
Payment of Legal and Other Related Expenses

DATE EFFECTIVE: 31 May 2016

1. Purpose

This procedure establishes guidelines for payment of legal and other related expenses (valuation fees, audit fees, investigative accountant fees, etc) that are incurred by the Bank or the client under Financial Restructuring (FR) instruction.

It applies to FR account managers and FR administration for all Rural, MAC, and Wholesale Banking FR accounts.

This procedure is **only applicable to FR Australia**.

1.1 Conditions

This applies to expenses incurred by FR on accounts that are:

- Under referral by FR (i.e. accounts rated Substandard or lower); and
- Are to be charged either to a client's account (facilities in Globus or T24) or to a specified cost centre.

Note: As the majority of FR related legal work does **not** qualify for a GST credit, the Bank has decided, as a matter of policy, to not assess each invoice separately but to arrange payment of the entire invoice (including GST) without any credit claim. The **only exception** to this is where there are large invoices related to litigation work (for which the Bank may be able to claim a reduced input tax credit - **RITC**, i.e. 75% of the GST) in which case, these invoices should be referred first to Group Tax to assess whether a RITC is available. See [Section 5](#) on how to code the payment to enable a RITC claim to be made.

The determination of whether a legal (or associated) cost is to be charged to the client's account is based on whether this cost is allowed to be passed on to the client under the Terms and Conditions of the loan contract. It is therefore expected that the majority of legal fees (eg recovery of the debt) would be charged to the client's account. This is the case notwithstanding that the Bank may not in fact recover the full legal debt and legal expenses from the client.

Legal (or associated) costs incurred by a receiver appointed to recover secured assets are also to be charged to the client's account. In addition, requests from a receiver for working capital funding to continue to operate a client's business as part of the strategy to sell down the security assets in order to repay debt should also be funded through drawdowns to the client's account.

The range of secured assets which a receiver may be pursuing can be wide and include real property, tangible balance sheet assets such as physical stock, plant and equipment, as well as claims for uncollected debtors and legal claims against insurance and warranty providers. (Any asset to which the client had a legal claim and which is now being pursued by the receiver). Legal (or associated) costs incurred in pursuit of all these assets should be charged to the client's account or receiver's overdraft account.

A receiver is entitled to be indemnified for its costs from the proceeds of asset sales. In some circumstances the receiver may retain some proceeds from asset sales to meet current or future costs of the receivership (as opposed to returning 100% of sales proceeds to the Bank and then seeking to redraw funds to meet current and future receivership costs). It is acceptable for the receiver to retain such funds to administer the receivership in the ordinary course of business as long as the receiver properly and fully accounts for the use of any asset sales proceeds.

Legal costs incurred by the Bank on FR files that do not directly relate to recovery of amounts due, such as legal fees in defending the Bank (or defending a Bank appointed adviser such as a receiver) in litigation, should be charged to the relevant Branch legal expenses cost centre, as these costs are not entitled to be passed on to the client under the loan contract. In some circumstances, the Bank is also required to pay its own costs in the Farm Debt Mediation process, with those costs to be charged to the relevant Branch legal expenses cost centre.

FR will make the determination of whether a cost is to be charged to the client's account or charged to the relevant branches legal expense cost centre and advise the branch accordingly.

2. Task List

There are three tasks to process a legal or related invoice.

Task	Description	Resp
<u>Approve Invoice</u>	Approve payment of all invoices received for legal or other advisory services.	FR Account Manager
<u>Process Invoice</u>	Arrange for invoice to be authorised, scanned, and recorded.	FR Finance Officer
<u>Send Invoice for payment</u>	Forward the authorised invoice to appropriate department for payment.	FR Finance Officer

3. Approve Invoice

The FR Account Manager actions this task to approve the invoice to enable payment of the invoice through the Branch or Accounts Payable.

Step	Action
1	On receipt of the invoice from the relevant lawyer or adviser, review the invoice to confirm it is in order for payment.
2	Approve the invoice, including details of payment within approval.
3	Forward the approved invoice to the FR Finance Officer whom will then forward the approved invoice to Branch for processing.

4. Process Invoice

The FR Finance Officer actions this task to arrange for the invoice to be properly authorised, scanned and recorded (in accordance with the Bank's delegated authority levels) to ensure payment can be made.

Step	Action
1	Arrange for appropriate authorisation of the invoice, based on the amount of the invoice and delegated authority levels within the FR Team. If required, arrange for Chief Risk Officer or CEO to sign the invoice.
2	Scan the invoice and retain a copy in the FR directory under the client file.
3	Record details of the invoice in the 'Legal and Enforcement EXP' spreadsheet, retained in the FR directory.
4	Save the electronic invoice and approval in the FR directory under the client record.

5. Forward Invoice for Payment

The FR Finance Officer actions this task to forward the invoice to the appropriate department for processing the payment.

Step	Action	
1	If the invoice is...	Then...
	To be paid through a charge to the client's account	<p>Rural clients: Send a copy of the scanned invoice, via email, with standard instruction to the Branch Account Manager for the client. This instruction requests the Branch Manager to arrange payment of the invoice against the client's Globus account.</p> <p>This is done via the CMS+ system for Rural clients, through a 'Request to Credit' submission, attaching a completed 'Drawdown and Settlement of New Loan or Loan Increase' form for Australia or a 'NZ Request for Payment' form for New Zealand, together with the FR authorisation. After approval from Settlements and Securities (SAS), the request is sent to Operations for payment.</p> <p>Refer CMS+ User Guide for information on submitting a work request.</p> <p>Note: This is not a SAM procedure.</p> <p>MAC or Wholesale clients: Send a copy of the invoice, together with a standard instruction for payment, to Business Banking and Corporate Loans Administration via their functional mailbox: fm.au.sydney.Business Banking and Corporate Loans Admin Send a copy of the email to the Account Manager in MAC or Wholesale Banking as appropriate.</p>
	To be paid through a charge to a specific cost centre	<p>Use the normal Accounts Payable procedure. This involves stamping the invoice with the Accounts Payable Invoice Coding stamp, completing account details, and arranging for invoice to be signed in accordance with the Bank's delegated authority requirements. The account coding is summarised below.</p> <p>For items that are not eligible for a RITC:</p> <ol style="list-style-type: none"> Select the relevant Business Unit (e.g. RBAL, RAL, etc) Select GST scenario 1 Complete the GL Chart Fields, e.g. Operating Unit, GL account, Product, etc State the GST-ex amount, the amount of GST, and the total including GST <p>For items that are eligible for a RITC:</p> <ol style="list-style-type: none"> Select the relevant Business Unit (e.g. RBAL, RAL, etc) Select GST scenario 2 Complete GL Chart Fields, e.g. Operating Unit, GL account, Product, etc State the GST-ex amount, the amount of GST, and the total including GST <p>Note: The Accounts Payable Procedure is not a FR procedure. Forward to Accounts Payable via internal mail for processing.</p>

6. Supplementary Information

6.1 Related Documents

Documents related to this procedure include:

- [Finance Control Policy and Procedure Manual](#)

6.2 Document Management

Owner:	Head of FR, Australia	Author:	Head of Business Mgmt Risk
Authoriser:	Head of FR, Australia	Next Review Date:	31 May 2018