



**Australian Government**

**Insolvency and Trustee Service Australia**

## **Official Receiver's Practice Statement**

### **When does the Debt Agreement Proposal Lodgement Fee apply?**

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If you have any comments, suggestions or queries on a matter referred to in this Practice Statement, please contact us at any time by [email](#) or by mail addressed to:

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## **1 PURPOSE**

- 1.1 To provide guidance on when the Debt Agreement Proposal lodgement fee applies.
- 1.2 To provide guidance on when a proposal that has not been accepted for sending to creditors for their vote can be resubmitted without incurring an additional Debt Agreement Proposal lodgement fee. See also practice statement about [when a debt agreement proposal is acceptable](#) for sending to creditors for their vote.

## **2 BACKGROUND**

- 2.1 When a debt agreement proposal is lodged, compliance checks are undertaken to ensure that the debtor is eligible to make a debt agreement.
- 2.2 Where a debtor is eligible to make a debt agreement, additional compliance checks are completed to satisfy the Official Receiver that the debt agreement proposal complies with legislative requirements.
- 2.3 Where a debtor is eligible to make a debt agreement and the proposal complies with legislative requirements the Official Receiver sends the proposal to creditors for voting.
- 2.4 Where a debtor is not eligible to make a debt agreement or the debt agreement proposal does not comply with legislative requirements the proposal is not accepted to send to creditors and the debtor is advised.
- 2.5 Where a debtor is eligible to make a debt agreement but the proposal does not comply with legislative requirements it may be possible to amend the proposal so that it complies with legislative requirements and to resubmit the proposal.

## **3 PRACTICE**

### **When the debt agreement proposal lodgement fee applies**

- 3.1 When a debt agreement proposal is lodged with the Official Receiver, the debt agreement proposal lodgement fee will apply.
- 3.2 Where a debt agreement proposal is not accepted by the Official Receiver to send to creditors, it will be determined at the time whether the proposal may be resubmitted for no additional lodgement fee - on the basis that the resubmitted proposal is accepted by the Official Receiver to send to creditors.
- 3.3 Where a resubmitted proposal is not accepted for any reason by the Official Receiver to send to creditors the debt agreement proposal lodgement fee will apply.
- 3.4 Where acceptance of a debt agreement proposal (the first proposal) by creditors is conditional on the acceptance of another proposal (the second proposal), the first proposal may be resubmitted for no additional lodgement fee if the second proposal is not accepted by the Official Receiver to send to creditors.
- 3.5 Subject to 3.3 a debt agreement proposal may be resubmitted for no additional lodgement fee where the proposal is not accepted by the Official Receiver because of a minor defect in the documents lodged.

- 3.6 For the purposes of 3.5, examples of minor defects include an inconsistency in personal details between the documents, an incomplete question on the documents or a calculation error in the expected end date, date of first dividend, budget item, fees, dividends or realisations charge.
- 3.7 Where the proposal is not accepted by the Official Receiver for a reason other than a minor defect in the documents, a debtor may resubmit the proposal with the Official Receiver and the debt agreement proposal lodgement fee will apply.
- 3.8 For the purposes of 3.7, examples of circumstances where a debtor may resubmit a proposal with the Official Receiver include situations where certification issues are identified; where there are several clerical and/or calculation errors in the documents; or there are anomalies or inconsistencies relating to the signing and/or dating of proposals.
- 3.9 Where it is determined that a debt agreement proposal may be resubmitted for no additional lodgement fee, the proposal must be resubmitted within thirty (30) days of the date that the Official Receiver advises that the proposal as previously lodged has not been accepted to send to creditors.

### **Payment methods**

- 3.10 Payment of the debt agreement proposal lodgement fee can be made by cash, cheque, money order or credit card either by post, or in person at any ITSA office.
- 3.11 Registered Debt Agreement Administrators may choose to have an account with ITSA and to have the fee for debt agreement proposals lodged by them invoiced on a regular basis.
- 3.12 Accounts are required to be paid in full by the due date.
- 3.13 The Bankruptcy Act and Regulations make no provision for refunds or remission of the debt agreement proposal lodgement fee. Any disputes regarding the issued invoice will need to be raised with the Official Receiver who will decide whether the dispute has merit and if so, this will be resolved on a subsequent invoice through the issuing of a credit note.
- 3.14 Where a Registered Debt Agreement Administrator chooses not to have an account with ITSA, they will need to make alternative arrangements with the debtor to ensure that the lodgement fee is paid prior to or at the time the proposal is lodged with the Official Receiver.
- 3.15 Unregistered debt agreement administrators or debtors who wish to administer their own agreement, will need to pay the fee prior to or at the time the proposal is lodged with the Official Receiver.

## **4 REFERENCES**

Bankruptcy Act 1966: s316(1)(b)(v)

Bankruptcy Regulations 1996: r16.06