaction-based tax and generally follows from the contractual arrangements entered into. It is important to first identify what services are being supplied to the merchant in exchange for a merchant service fee, and who is supplying those services to the merchant. For example, the PSP may undertake the performance of these services itself, or it may subcontract another entity to perform those services on its behalf or to the PSP. PSPs will need to carefully consider their own arrangements. Relevant considerations are the specific terms of the agreements entered into, the arrangements in place with any other parties involved and the specific services that are agreed by the PSP to be provided to the merchant.

Payment processing or facilitation services, including technology

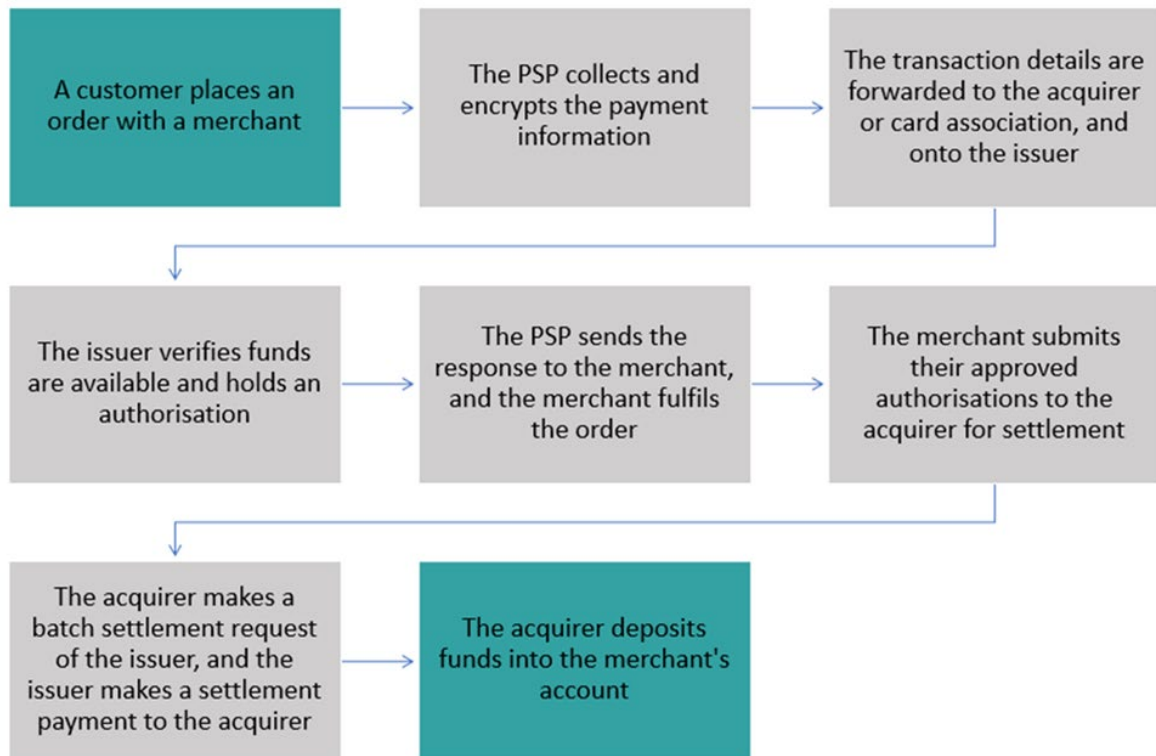
19. This statement considers the following types of services that may be provided to merchants:
- making the decision to debit or credit accounts, and/or bearing the risk of settlement, ensuring payment is made (settlement services);
 - providing technology such as a payment gateway and other processing services;
 - facilitating the exchange of information between parties through requesting authorisation from the issuer and relaying that information to the acquirer or merchant;

⁵ Financial services are exempt under s 14(1)(a) although they may be zero-rated under s 11A when made between registered persons, an election is made, and certain other requirements are met.

- administrative, compliance or reporting services; and
- marketing, advertising or promotional services.

20. Figure | Hoahoa 2 illustrates the types of steps that may be involved in a general payment transaction.⁶

Figure | Hoahoa 2 – Steps in a general payment transaction



BNPL arrangements

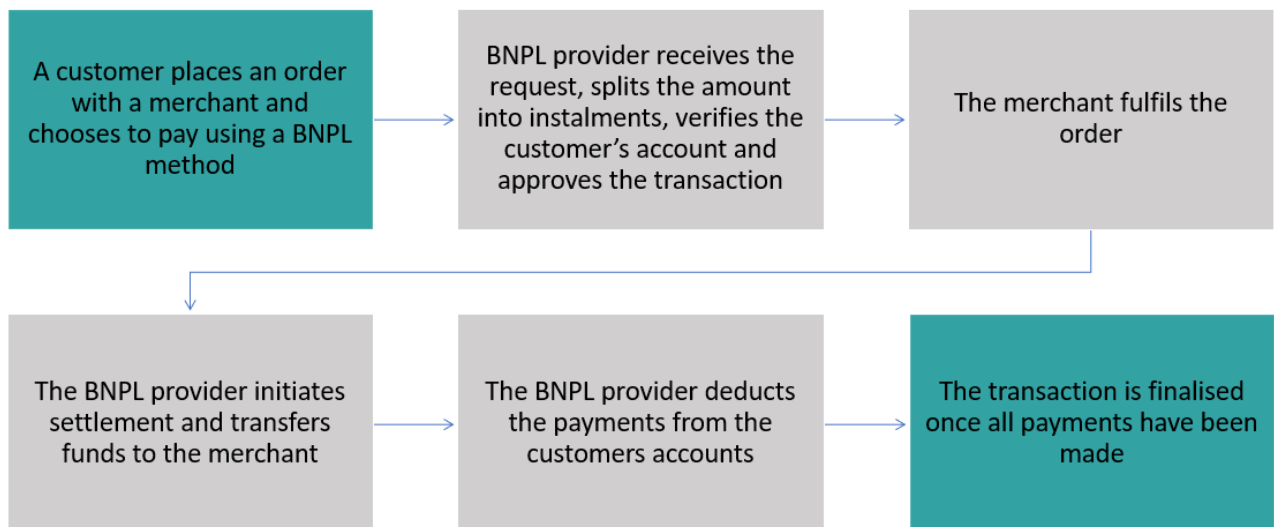
21. BNPL arrangements are entered into between the BNPL provider and the merchants (and also between the BNPL provider and customers). These arrangements allow the customer to acquire goods or services upfront and pay for them over time.
22. Under these arrangements, generally the BNPL provider makes a loan to the customer to enable them to purchase goods or services from the merchant. The merchant receives payment for the goods or services from the BNPL provider (typically via a mobile payment app). The merchant provides the customer with the goods or services upfront. The loan that the BNPL provider makes to the customer is repaid by the customer, typically in a series of instalment payments. The BNPL provider assumes all

⁶ These steps illustrate a payment transaction where the acquirer is undertaking settlement. In some situations, the PSP may be the acquirer or may otherwise contract an acquirer to undertake settlement.

the risks should the purchaser fail to make any payments. The terms are generally interest-free, but other charges are likely to apply to the customer.⁷

23. A BNPL provider may also provide other services to the merchant, such as marketing services, foreign exchange and the technical infrastructure to facilitate the payments.
24. Figure | Hoahoa 3 illustrates the types of steps that may be involved in a general transaction involving a BNPL provider.

Figure | Hoahoa 3 – Steps in a general BNPL transaction



Analysis | Tātari

25. GST is imposed on the supply, not including an exempt supply, of goods and services by a registered person in the course or furtherance of their taxable activity.⁸ When a registered person makes exempt supplies, they do not charge GST on those supplies and cannot claim input tax deductions for goods or services acquired for use in making those supplies. When a registered person makes zero-rated supplies, those supplies are technically taxable supplies but charged at the rate of 0%.
26. The courts' approach in determining the nature of a supply is to:⁹

⁷ BNPL arrangements are also addressed in QB 23/06 GST – Goods purchased on deferred payment terms, from [16].

⁸ Section 8(1).

⁹ *Marac Life Assurance Ltd v CIR* (1986) 8 NZTC 5,086 (CA); *CIR v Databank Systems Ltd* (1990) 12 NZTC 7,227 (PC); *Auckland Institute of Studies v CIR* (2002) 20 NZTC 17,685 (HC) and *Wilson & Horton Ltd v CIR* (1995) 17 NZTC 12,325 (CA).

- consider the true nature of the legal arrangements entered into and carried out by the supplier and the recipient;
- examine the contractual arrangements between the parties to determine who is supplying what to whom; and
- examine the supply from the recipient's point of view by considering the true and substantial nature of what is provided to the recipient for the payment.

27. Therefore, it is important to first identify what services are being supplied to the merchant in exchange for a merchant service fee, and who is supplying those services to the merchant. For example, the PSP may undertake the performance of these services itself, or it may subcontract another entity to perform those services on its behalf to the merchants, or to the PSP. PSPs will need to carefully consider their own arrangements when applying this statement.

Supplies of financial services

28. Supplies of financial services are generally exempt from GST. Relevantly, s 14(1)(a) provides that the following services are exempt supplies:

- (a) the supply of any financial services (together with the supply of any other goods and services, supplied by the supplier of those financial services, which are reasonably incidental and necessary to that supply of financial services), not being a supply referred to in subsection (1B):

29. Exempt supplies of financial services exclude supplies of financial services that are zero-rated under s 11A. Financial services may be zero-rated under s 11A when they are provided by a registered person (who has made a relevant election) to another registered person, and certain other requirements are met. For example, 75% or more of the total value of supplies made by the recipient in a particular period must be taxable supplies (that are not zero-rated).

30. Financial services are defined in s 3(1). These services relevantly include:

- the issue, payment, collection, or transfer of ownership of a cheque;¹⁰
- the issue, allotment, drawing, acceptance, endorsement, transfer of ownership, renewal or variation of a debt security;¹¹
- the payment or collection of interest, principal, or another amount in respect of a debt security;¹²

¹⁰ Section 3(1)(b).

¹¹ Section 3(1)(c).

¹² Section 3(1)(ka).

- agreeing to do, or arranging, any of the above activities.¹³
- 31. *Databank* is a key Privy Council decision that considered GST and financial services. Databank provided banks with computer data-processing services. The services involved processing cheques, crediting and debiting the banks' customers' accounts, and general account maintenance. The issue was whether Databank supplied financial services to the banks.
- 32. The Privy Council recognised that the banks used Databank's computing services to supply financial services to their customers. However, the computing services Databank supplied to the banks were not financial services. The terms of the agreements between Databank and the banks meant Databank was supplying its services to the banks, not to the banks' customers. This decision highlights the importance of understanding the contractual arrangements in place and, importantly, who is providing the relevant services to the recipient.
- 33. Other cases have also considered the issue of who is making a relevant supply when multiple parties are involved.¹⁴ What is relevant is who is contractually making the supply of services and what services they are agreeing to supply. The supplier may then contract to receive services from another supplier to help it make its agreed supplies (as in the *Databank* case). For example, Supplier A agrees to make supplies of services to customers. Supplier A needs to acquire goods or services from Supplier B to help make its supplies to customers. As a result, there is a supply by Supplier B to Supplier A; and a supply by Supplier A to the customer.
- 34. PSPs need to carefully consider what supplies they are making to merchants under the contracts. It does not matter if a different supplier performs some of the services that the PSP has agreed to supply, as long as the PSP is contractually providing that supply to the merchants. If the other parties are contractually liable for those supplies to the merchants, then they will be the relevant supplier of those services.
- 35. Once a PSP has worked out what supplies it is making, it then needs to consider whether it is supplying financial services. The most relevant parts of the definition of financial services that may potentially apply to PSPs are likely to be the provisions relating to cheques and debt securities, discussed below.

¹³ Section 3(1)(l).

¹⁴ *Suzuki New Zealand Ltd v CIR* (2001) 20 NZTC 17,096; *Commissioner of Taxation v Secretary to the Department of Transport (Victoria)* [2010] FCAFC 84; *Customs and Excise Commissioners v Redrow Group* [1999] 2 All ER 1; *C&E Comrs v Plantiflor Ltd* [2002] UKHL 33; *Airtours Holidays Transport Limited v Revenue and Customs Commissioners* [2016] UKSC 21; *Turakina Maori Girls College Board of Trustees & Ors v CIR* (1993) 15 NZTC 10,032 (CA).

Cheques

36. Financial services include the issue, payment, collection or transfer of ownership of a cheque or letter of credit.¹⁵ A “cheque” includes any order or authorisation in writing, by electronic means, or otherwise to a financial institution to credit or debit any account. This definition covers payments made by credit cards and debit cards.¹⁶
37. In *Databank* Lord Templeman said that the collection of a cheque is not the possession of the instrument in writing but the collection of the money (for which the cheque is authority). Payment of a cheque is the payment of money. His Honour said:
- ... Databank is a supplier of computer services to banks and not a supplier of financial services to banks or customers. Databank has no money to pay and collects no money. A customer of a bank pays money into a bank and draws money out of a bank. The customer does not pay money to Databank or collect money from Databank. A customer may not know or care whether Databank supplies to the banks machinery, which transmits instructions and requests by and between banks and by and between banks and customers, and gathers information and keeps records in accordance with the programmed instructions of the banks. Banks provide financial services and computer companies provide computer services.
38. Similar to the situation in *Databank*, where a PSP provides services to transmit and record information between the issuer, acquirer and merchant, but does not itself order or authorise the crediting or debiting of an account, it will not be providing services in relation to the issue, payment, collection or transfer of ownership of a cheque. In this situation, the issuer and acquirer order or authorise the credit or debiting of the customer’s and merchant’s accounts.
39. However, in some situations the PSP has authority to make the decision to debit or credit accounts such as when it is acting as the acquirer or otherwise contractually agrees to provide these services to merchants and contracts out the services to an acquirer. In these situations, it will be providing financial services relating to the issue, payment, collection or transfer of ownership of a cheque.
40. Therefore, there is a distinction between a PSP that provides information or relays instructions to authorise or record a payment, and a PSP that makes decisions about the crediting or debiting of accounts and payment of money. For example, when a PSP is only providing payment gateway technology by itself, this does not involve the movement of funds by the PSP, but instead the PSP is facilitating an exchange of information. However, providing acquirer services or other settlement services will often involve making decisions about the crediting and debiting of accounts.

¹⁵ Section 3(1)(b).

¹⁶ Section 3(2).

41. A BNPL provider is likely to be more directly involved in making decisions about debiting or crediting accounts. This is because BNPL providers generally agree to pay the merchant and then collect funds from the customer. They are likely to be involved in supplies relating to the issue, payment, collection or transfer of ownership of a cheque, such as making decisions about the crediting and debiting of accounts.

Debt securities

42. Financial services include the issue, allotment, drawing, acceptance, renewal, variation, payment or collection of amounts in respect of debt securities.¹⁷
43. A “debt security” has a wide meaning. It includes an interest in, or right to be paid money that is, or will be, owing by any person. It includes a right to be paid money in the future.
44. The courts have considered the definition to be broad. In particular, the courts considered it was appropriate to have regard to the definition of a “debt security” in the Securities Act 1978 (SA 1978) in interpreting the definition of “debt security” in the GSTA.¹⁸ Under the SA 1978, a debt security included money deposited with, or lent to, a person, or is otherwise owing by that person, so the investor retained an interest in the money or a right to be repaid.¹⁹ Also, under the SA 1978, a buy-back provision was a debt security because the purchaser had a right to be repaid. A debt security does not require an obligation on both sides to pay or repay money.²⁰
45. The relevant provisions that deal with debt securities include:
- its issue or allotment;
 - its renewal or variation; or
 - any payment or collection of amounts owing.
46. An allotment of a debt security is made by a person (the issuer of the debt security) who confers a right under a security. Generally, an allotment is made when the contract is formed. This occurs when the issuer accepts the offer to acquire the security. For example, the Commissioner considers there is a supply of an allotment of a debt security when a retirement village resident is entitled to receive repayment of the lump sum payment they paid on entry.²¹ This is because the retirement village undertakes a contractual obligation to pay money to the resident when they terminate

¹⁷ Section 3(1)(c), (g) and (ka).

¹⁸ *Case S54* (1996) 17 NZTC 7,354 (TRA). Although note that the SA 1978 has since been repealed.

¹⁹ *Francken v Ministry of Economic Development* (HC Dunedin CRI 2008- 412-000025, 1 December 2008).

²⁰ *Culverden Retirement Village v Registrar of Companies* [1997] 1 NZLR 257 (PC).

²¹ IS 15/02 Goods and Services Tax - GST and retirement villages.

their occupation. The resident receives a financial service – the acceptance of an obligation to pay money (ie, the allotment of a debt security under which the resident has the right to be paid money).

47. The issue of a security generally involves the delivery of a document or some act that perfects the title of the holder of the security.²²
48. In *Databank*, the Privy Council distinguished the payment and collection of money (as a financial service) from the transmission of instructions to pay or collect money. Similarly, a European Union value-added tax case, *Bookit Ltd*, concerned a booking agent that received orders for tickets and imposed a card handling fee.²³ The court held the card handling service did not transfer funds between the parties. Instead, the service involved transferring information between Bookit, the card issuer and acquiring banks. While this service was essential for the transfer of funds to occur, it did not amount to a payment or transfer of money. The court said that the fact that a service is essential for completing a financial transaction does not mean that the service is itself a supply of financial services. The booking agent did not directly debit or credit the accounts, did not act by accounting entries, and did not instruct the provision of debit or credit.
49. In a payment transaction, several debt securities may be in place between the customer, merchant, issuer and acquirer. Whether there are services provided in relation to a debt security involving the PSP will be fact dependent. In particular, it depends on whether the PSP:
 - is involved in settlement (eg, the issuer has an obligation to remit funds to the PSP (the acquirer), which has an obligation to remit funds to the merchant);²⁴
 - undertakes other acquirer services (either by doing so itself or by subcontracting those services to a third party);²⁵ or
 - provides BNPL services.²⁶
50. A PSP that receives funds and credits or debits accounts as part of completing the payment is involved in the settlement process and will be making supplies in relation to debt securities. PSPs that control the disbursement of funds are effectively collecting payments on behalf of, and making payment to, the merchants.

²² *Agricultural Mortgage Corporation Ltd v Inland Revenue Commrs* [1978] 1 All ER 248 (CA); *Trustees Executors and Agency Company of New Zealand Ltd v Deutsche Hypothekenbank Frankfurt-Hamburg Aktiengesellschaft* (2000) 8 NZCLC 262,208 (HC).

²³ *Bookit Ltd v Commissioners for Her Majesty's Revenue and Customs* [2016] EUECJ C-607/14.

²⁴ Section 3(1)(ka).

²⁵ Section 3(1)(c) or (ka).

²⁶ Section 3(1)(c) or (ka).

51. If the PSP is acting as acquirer or otherwise providing those services through agreements with other providers, there will be debt securities between the PSP and the issuer (as the PSP has the right to receive funds from the issuer). The transfer of funds from the issuer to the PSP is the collection of amounts in relation to a debt security. The PSP then has the obligation to settle the amount with the merchant, which is also a payment of an amount in relation to a debt security.
52. Any PSPs that do not have obligations to pay and receive amounts in relation to the payments process (or otherwise bear the risk of settlement) would not be making the relevant types of supplies involving debt securities.
53. In BNPL arrangements, the BNPL provider is also involved in making supplies relating to debt securities. Where the customer owes money to the BNPL provider, the customer has issued the BNPL provider with a debt security and the BNPL provider is collecting funds in relation to that debt security (although it may not necessarily provide that service to the merchant). The BNPL provider bears the risk of settlement with the merchants, as it takes on the risk that it may not collect the funds from the customer for the transaction.
54. Example | Tauira 1 illustrates a situation where a PSP is not providing financial services. Example | Tauira 2 and Example | Tauira 3 illustrate situations where a PSP is providing financial services.

Example | Tauira 1 – Services that are not financial services

PSP provides a bundle of payment processing services to merchants, including:

- payment gateway technology and other processing services;
- facilitating the exchange of information (such as whether the payment is authorised);
- administrative, compliance or reporting services; and
- marketing, advertising or promotional services.

PSP receives a service fee in consideration for these services.

PSP is not supplying financial services. The service fee is consideration for a taxable supply and is subject to GST.

Example | Tauira 2 – Services that are financial services

PSP decides to include settlement services as part of its bundle of services that it provides to merchants. In addition to the services it provided in Example | Tauira 1, PSP agrees with the merchants that it will bear the risk of settlement and ensure that the final exchange of payment is made.

PSP enters into agreements with an acquirer for the provision of settlement services. The acquirer is making supplies of financial services to PSP.

PSP is now making supplies of financial services to the merchants. This is because it is involved in making the decision to credit or debit accounts, issues and receives debt securities and collects and pays amounts relating to those debt securities (ie, PSP ensures that the final payment is made to the merchant and collects that payment from the issuer).

For the treatment of the other services provided, see Example | Tauira 4.

Example | Tauira 3 – BNPL services

PSP decides to offer a BNPL scheme to merchants and receives a service fee. As part of its BNPL service, PSP also provides administrative services and includes the merchants in its advertising and promotional materials.

Under the BNPL scheme, PSP agrees to pay the merchant for a customer's purchase of goods or services and then receives instalment payments from the customer over a 3-month period.

PSP collects payments in relation to a debt security issued by the customer.

To the extent that any payment to the merchant is not made immediately, the PSP is issuing a debt security to the merchant (and making payments in respect of that debt security). PSP is also providing a financial service to the merchant because it is making decisions to debit and credit accounts (ie, collecting and making payments).

Therefore, PSP is making supplies of financial services to the merchant (and also the customer).

For the treatment of other services provided, see Example | Tauira 4.

Agreeing or arranging financial services

55. Financial services also include agreeing or arranging to do any of the activities specified in para (a) to (ka) as financial services.²⁷ The GSTA does not define the words "agreeing" and "arranging". The *Concise Oxford English Dictionary* defines "agreeing" as "say that one will do something" and "arranging" as "organise or plan".
56. In *Databank* (HC), Davison CJ held that "arranging" means "cause to occur". This suggests the need for certainty that the financial services will take place. In the Privy Council, Lord Templeman indicated that "arranging" does not extend to steps that merely result in financial services taking place.
57. A Canadian case, *Canadian Imperial Bank of Commerce*, considered whether Visa's supply of services to a bank was a financial service.²⁸ The arrangement involved:
- the Cardholder, who uses the Visa credit card to pay for goods and services;
 - the Merchant, who accepts the Visa credit card as payment for goods and services;
 - the Issuer, who issues the Visa credit card to the cardholder, assigns credit to the cardholder and provides the lending services to the cardholder that arise from the cardholder's use of the Visa credit card;
 - the Acquirer, who enters into the agreement with the merchant under which the merchant agrees to accept Visa credit cards as payment for goods and services. The Acquirer effects payments to merchants; and
 - Visa, which develops, operates and manages the Visa Payment System.
58. This decision focused on the supply Visa made to the Issuer. The court characterised the service that Visa provided the Issuer as being the provision of a payment platform and facilitating payments on that platform between issuers, acquirers and merchants. The court decided that Visa did not transfer money but instead arranged the transfer, which was a financial service.²⁹
59. In *Mac's Convenience Stores*, the installation of an ATM in the taxpayer's stores did not amount to the taxpayer arranging a supply of financial services.³⁰ Similarly, UK decisions require a close link between the steps undertaken that are the "making of arrangements" and the supply of financial services. For example, many steps undertaken that may be essential to a supply of financial services, such as promotional,

²⁷ Section 3(1)(l).

²⁸ *Canadian Imperial Bank of Commerce v Her Majesty the Queen* 2018 TCC 109.

²⁹ However, there were exclusions for certain administrative services so ultimately the court concluded Visa's supplies were not exempt under the Canadian legislation.

³⁰ *Mac's Convenience Stores Inc v The Queen* [2012] TCC 393.

publicity and marketing activities, are not arranging the supply of the financial services.³¹

60. Therefore, agreeing or arranging financial services means organising or planning or causing financial services to occur. It is not sufficient that the activity is one that eventually results in a supply of a financial service. An activity that merely facilitates or makes it possible for another person to supply financial services or records the effect of financial services that another person supplies is not arranging a financial service.
61. As concluded above, some types of services PSPs provide are supplies of financial services. These include supplies of settlement services. PSPs may also provide other services that may be considered to involve planning or causing those types of financial services to occur. These include services relating to facilitating the exchange of information regarding authorisation. The authorisation process is an integral part of a payment transaction – without authorisation, the transaction (and payments relating to the debt securities issued) cannot proceed.
62. However, certain other services PSPs provide are not “arranging” the supply of financial services. Examples include providing a payment gateway facility, or any administrative, compliance, or reporting services or other services like providing foreign exchange, advertising and marketing.

Supplies that are reasonably incidental and necessary to the supply of financial services

63. Section 14(1)(a) also includes the supply of any other goods and services, by the supplier of the financial services, that are reasonably incidental and necessary to that supply of financial services. The *Concise Oxford English Dictionary* defines these terms as:

incidental ... occurring as a minor accompaniment; occurring by chance in connection with something else. ... (incidental to) liable to happen as a consequence of.

necessary required to be done, achieved, or present; needed ... inevitable

64. “Incidental” means to occur in connection with, or as a consequence of something else. The courts have considered that the meaning of “necessary” lies somewhere between “indispensable” and “useful” or “expedient”, such as “really needed”.³²
65. The use of both “incidental” and “necessary” indicates that the phrase is designed to determine two separate but related things:

³¹ *Dogbreeders Association v C&E Commissioners* [1989] VATTR 317.

³² *Re an Inquiry under the Company Securities (Insider Dealing) Act 1985* [1988] 1 All ER 203.

- the level of connection between the supply of goods and services and the supply of financial services; and
 - whether the supply of goods and services is essential to the supply of financial services.
66. "Reasonably incidental" means it is reasonable to expect the service to be provided in the course of undertaking a supply.³³ To be "reasonably necessary" to the supply of financial services, it would not be sufficient that the supply of other goods and services is desirable for the supply of financial services. There must be a degree of need for the other goods and services to be supplied with financial services.
67. In summary, for a service to be "reasonably incidental and necessary" to the provision of a financial service, the service must be:
- supplied by a person who also supplies financial services;
 - of a type that it is reasonable to expect the supplier to provide in the course of undertaking the supply of the financial service;
 - secondary to and dependent on the financial service as the primary service, and supplied together with or as a consequence of that financial service; and
 - seen from the surrounding circumstances to be needed or required for the supply of the financial service.
68. PSP services that are generally not financial services may come within s 14(1)(a) if they are "reasonably incidental and necessary" to a supply of any financial services made by the PSP. As set out earlier, the types of financial services that a PSP may provide broadly involve settlement services.
69. Where a PSP is providing financial services such as settlement services, then any payment processing facilities it provides (including a payment gateway and facilitating exchanges of information regarding authorisation services) that facilitate the payments are likely to be reasonably incidental and necessary to the settlement service. Therefore, they would be included as financial services as well.
70. Other services provided by that PSP, such as administrative, compliance, reporting, advertising, promotional and marketing services, are not reasonably incidental and necessary to the supplies of financial services.
71. A PSP that is not providing financial services (eg, one that provides only a payment gateway without being involved in settlement) will not provide other services that are reasonably incidental and necessary to financial services.

³³ *Databank, Williams and Glynn's Bank Ltd v Commissioners of Customs and Excise* (1974) 1 BVC 1,021; [1974] VATTR 262 and *Barclays Bank Plc v Commissioners of Customs and Excise* (1988) 3 BVC 692; [1988] VATTR 23.

72. Example | Tauira 4 illustrates a situation where a PSP provides reasonably incidental and necessary services.

Example | Tauira 4 – Reasonably incidental and necessary services

PSP's bundle of services provided to merchants in consideration for the service fee (from Example | Tauira 1 and Example | Tauira 2) include:

- settlement services;
- payment gateway technology and other processing services;
- facilitating the exchange of information regarding authorisation;
- administrative, compliance or reporting services; and
- marketing, advertising and promotional services.

PSP is providing financial services because it supplies settlement services.

While authorisation and payment processing services are not financial services on their own, they are financial services because:

- facilitating the exchange of information regarding authorisation are services relating to arranging other financial services (being the settlement services); and
- the payment gateway and processing services are reasonably incidental and necessary to the supplies of the settlement services.

However, any administrative, reporting, compliance, advertising and marketing services that the PSP supplies to the merchant are not reasonably incidental and necessary to the supplies of financial services, so are not treated as supplies of financial services.

Whether the supply of services is a single supply or multiple supplies

73. If a PSP is providing some financial services to merchants along with other services that are not financial services, it may need to consider whether it is providing a single supply of services or multiple supplies. If there is a single supply of services, then the dominant element of that supply determines the GST treatment. If there are multiple supplies, then the service fee will need to be apportioned for different GST treatment of the various supplies made.
74. Standard GST principles apply for determining how many supplies there are. For a detailed explanation, see [IS 18/04](#). In summary, to determine whether there is a single supply or multiple supplies, the following questions are relevant:

- What is the true and substantial nature of what is supplied to the recipient for the payment?
 - What is the relationship between the different goods or services supplied?
 - Is it reasonable to sever the supply into separate supplies?
75. The true and substantial nature of what the PSP supplies to the recipient is examined from the recipient's perspective. The fact that different parts of a supply could have been supplied separately does not mean those parts should be severed from the rest of the supply. Also, the fact that a single price is charged does not determine how many supplies are made.
76. Determining the relationships between the different goods or services supplied requires considering whether one part of the supply is either ancillary or incidental to, another part of the supply, or a necessary part of it. This includes considering whether part of the supply is an aim in itself, or whether it facilitates, contributes to or enables the supply of the dominant part. Also relevant is whether part of the supply is an optional extra and is not in any real or substantial sense part of the consideration for which the payment is made.
77. It is reasonable to sever a supply into separate supplies if a sufficient distinction exists between the different parts of the transaction. Determining this requires taking an overall view and looking for the essential purpose of the transaction rather than artificially splitting what, from an economic point of view, is a single supply.
78. Once the number of supplies is established through applying these principles it is necessary to determine whether the relevant supply or supplies satisfy the meaning of financial services, as set out above.
79. Example | Tauria 5 explains whether the supply of services is a single supply or multiple supplies.

Example | Tauria 5 – Supplies of services are multiple supplies

PSP provides the same bundle of services to merchants as in Example | Tauria 4 and receives a service fee from each merchant.

PSP is providing financial services because it supplies settlement services. Its payment gateway and processing services, and facilitating the exchange of information about authorisation services are also supplies of financial services. However, the administrative, reporting, compliance, advertising and marketing services that it provides are not supplies of financial services.

PSP now needs to determine whether it is making a single supply or multiple supplies of these services in return for the service fee paid by the merchants:

- The true and substantial nature of what is supplied to the merchants for the payment comprises the payment processing and settlement services. These are the primary services for which the merchants are engaging the PSP.
- The relationship between the different services supplied is that there are effectively three types of services – payment related; administrative related; and advertising and marketing.

Administrative, reporting and compliance services could be said to sufficiently relate to the payment services. The merchants require these services in relation to the other services they have also acquired. That is, receiving these services is not an aim in itself, but facilitates, contributes to or enables the supply of the payment services. These services are not an optional extra.

However, any advertising and marketing services that it supplies in addition to payment processing are not necessarily merely ancillary to the supply of payment services. Instead, these are an optional extra or an aim in itself. These types of supplies are considered to be separate supplies.

Therefore, PSP's service fee is consideration for two separate supplies and will require apportionment:

- The supplies of payment services are financial services that are exempt supplies (or zero-rated if conditions are met) and any administrative, compliance and reporting supplies are merely ancillary to or a necessary part of those other supplies (so also are treated as a single supply of payment services).
- The supplies of advertising and marketing services, while related, are not ancillary to or a necessary part of the payment services and are separate supplies. These supplies are taxable supplies for GST purposes.

Draft items produced by the Tax Counsel Office represent the preliminary, though considered, views of the Commissioner of Inland Revenue.

In draft form these items may not be relied on by taxation officers, taxpayers, or practitioners. Only finalised items represent authoritative statements by Inland Revenue of its stance on the particular issues covered.

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About this document | Mō tēnei tuhinga

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