



STANDARD INTER-ORGANISATION COMPENSATION RULES

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RULE 1 SCOPE AND EFFECT

- 1.1 These Rules establish the principles on which compensation is to be determined when a payment is:
- (a) processed through a Participating System; and
 - (b) (i) erroneously made to a person or account otherwise than as agreed; or
 (ii) made on a day other than the agreed value date.
- 1.2 These Rules apply to any Eligible Payment, regardless of:
- (a) its original source or ultimate destination, and whether foreign or domestic;
 - (b) whether it involves RTGS funds or non-RTGS funds; or
 - (c) the nature of the underlying transaction in connection with which the payment is made.
- 1.3 These Rules have effect:
- (a) through incorporation in the contract constituted by the rules for any Participating System;
 and
 - (b) as between the parties to that contract for the time being, in the manner provided.
- 1.4 The rights and obligations that arise between Eligible Members of a Participating System to receive or to pay, as the case requires, an amount of compensation in connection with an Eligible Payment, are owed to each other as principals, even if either or both of them has a settlement obligation to another person in relation to that Eligible Payment.

RULE 2 PRINCIPLES THAT APPLY TO COMPENSATION

2.1 These Rules:

- (a) allocate liability on a no-fault basis according to responsibility for loss;
- (b) recognise the value of liquidity, and that costs and risks (in addition to administrative expenses) are involved if an Eligible Member does not have the benefit of funds as agreed; and
- (c) aim to restore the non-erring Eligible Member, and any third party on whose behalf it settles a payment, to a position no worse than if the payment had been processed correctly.

2.2 Compensation is calculated:

- (a) by applying the interest rate paid by the Reserve Bank of Australia on overnight balances in Exchange Settlement Accounts as an appropriate basis for estimating the reasonable cost to the relevant Eligible Member of an erroneous payment;
- (b) with an adjustment to take account of enrichment on the part of the responsible Eligible Member, to the detriment of another Eligible Member; and
- (c) making provision for that non-erring Eligible Member to be reimbursed for reasonable administrative costs likely to be incurred by it as a result of a payment being processed incorrectly.

Compensation payable in any particular circumstance may, but will not necessarily, include each of these three components.

RULE 3 MINIMUM AMOUNT FOR CLAIMS

3.1 Except in the circumstances set out in this Rule 3, an Eligible Member may not claim compensation in an amount that (disregarding in each case the effect of any Administration Fee) is less than \$1000.

3.2 Where an Eligible Payment:

- (a) is required to be settled on a Real Time Gross Settlement basis, but is made in non-RTGS funds; or
- (b) is based on a request, by either the Sender or Receiver, for back valuation,

[sub paragraph (c) deleted effective 1 March 2002]

no Minimum Claim Amount applies.

3.3 A number of payments that:

- (a) are affected by the same incident; and
- (b) individually, may (but need not) be less than the Minimum Claim Amount, but
- (c) collectively, are at least equal to the Minimum Claim Amount,

may, at the option of the Eligible Member affected, be aggregated and treated as a single Eligible Payment for compensation purposes.

RULE 4 CLAIMS FOR COMPENSATION

- 4.1 A claim for compensation must:
- (a) provide full details in writing of the circumstances relating to the Eligible Payment on which the claim is based;
 - (b) be addressed to the Claims Contact nominated for the time being by the Eligible Member against which the claim is made; and
 - (c) be made within 90 days of the correct value date for the Eligible Payment to which the claim relates.
- 4.2 Subject to the Rules, liability on the part of an Eligible Member to pay compensation arises on receipt by it of a claim in accordance with the Rules.
- 4.3 No claim for compensation made in accordance with the Rules may be refused, except where such refusal can be justified on legally sustainable grounds.
- 4.4 If the parties to a claim for compensation cannot agree on any matter arising in connection with that claim, the dispute resolution provisions (if any) of the Participating System in which the claim arose will apply to resolution of that disagreement.
- 4.5 In these Rules, the Eligible Member that is a Sender or a Receiver of an Eligible Payment may be responsible for the relevant error in payment without necessarily having had any wrongful intent or itself been negligent.
- 4.6 Nothing in these Rules affects any other rights that a person may have under any agreement, at law or in equity.

RULE 5 COMPENSATION CALCULATIONS

5.1 Compensation ("C") is determined by applying the appropriate formula under these Rules, that in each case derives from the principle:

$$C = \frac{P \times (ESR \pm RE + Margin) \% \times D}{365} \pm AF$$

where:

P is the \$A amount of the Eligible Payment;

ESR is the ESA Interest Rate as shown on the RITS Information Facility, and represents the interest rate paid by the Reserve Bank of Australia on overnight balances in Exchange Settlement Accounts;

Last amended
effective 11/4/08

RE is a **Restitution Element** that is intended to take account of costs (other than costs of the type covered by the Administration Fee) and risks involved in reinstating a non-erring Eligible Member to a position no worse than if the Eligible Payment had been processed correctly. **RE** takes effect as an adjustment to the ESR of 50 basis points that:

- is added to the ESR when the Member liable to pay compensation is responsible for the error; and
- is subtracted from the ESR when the Member eligible to receive compensation is responsible for the error.

Margin is an additional adjustment that is made to the ESR only if compensation is payable to a non-erring Eligible Member that, as the result of the error, has not had the benefit of funds as expected. The **Margin** is set at the difference for the time being between the RBA's Overnight Repo Rate, as shown on the RITS Information Facility, and the **ESR**.

Last amended
effective 11/4/08

*(Note: The **Margin** recognises that liquidity shortfall may require that Member to borrow funds overnight, and takes account of the fact that overnight borrowings (by ESA holders) from the RBA are in the ordinary course set higher than the ESR.)*

D is the number of days in respect of which compensation is payable; and

AF or **Administration Fee** is a standard fee of \$300 that accrues to, and is intended to reimburse, the non-erring Eligible Member for its administrative costs in processing settlement and related account adjustments as a result of the error.

For the avoidance of doubt, if the daily ESR, RE or Margin varies during a period "D," compensation is to be calculated so as to take account of the prevailing rate from day to day during that period.

- 5.2 Terms defined in Rule 5.1 have the same meaning when used elsewhere in these Rules.
- 5.3 Each Compensation Adjustment may be reviewed periodically, as the rules of a Participating System require.
- 5.4 Recognising that some commonality of membership is likely across Participating Systems, any review of Compensation Adjustments contemplated by Rule 5.3 must, so far as possible, be carried out by the relevant review body with a view to minimising inconsistencies between, and facilitating efficiencies across, Participating Systems in relation to compensation practices and policies generally.

RULE 6 DELAYED PAYMENTS

Sender Error and Back Valuation

6.1 Where:

- (a) a Receiver receives a payment on a day later than the correct value date; and
- (b) the Sender:
 - (i) is responsible for the error; and
 - (ii) has had the benefit of the funds,

compensation in respect of that Eligible Payment is payable:

- (c) by the Sender to the Receiver; and
- (d) calculated as follows:

$$C = \frac{P \times (ESR + RE + \text{Margin}) \% \times D}{365} + AF$$

- (e) where the Sender requests the Receiver to back value the payment, the Receiver, upon receipt of compensation in accordance with the formula set out in Rule 6.1(d), must back value the payment and adjust the beneficiary's account as though the payment had been made on the correct value date, unless:
 - (i) the beneficiary instructs otherwise; or
 - (ii) there are legally sustainable grounds on which the Receiver is entitled to refuse to do so, and it is reasonable to invoke those grounds in the circumstances.

High Value Clearing System payments only

Inserted effective 30/04/07

6.1A For High Value Clearing System payments only, if:

- (a) a Receiver receives a payment on a day later than the correct value date because it does not participate in the Evening Settlement Session; and
- (b) the Sender is not responsible for an error (so that no compensation is payable pursuant to Rule 6.1) but has had the benefit of the funds;

then compensation in respect of that Eligible Payment is payable by the Sender to the Receiver, calculated as follows:

$$C = \frac{P \times (ESR)\% \times D}{365}$$

(Note: For the avoidance of doubt, a Sender is not responsible for an error if the *only* reason for the late payment is that the Receiver does not participate in the Evening Settlement Session.)

Receiver Error

6.2 Where:

- (a) a Receiver receives a payment on a day later than the correct value date; and
- (b)
 - (i) the Receiver is responsible for the error; but
 - (ii) the Sender has had the benefit of the funds,

compensation in respect of that Eligible Payment is payable:

- (c) by the Sender to the Receiver; and
- (d) calculated as follows:

$$C = \frac{P \times (ESR - RE)\% \times D}{365} - AF$$

(Note: This situation is most likely to happen in a 2 sided or DvP settlement system involving obligations to be discharged on settlement by both Member counterparties to a transaction.)

RULE 7 EARLY PAYMENTS

Sender Error

7.1 Where:

- (a) a Receiver receives a payment on a day earlier than the correct value date;
- (b) the Sender is responsible for the error; and
- (c) the Receiver has had the benefit of the funds,

compensation in respect of that Eligible Payment is payable:

- (d) by the Receiver to the Sender; and
- (e) calculated as follows:

$$C = \frac{P \times (ESR-RE)\% \times D}{365} - AF$$

Forward Valuation

7.2 Where:

- (a) the circumstances set out in Rule 7.1 apply;
- (b) the payment is made for the benefit of a third party beneficiary; and
- (c) the Sender requests the Receiver to forward value the payment,

the Receiver must:

- (d) upon receipt of compensation in accordance with Rule 7.1, forward value the payment and adjust the beneficiary's account as though the payment was made on the correct value day, unless:
 - (i) the beneficiary instructs otherwise; or
 - (ii) there are legally sustainable grounds on which the Receiver is entitled to refuse to do so and it is reasonable to invoke those grounds in the circumstances.

RULE 8 INCORRECT PAYMENTS

Sender Error

8.1 Where:

- (a) a Sender makes a payment in error; and
- (b) the Receiver:
 - (i) returns the payment on a day other than the day of receipt; but
 - (ii) has had the benefit of the funds,

compensation in respect of that Eligible Payment is payable:

- (c) by the Receiver to the Sender; and
- (d) calculated as follows:

$$C = \frac{P \times (ESR - RE)\% \times D}{365} - AF$$

Sender Error- Receiver Unable to Apply

8.2 Where:

- (a) a Sender makes a payment in error; and
- (b) the Receiver:
 - (i) cannot apply the payment;
 - (ii) has had the benefit of the funds; and
 - (iii) returns the payment within any period specified by the rules for the Participating System,

compensation in respect of that Eligible Payment is payable:

- (c) by the Receiver to the Sender; and
- (d) calculated as follows:

$$C = \frac{P \times (ESR - RE)\% \times D}{365} - AF$$

(Note: In the High Value Clearing System (HVCS) the Receiver has an obligation, if the funds are not able to be returned the same day, to return funds within 4 hours after commencement of the next business day's daily settlement session)

Incorrect Payment Returned Out Of Time

8.3 Where:

- (a) the circumstances in Rule 8.2 apply; but
- (b) the Receiver fails to return the funds within the period specified by the rules for the relevant Participating System,

compensation in relation to the Eligible Payment is payable by the Receiver, calculated as follows:

$$C = \frac{P \times \text{ESR} \% \times D}{365} - \text{AF}$$

(Note: The policy underlying Rule 8.3 is that where the Receiver has been responsible for the Sender not having had the benefit of funds for a period longer than that contemplated by the rules for a Participating System, the ESR approximates most closely to, and is the appropriate measure of, the Sender's loss.)

Payment Rejected in Error by Receiver

8.4 Where:

- (a) a Receiver is responsible for a payment being delayed, by having erroneously rejected the payment and returned it to the Sender;
- (b) the Sender:
 - (i) has had the benefit of the funds; and
 - (ii) makes the payment on a day later than the correct value date as a result of the error referred to in Rule 8.4(a);

compensation in respect of that Eligible Payment is payable:

- (c) by the Sender to the Receiver; and
- (d) calculated as follows:

$$C = \frac{P \times (\text{ESR} - \text{RE})\% \times D}{365} - \text{AF}$$

[Rule 8.5, Correct Eligible Member but Incorrect Beneficiary/Account Details deleted effective 1 March 2002]

RULE 9 NON-RTGS FUNDS

9.1 Where a Sender:

- (a) makes a payment in non-RTGS funds when a payment in RTGS funds is required;
- (b) is responsible for the error; and
- (c) has had the benefit of RTGS funds,

the Receiver is entitled to compensation in an amount calculated as follows:

$$C = \frac{P \times (RE + \text{Margin})\% \times D}{365} + AF$$

RULE 10 EXCHANGE TOTAL ERRORS

10.1 Where:

- (a) the clearing and settlement cycle in a Participating System operates on a multilateral net deferred basis;
- (b) an adjustment is required to be made to the daily totals of any exchanges between Eligible Members as a result of an error;
- (c) any such Member has, as the result of the error, had the benefit of the funds,

compensation is payable:

- (d) by the Member so enriched in accordance with the rules of the Participating System; and
- (e) calculated as follows:

$$C = \frac{P \times \text{ESR}\% \times D}{365} \pm \text{AF}$$

- (f) the Administration Fee will be:
 - (i) added to the compensation amount calculated under (e), if compensation is payable by the Member responsible for the error; and
 - (ii) subtracted from the compensation calculated under (e), if compensation is payable by the non-erring Member.

RULE 11 DEFINITIONS AND INTERPRETATION

Definitions

11.1 The following terms have these meanings in these Rules, unless the contrary intention appears.

"**Administration Fee**" has the meaning given in Rule 5.

"**Claims Contact**" in relation to any Eligible Member, means the contact person for compensation claims for the time being notified under, or specified in, the rules for the particular Participating System or, if none, the contact person nominated by the Eligible Member direct to any other Eligible Member, for the purposes of a compensation claim arising between them.

"**Compensation Adjustment**" means:

- (a) the Restitution Element;
- (b) the Margin; or
- (c) the Administration Fee.

"**Eligible Member**" means a Member which, under and subject to the rules of a Participating System, must comply with, and as a consequence is eligible to acquire rights or assume obligations under, these Rules.

"**Eligible Payment**" means a payment of the kind described in Rule 1.1.

"**Exchange Settlement Account**" means an exchange settlement account or similar account maintained at the Reserve Bank of Australia to achieve finality of settlement by means of a transfer of central bank funds.

"**ESR**" has the meaning given in Rule 5.

"**Margin**" has the meaning given in Rule 5.

"**Member**" means a participating member for the time being of a Participating System.

"**Minimum Claim Amount**" means the minimum dollar amount for compensation that is specified in Rule 3.1.

"**Participating System**" means a clearing and settlement system that adopts these Rules with binding effect.

"Real Time Gross Settlement" means in respect of the settlement of payment obligations in any particular settlement system, the processing and settlement of those payment obligations in that system in real time and on a gross (not net) basis.

"Receiver" means, in relation to any Eligible Payment, the Eligible Member:

- (a) to which the payment is sent by the Sender; and
- (b) that has the obligation to settle directly for it.

(Note: In Participating Systems that involve direct settlers that clear directly and direct settlers that clear through a representative, compensation rights and obligations will in general arise as between the direct settlers that have the respective settlement obligations in relation to the Eligible Payment in question.)

"Restitution Element" has the meaning given in Rule 5.

"RTGS" means Real Time Gross Settlement.

"Rules" means these rules for use in connection with compensation practices and procedures in Participating Systems, as amended or replaced from time to time.

"Sender" means, in relation to any Eligible Payment, the Eligible Member that:

- (a) sends the payment to the Receiver; and
- (b) that has the obligation to settle directly for it.

(Note: In Participating Systems that involve direct settlers that clear directly and direct settlers that clear through a representative, compensation rights and obligations will in general arise as between the direct settlers that have the respective settlement obligations in relation to the Eligible Payment in question.)

Interpretation

11.2 In these Rules:

- (a) words importing any one gender include the other gender;
- (b) the word person includes a firm, a body corporate, an unincorporated association or an authority;

- (c) the singular includes the plural and vice versa;
- (d) words defined in the Corporations Law have, unless the contrary intention appears, the same meaning; and
- (e) headings are inserted for convenience and do not affect interpretation.

- END-