Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2013


Dated: 18 September 2013

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Minister for Finance

Archived
Reader’s Guide

This Guide is for the assistance of the reader and does not form part of the Delegation. It also provides some information about the way the Delegation is organised.

The purpose of the Delegation is to enable Chief Executives to make routine decisions in relation to the operations of their agencies.

Main changes in the Delegation

The delegated powers are the same as the previous Delegation made by the former Finance Minister, Senator the Hon Penny Wong, in an instrument dated 18 November 2010.

Commencement and transitional arrangements

Existing Chief Executive Delegations

This Delegation commences on signature (clause 2). On that date, the previous Delegation by the Finance Minister to Chief Executives is revoked (clause 3(1)).

Many Chief Executives will have delegated some of the powers delegated to Chief Executives by the previous Finance Minister’s Delegations. Clause 3(2) preserves the operation of those earlier Chief Executive’s Delegations, as if they had been made under and in conformity with this Delegation.

This means that an old delegation made by a Chief Executive to officials in his or her agency will continue to have effect, as if made under this Delegation, until 31 January 2014.

Chief Executives will need to issue new delegations before 31 January 2014.

Determinations made under Part 2 Schedule 1 paragraph 1.7

Clause 3(2) also preserves the operation of determinations made by the former Finance Minister under Part 2, Schedule 2, paragraph 1.7 of the Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010 (as amended), as if they had been made under and in conformity with this Delegation.
Summary of the Delegation

Part 1 **Preliminary:** This Part deals with the commencement of the Delegation to Chief Executives and the revocation and savings of the previous Chief Executives Delegation. This Part also defines key terms used throughout the Delegation.

Part 2 **Delegations and directions under section 62 of the Act:** This Part relies on section 62 of the FMA Act which enables the Finance Minister to delegate to an official any of the Finance Minister’s powers or functions under the FMA Act (except the power to make Orders).

Part 3 **Delegations and directions under Regulation 24:** This Part relies on regulation 24 of the FMA Regulations which enables the Finance Minister to delegate to an official powers or functions of the Finance Minister under the FMA Regulations. This Part also enables Chief Executives to further subdelegate powers in relation to Regulation 10.

Schedule 1 Delegations under the FMA Act

Parts 1 - 3 **Delegation under section 8 – Agreements with banks about receipt, transmission etc of public money:** These Parts delegate to Chief Executives the power to enter into agreements with banks for the receipt, custody, payment or transmission of public money within Australia (Parts 1 and 2) or outside Australia (Part 3).

Parts 4 - 6 **Delegation under section 9 – Official bank accounts:** These Parts delegate to Chief Executives the ability to open and maintain official bank accounts within Australia (Parts 4 and 5) or outside Australia (Part 6) in accordance with agreements under section 8 of the Act.

Part 7 **Delegation under section 12 – Receipt and custody of public money by outsiders:** This Part delegates to Chief Executives the power to authorise an agreement or arrangement for the receipt, custody or payment of public money by an outsider.

Parts 8 – 9 **Delegation under subsection 27 – Drawing rights:** These Parts delegate to Chief Executives the power to issue (Part 8), revoke or amend (Part 9) drawing rights in respect of appropriations for which the Chief Executive is responsible.

Parts 10 – 11 **Delegation under subsection 34(1)(a) – Debt waiver:** These Parts delegate to the Chief Executives of Australian Securities and Investments Commission and Comcare the power to waive the Commonwealth’s right to payment of a debt.

Parts 12 – 13 **Delegation under subsection 34(1)(c)&(d) – Debt waiver:** These Parts delegate to Chief Executives the discretion to allow payment by instalments of debt owing to the Commonwealth (Part 12) and to defer the time for the payment of the debt (Part 13).
Part 14 Delegation under subsection 38(1) – Finance Minister may borrow for short periods: This Part delegates to the Chief Executive of the Department of Foreign Affairs and Trade the power to, on behalf of the Commonwealth, enter into agreements for the provision of overdraft facilities with overseas banks, where the agreements require the money to be repaid within 90 days.

Part 15 Delegation under subsection 38(2) – Entering into agreements for the issue to, and use by, the Commonwealth of credit cards or credit vouchers: This Part delegates to Chief Executives the power to, on behalf of the Commonwealth, enter into agreements in accordance with the FMA Regulations, for borrowing money from banks or other persons, where the agreements require the money to be repaid within 60 days after the Commonwealth is notified by the lender of the amount borrowed. It relates only to credit cards and vouchers.

Part 16 Delegation under section 39 – Investment of public money: This Part delegates to some Chief Executives the power to invest public money in an authorised investment on behalf of the Commonwealth or to authorise the reinvestment upon maturity of the proceeds of an authorised investment.

Part 17 Delegation under subsection 43(b) – Gifts of public property: This Part delegates to Chief Executives the power to approve gifts of public property.

Schedule 2 Delegations under the Regulations

Part 1 Delegation under Regulation 10 – Arrangements beyond available appropriation: This Part delegates to Chief Executives the power to agree to expenditure that might become payable under an agreement where there is insufficient appropriation.

Part 2 Delegation under Regulation 30 – Finance Minister may approve payments pending probate etc: This Part delegates to Chief Executives the power to authorise the payment to the person who the delegate considers should receive the payment, of an amount which, at the time of a person’s death, the Commonwealth owed to the person.
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Part 1 Preliminary

1 Name of Delegation
This Delegation is the *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2013*.

2 Commencement
This Delegation commences upon signature.

3 Revocation and savings
(1) The following instruments are revoked:
   (a) *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010*;
   (b) *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010 – Amendment No. 1 2011*;
   (c) *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010 – Amendment No. 1 2012*;
   (d) *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010 – Amendment No. 2 2012*;
   (e) *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010 – Amendment No. 3 2012*;
   (f) *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010 – Amendment No. 1 2013*;
   (g) *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010 – Amendment No. 2 2013*; and
   (h) *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010 – Amendment No. 3 2013*.

(2) Despite item 3(1), until 31 January 2014, any action, including the making of a Delegation, done in reliance on and in conformity with the instruments listed in item 3(1):
   (a) continues to have effect; and
   (b) may continue to be taken,

and such action has effect as if it had been taken under and in conformity with the corresponding provision or group of provisions of this instrument.

Note: An amendment that revokes a particular provision in this Delegation does not invalidate a power or function exercised, or a document issued, by the delegate before that provision was revoked.

4 Definitions
In this Delegation, unless otherwise stated, the following definitions apply.

*Act* means the *Financial Management and Accountability Act 1997*, as in force from time to time.
administered item, in relation to an Agency, means the following:
(a) in relation to an annual Appropriation Act or an annual Appropriation (Parliamentary Departments) Act or proposed law before Parliament, an item specified as:
   (i) an administered item; or
   (ii) a State, ACT, NT and local government item; or
   (iii) an administered assets and liabilities item for the Agency; or
   (iv) a CAC Act body payment item for a CAC Act body; or
(b) a special appropriation item as appropriated under a specific Act of Parliament for a specific purpose; or
(c) a Special Account that deals with amounts that are accounted for as ‘administered’; or
(d) each amount in the forward estimates classified as administered.

appropriation means an appropriation as defined in section 5 of the Act.

CAC Act body payment item means the total amount set out in Schedule 1 under the heading ‘Administered Expenses’ in an Appropriation Act, in relation to a Commonwealth Authorities and Companies Act 1997 body.

Chief Executive means the Chief Executive of an Agency.

Note: Delegations may be made to a class of offices or positions including offices or positions in that class which are created after the Delegation is made (see Acts Interpretation Act 1901, section 34AA).

departmental item, in relation to an Agency, means any of the following:
(a) an item set out as a departmental item for the Agency in an annual Appropriation Act, an annual Appropriation (Parliamentary Departments) Act or a proposed law before the Parliament; or
(b) an item set out as an ‘other departmental item’ for the Agency in an annual Appropriation Act, an annual Appropriation (Parliamentary Departments) Act or a proposed law before the Parliament; or
(c) a Special Account that deals with amounts that are accounted for as ‘departmental’; or
(d) each amount in the forward estimates classified as departmental.

determination of the Finance Minister means a determination, in writing, made by the Finance Minister for the purposes of this Delegation.

Finance Chief Executive means the Secretary of the Department of Finance.

forward estimates means:
(a) before the Mid Year Economic and Fiscal Outlook, the validated estimates of expenses recorded in the central budget management system maintained by the Department of Finance for the 3 year period commencing at the beginning of the next Budget year; or
(b) after the Mid Year Economic and Fiscal Outlook, the validated estimates of expenses recorded in the central budget management system maintained by the Department of Finance for the 4 year period commencing at the beginning of the next Budget year; or
(c) estimates of expenses agreed to by the Department of Finance, in the absence of validated estimates in the central budget management system.
Non-Finance Chief Executive means the Chief Executive of each Agency, except the Finance Secretary, and includes offices of Chief Executive created after this Delegation is made.

Note: Delegations may be made to a class of offices or positions, including offices or positions in that class which are created after the Delegation is made (see Acts Interpretation Act 1901, section 34AA).

RBA-Central Bank means the Reserve Bank of Australia.

Regulations means the Financial Management and Accountability Regulations 1997, as amended from time to time.

responsible Minister, in relation to an Agency, means the Minister responsible for that Agency or the Minister responsible for that function within that Agency.

uncommitted appropriation, in relation to an administered or a departmental item, means that part of the appropriation that remains after:

(a) adding any revenues to the appropriation that will increase the appropriation in the future, that are:

(i) yet to be received in the relevant financial year; and

(ii) published in Portfolio Budget Statements, Portfolio Additional Estimates Statements or Portfolio Supplementary Estimates for the relevant financial year; and

(iii) recognised receipts under regulation 15 of the Regulations or a recognised credit for the Special Account; and

(b) deducting from the appropriation the following:

(i) liabilities, as defined by the applicable Australian Accounting Standards, as amended from time to time, in relation to the item over the period covered by the appropriation; and

(ii) commitments, as defined in the applicable Finance Minister’s Orders which set out the requirements and guidance for the preparation of Financial Statements of Australian Government entities, as amended from time to time, in relation to the item over the period covered by the appropriation; and

(iii) the costs of other obligations the Agency will reasonably expect to incur in the ordinary course of business which are attributable to the item over the period covered by the appropriation (for example, staffing costs).

uncommitted forward estimates, in relation to an administered or a departmental item, means that part of the forward estimates that remains after deducting from the forward estimates the following:

(a) liabilities, as defined by the applicable Australian Accounting Standards, as amended from time to time, in relation to the item over the period covered by the forward estimates; and

(b) commitments, as defined in the applicable Finance Minister’s Orders which set out the requirements and guidance for the preparation of Financial Statements of Australian Government entities, as amended from time to time, in relation to the item over the period covered by the forward estimates; and
(c) the costs of other obligations the Agency will reasonably expect to incur in the ordinary course of business which are attributable to the item over the period covered by the forward estimates (for example, staffing costs).

*Note*: Unless the contrary intention appears, expressions used in this Delegation have the same meanings as in the Act (see *Acts Interpretation Act 1901*, subsection 46 (1) (b)).
Part 2 Delegations and directions under section 62 of the Act

5 Delegations (section 62 of the Act)
   (1) Delegations under Schedule 1 are made under subsection 62(1) of the Act.
   (2) The delegates for the purposes of subsection 62(1) of the Act are the persons for the time being holding, occupying or performing the duties of the positions specified in row 3 of a table in Schedule 1.
   (3) The delegates are delegated the function or power of the Finance Minister under the provision of the Act mentioned in row 1 of the relevant table.

6 Directions (section 62 of the Act)
   (1) Directions in Schedule 1 are made under subsection 62(2) of the Act.
   (2) Each delegation in Schedule 1 is subject to the directions contained in Division 2 of the relevant Part of Schedule 1.
7 Delegations (Regulation 24)

(1) Delegations in Schedule 2 are made under subregulation 24 (1) of the Regulations.

(2) The delegates for the purposes of subregulations 24 (1) of the Regulations are the persons for the time being holding, occupying or performing the duties of the positions specified in row 3 of a table in Schedule 2.

(3) Each delegate is delegated, in relation to the delegate’s Agency, the function or power of the Finance Minister under the provision of the Regulations mentioned in row 1 of the relevant table.

Power to make a further delegation under Regulation 10

(4) Each delegate is delegated, under subregulation 24(2), the power to delegate the function or power of the Finance Minister under the provision of the Regulations mentioned in row 1 of the table in Part 1 of Schedule 2.

Note: Regulation 24(2) allows the Finance Minister to delegate the power of delegation (i.e., to allow for ‘subdelegation’) in relation to the Finance Minister’s powers or functions under FMA Regulations 9 and 10. The subdelegation power given above applies to FMA regulation 10. That is, the Finance Minister has delegated to Chief Executives the Finance Minister’s own power of delegation regarding regulation 10.

8 Directions (Regulation 24)

(1) Directions in Schedule 2 are made under subregulation 24 (3) of the Regulations.

(2) Each delegation in Schedule 2 is subject to the directions contained in Division 2 of the relevant Part of Schedule 2.
Schedule 1 Delegations under the Act

Part 1 Delegation under section 8 of the Act – Agreements with banks about receipt, transmission etc. of public money (other than the Future Fund Management Agency)

Division 1 Delegation

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Division 2 Directions

1.1 Scope of delegation

This delegation applies in relation to bank accounts that are to be opened and maintained in Australia.

1.2 Requirements for agreements relating to accounts maintained in Australia

The delegate must ensure that agreements relating to accounts opened and maintained in Australia require the Commonwealth and the bank to comply with the following:

(a) the core protocols for transactional banking services set out in this Part; and

(b) the following documents issued by the Department of Finance as in force at the time of the commencement of this instrument:

   (i) *Agency Banking Framework – Guidance Manual*;

   (ii) *Instructions for Agencies*; and

   (iii) *Instructions for Transactional Bankers*.
1.3 Definitions

In this Part, unless otherwise stated, the following definitions apply.

**0900 settlement session** means the settlement session conducted by the RBA-Central Bank after the close of the morning settlement session and before the opening of the daily settlement session.

**administered payments** means payments made from administered items by an Agency on behalf of the Commonwealth.

**administered payments account** means an official account opened and maintained at a bank for the purpose of making administered payments.

**administered receipts** means receipts that are collected by an Agency on behalf of the Commonwealth.

*Example*: An example of an administered receipt is taxation revenue.

**administered receipts account** means an official account opened and maintained at a bank for the purpose of banking administered receipts received by an Agency.

**banking day** means a day that is not a Saturday, Sunday or nation-wide public holiday.

**cheque** means a written order from one party (the *drawer*) to another (the *drawee*, normally a bank) requesting the drawee to pay a specified sum on demand to the payee or to a third party specified by the payee.

**daily settlement session** means the main RTGS settlement session that commences shortly after the close of the 0900 settlement session.

**departmental payments** means payments made from departmental items by an Agency in providing the Agency’s service requirements and designated outputs.

**departmental receipts** means receipts that are collected by an Agency for the purpose of providing the Agency’s service requirements and designated outcomes.

**departmental receipts and payments account** means an official account opened and maintained at a bank for the purpose of collecting departmental receipts and making departmental payments.

**direct entry** means the exchange of electronic transaction files between institutions in time to allow the crediting of recipients’ accounts at the time required by an Agency and the debiting of the Agency’s account on that day.

**Exchange Settlement Account** means an Exchange Settlement Account held at the RBA-Central Bank for the settlement of transactions.

**exempt SPM account** means an official bank account:

(a) that is designated as an exempt Special Public Money (SPM) account by the Chief Executive of an Agency or his or her delegate; and

(b) that is established for the receipt, custody, payment or transmission of public money held by the Commonwealth as special public money; and

(c) for which the Commonwealth:

(i) is required to operate a bank account separate from other public money held by the Agency’s transactional banker; and

...
(ii) is required to retain the balance of the account outside the Commonwealth's Official Public Account Group; and
(iii) may be required to invest the balance of the account outside the Commonwealth's Official Public Account Group.

Note: For exempt SPM accounts that require moneys to be invested, investment powers may need to be sought from the Finance Minister under section 39 of the Act.

**issue date** means the day that a cheque is dated.

**morning settlement session** means the RTGS settlement session conducted at the start of each banking day.

**payment date**, in relation to a transaction, means the date under which the Agency requires the payment to be credited to the account of the recipient.

**Real Time Gross Settlement** or **RTGS** means Australia's gross settlement system for banks, in which processing and settlement of transactions takes place in real time (continuously).

**reporting day**, in relation to a banking day, means the period from the start of the daily settlement session on the banking day to the completion of transaction processing, clearance and settlement of payments in the banking system in respect of that day at the end of the 0900 settlement session on the following banking day.

**SPM account** means an official bank account, designated as a SPM account by the Chief Executive of the Agency or his or her delegate, that:
(a) is established for the receipt, custody, payment or transmission of public money held by the Commonwealth as SPM; and
(b) is not designated as an exempt SPM account by the Chief Executive of the Agency or his or her delegate.

**Core protocols for transactional banking services**

1.4 **Account structure**

(1) If an Agency receives administered receipts, it must open and maintain at least one administered receipts account.

(2) If an Agency makes administered payments, it must open and maintain at least one administered payments account.

(3) If an Agency receives departmental receipts, or makes departmental payments, it must open and maintain at least one departmental receipts and payments account.

(4) An Agency may, in accordance with the relevant authorising documentation, open and maintain one or more of the following:
(a) an official SPM account; or
(b) an official exempt SPM account.

(5) In all cases, an Agency must follow the additional arrangements relating to account structure that are set out in the *Agency Banking Framework – Guidance Manual*. 

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Financial Management and Accountability

*(Finance Minister to Chief Executives) Delegation 2013*
1.5 **Group set-off**

The balances of all official accounts, other than administered receipts accounts and exempt SPM accounts, held by the Agency at a bank must be included by the bank on a daily basis with those of all other Agencies under a group set-off arrangement.

1.6 **Transfer of administered receipts**

(1) The delegate must ensure that the requirements in subdivision 1.6 are complied with.

*Receipts collected through RTGS*

(2) Administered receipts collected via the RTGS system on a given banking day, must be transferred from the Exchange Settlement Account of the transactional banker to the Exchange Settlement Account of the RBA-Central Bank via RTGS prior to the conclusion of RTGS on that banking day.

*Receipts collected through other payment streams*

(3) In the 0900 settlement session at the end of a reporting day, funds equivalent to the aggregate balance of all administered receipts accounts held by Agencies at a bank for the given banking day, must be transferred from the Exchange Settlement Account of the transactional bank to the Exchange Settlement Account of the RBA-Central Bank.

(4) If a technical problem prevents the bank from advising the amounts to be transferred in respect of paragraph 1.6 (3) by the specified time (see subparagraph 1.12 (1) (a)), the contingency arrangements specified in the *Instructions for Transactional Bankers* must be followed.

(5) The Agency must ensure that a debit transaction to an administered receipts account is permitted only if:

(a) receipts are transferred to the Commonwealth under paragraph 1.6 (2) or (3); or

(b) receipts initially deposited into an administered receipts account are transferred to another administered receipts account before the end of the banking day on which they are deposited; or

(c) if receipts that are initially deposited into an administered receipts account are, before the end of the banking day on which they are deposited, identified as departmental receipts – the receipts are transferred to a departmental receipts and payments account; or

(d) receipts that have been banked in the administered receipts account are dishonoured; or

(e) receipts that have been banked in an administered receipts account through a payments clearing arrangement (e.g. direct entry or RTGS payments), a merchant facility (e.g. for EFTPOS or scheme-based card payments), or a receipting facility (e.g. Bpay or AP Billpay) are reversed or adjusted in accordance with standard banking industry or receipting...
facility practice (e.g. as reflected in relevant terms and conditions documents).

Note: The agency must ensure that it receives sufficient information regarding adjustments or reversals to its receipts.

(6) If an Agency is unable to immediately determine whether receipts are administered or departmental receipts, then the receipts in question must be deposited into an administered receipts account.


1.7 Sweeping of other account balance – zero group balances overnight

(1) In the 0900 settlement session at the end of a reporting day:
   (a) if the aggregate balance is positive, funds equivalent to the aggregate balance of all official accounts in respect of the given banking day (other than administered receipts accounts and exempt SPM accounts) held by Agencies at a bank, must be transferred from the Exchange Settlement Account of the transactional banker to the Exchange Settlement Account of the RBA-Central Bank; or
   (b) if the aggregate balance is negative, funds equivalent to the aggregate balance of all official accounts in respect of the given banking day (other than administered receipts accounts and exempt SPM accounts) held by Agencies at a bank, must be transferred from the Exchange Settlement Account of the RBA-Central Bank to the Exchange Settlement Account of the transactional banker.

(2) The balances of individual Agency accounts must remain unaltered by the transfers mentioned in subparagraphs 1.7 (1) (a) and (b).

(3) If a technical problem prevents the bank from advising the amounts swept under subparagraphs 1.7 (1) (a) and (b) by the specified time (see subparagraph 1.12 (1) (a)), the contingency arrangements specified in the Instructions for Transactional Bankers must be followed.

1.8 Return of balance from RBA-Central Bank

The aggregate of all Agencies’ account balances swept to the RBA-Central Bank for a given banking day in accordance with subparagraph 1.7 (1) (a), must be returned from the Exchange Settlement Account of the RBA-Central Bank to the Exchange Settlement Account of the transactional banker at the start of the daily settlement session on the following banking day.

1.9 Return of balance to RBA-Central Bank

The aggregate of all Agencies’ account balances swept from the RBA-Central Bank in respect of a given banking day in accordance with subparagraph 1.7 (1) (b), must be returned from the Exchange Settlement
Account of the transactional banker to the Exchange Settlement Account of the
RBA-Central Bank at the start of the daily settlement session on the following
banking day.

1.10 Adjustment in case of processing breakdown

The value of funds transferred (including interest) must be adjusted
as necessary after the event to achieve the result required by paragraphs 1.6 (2)
and (3), and subparagraphs 1.7 (1) (a) and (b), if a processing breakdown
prevents the result from being achieved at the normal time of transfer.

<table>
<thead>
<tr>
<th>Explanation of administered funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funds for administered payments should be transferred to the transactional banker’s Exchange Settlement Account no sooner than is needed to allow the bank to settle transactions. The timing of funding for administered payments from the Commonwealth Official Public Account should be as follows:</td>
</tr>
<tr>
<td>(a) where an Agency’s instructions require a payment or group of payments to be processed through RTGS – the funds will be transferred to the transactional banker no earlier than the time indicated for the remittance of the payment or group of payments, and in any case within a time that is reasonably necessary to allow the bank to process the payment or group of payments;</td>
</tr>
<tr>
<td>(b) where an Agency’s instructions require a payment or group of payments to be processed through direct entry – funds will be transferred to the transactional banker’s Exchange Settlement Account at the start of the morning settlement session on the payment date;</td>
</tr>
<tr>
<td>(c) where an Agency specifies that a payment or group of payments are to be processed by cheque – funds will be transferred to the transactional banker’s Exchange Settlement Account at the start of the morning settlement session on the cheque’s issue date.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Explanation of departmental funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funds for departmental payments should be transferred to the transactional banker’s Exchange Settlement Account at the start of the morning settlement session of the day on which the transfer is to occur, as requested by the Agency.</td>
</tr>
</tbody>
</table>

1.11 Transfer of value by an Agency’s transactional banker

(1) This subdivision applies if an Agency instructs its transactional banker or
another institution to make administered or departmental payments to a third
party.

(2) If the Agency’s instructions require a payment or group of payments to be
processed through RTGS, the Agency must ensure that the transactional banker
does not debit the Agency’s account until immediately before the RTGS
payment is remitted.

(3) If the Agency’s instructions require a payment or a group of payments to be
processed through direct entry:
   (a) the Agency must ensure that the transactional banker does not debit the
       Agency’s account until the payment date; and
   (b) if the transactional banker is using other institutions to effect the
       payments – the Agency must ensure that the transactional banker transfers
       the funds to the other institutions bank’s Exchange Settlement Account by
       the time specified by the RBA-Central Bank (in the Instructions for
       Transactional Bankers) during the morning settlement session on the
       payment date; and
(c) the Agency must ensure that the transactional banker credits recipients who bank with the transactional banker within the time specified by the Agency on the payment date.

1.12 Information requirements – balances of official accounts and transaction information

(1) An Agency must ensure that its transactional banker/s provide the following information electronically to the RBA-Central Bank (in the file format specified in the Instructions for Transactional Bankers) for Agencies holding official accounts at that bank for each banking day:
   (a) by 4 am on the calendar day immediately following a given banking day, as an aggregate for all Agencies:
      (i) the total amount to be transferred to the Commonwealth's accounts in accordance with paragraph 1.6 (3); and
      (ii) the total amount to be swept to or from the Commonwealth’s accounts in accordance with subparagraph 1.7 (1) (a) or (b);
   (b) by 7 am on the calendar day immediately following a given banking day, for each Agency:
      (i) the concluding balance of each official account for the given banking day, as well as total debits and credits to each account under that date; and
      (ii) the total amount transferred from each administered receipts account in accordance with paragraph 1.6 (2); and
      (iii) the total amount to be transferred from each administered receipts account in accordance with paragraph 1.6 (3); and
      (iv) for those Agencies listed in Attachment D of the Agency Banking Framework – Guidance Manual:
         (A) a report listing:
            (I) the amounts of all individual payments of $5 million or more from official accounts, other than exempt SPM accounts; and
            (II) the aggregate amount of individual payments where multiple payments during the banking day aggregate to at least $5 million; and
            (III) where payments mentioned in subparagraph 1.12 (1) (b) (iv) (A) (I) are made electronically, the BSB number and account number of the recipient; and
         (B) a report listing all aggregate receipts of $5 million or more to administered receipts accounts.

(2) If the transacting bank is unable to meet the normal reporting requirements due to a technical problem, the contingency arrangements specified in the Instructions for Transactional Bankers must be followed.

(3) In this subdivision, references to time are taken to be references to the time in Sydney.
1.13 Agreement with RBA-Central Bank prior to use of alternative foreign exchange transactions providers

(1) The delegate may enter into an agreement with a provider (the provider), who is not the RBA-Central Bank, for the provision of foreign exchange transaction services.

(2) Before entering into an agreement under paragraph 1.13 (1), the delegate must enter into an agreement with the International Department of the RBA-Central Bank about:

(a) the maximum size of the payments that will be available for delivery by the provider; and

(b) the mechanism by which the RBA-Central Bank will deliver the foreign currency transactions to the provider; and

(c) whether, and in relation to which currencies and payment sizes, the RBA-Central Bank may provide in Australian dollars rather than in a foreign currency to the provider; and

(d) the method by which the RBA-Central Bank will review payment flows and the suitability of the agreed parameters from time to time; and

(e) if foreign currency payments will be received – whether they will be delivered directly to the RBA-Central Bank or indirectly through the provider.
Part 2  Delegation under section 8 of the Act – Agreements with banks about receipt, transmission etc. of public money by the Future Fund Management Agency

Division 1  Delegation

<table>
<thead>
<tr>
<th>1</th>
<th>Provision of Act</th>
<th>Section 8</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To enter into agreements with any bank for the receipt, custody, payment or transmission of public money</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Chief Executive of the Future Fund Management Agency</td>
</tr>
</tbody>
</table>

Division 2  Directions

2.1 Scope of delegation
This delegation applies in relation to bank accounts that are to be opened and maintained in Australia.

2.2 Definitions
Definitions in this Part are the same as Schedule 1, Part 1.

2.3 Requirements for agreements relating to accounts maintained in Australia
The delegate must ensure that agreements relating to accounts opened and maintained in Australia comply with the core protocols for transactional banking services set out in this Part.

Core Protocols for Future Fund Management Agency Banking

2.4 Account structure
(1) If the Future Fund Management Agency receives administered receipts, or makes administered payments, it must open and maintain at least one administered receipts and payments account.

(2) If the Future Fund Management Agency receives departmental receipts, or makes departmental payments, it must open and maintain at least one departmental receipts and payments account.

(3) The Future Fund Management Agency may, in accordance with the relevant authorising documentation, open and maintain one or more of the following:
(a) an SPM account; or
(b) an exempt SPM account.
2.5 **Transfer of value by the Future Fund Management Agency's transactional banker**

(1) This subdivision applies if the Future Fund Management Agency instructs its transactional banker or another institution to make administered or departmental payments to a third party.

(2) If the Future Fund Management Agency’s instructions require a payment or group of payments to be processed through RTGS, the Agency must ensure that the transactional banker does not debit the Agency’s account until immediately before the RTGS payment is remitted.

(3) If the Future Fund Management Agency’s instructions require a payment or a group of payments to be processed through direct entry:

(a) the Future Fund Management Agency must ensure that the transactional banker does not debit the Future Fund Management Agency's account until the payment date; and

(b) if the transactional banker is using other institutions to effect the payments – the Future Fund Management Agency must ensure that the transactional banker transfers the funds to the other institutions bank’s Exchange Settlement Account by the time specified by the RBA-Central Bank (in the *Instructions for Transactional Bankers*) during the morning settlement session on the payment date; and

(c) the Future Fund Management Agency must ensure that the transactional banker credits recipients who bank with the transactional banker within the time specified by the Future Fund Management Agency on the payment date.

2.6 **Agreement with RBA-Central Bank prior to use of alternative foreign exchange transactions providers**

(1) The delegate may enter into an agreement with a provider (the *provider*), who is not the RBA-Central Bank, for the provision of foreign exchange transaction services.

(2) Before entering into an agreement under paragraph 2.6 (1), the delegate must consult with the International Department of the RBA-Central Bank and enter into an agreement with the International Department about:

(a) the maximum size of the payments that will be available for delivery by the provider; and

(b) the mechanism by which the RBA-Central Bank will deliver the foreign currency transactions to the provider; and

(c) whether, and in relation to which currencies and payment sizes, the RBA-Central Bank may provide in Australian dollars rather than in a foreign currency to the provider; and

(d) the method by which the RBA-Central Bank will review payment flows and the suitability of the agreed parameters from time to time; and
Delegations under the Act

Delegation under section 8 – Agreements with banks about receipt, transmission etc. of public money by the Future Fund Management Agency

Schedule 1
Part 2

(e) if foreign currency payments will be received – whether they will be delivered directly to the RBA-Central Bank or indirectly through the provider.
### Part 3  Delegation under section 8 of the Act – Agreements with banks about receipt, transmission etc. of public money (to specified Chief Executives for banking business outside Australia)

#### Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 8</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To enter into agreements with any bank for the receipt, custody, payment or transmission of public money</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Chief Executive of the Attorney-General’s Department</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Director-General of AusAID</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Electoral Commissioner of the Australian Electoral Commission</td>
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<tr>
<td></td>
<td></td>
<td>Commissioner of Police of the Australian Federal Police</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chief Executive of the Australian Secret Intelligence Service</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chief Executive of the Australian Security Intelligence Organisation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chief Executive of the Australian Trade Commission</td>
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<tr>
<td></td>
<td></td>
<td>Chief Executive of the Department of Agriculture</td>
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<tr>
<td></td>
<td></td>
<td>Chief Executive of the Department of Defence</td>
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<tr>
<td></td>
<td></td>
<td>Chief Executive of the Defence Materiel Organisation</td>
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<td></td>
<td></td>
<td>Chief Executive of the Department of Foreign Affairs and Trade</td>
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<tr>
<td></td>
<td></td>
<td>Chief Executive of the Department of Human Services</td>
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<tr>
<td></td>
<td></td>
<td>Chief Executive of the Department of Immigration and Border Control</td>
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<tr>
<td></td>
<td></td>
<td>Chief Executive of the Department of Infrastructure and Regional Development</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chief Executive of the Department of Veterans’ Affairs</td>
</tr>
</tbody>
</table>

#### Division 2  Directions

#### 3.1 Scope of delegation

This delegation applies in relation to bank accounts that are to be opened and maintained outside Australia.
3.2 Special directions - Banking business in Norfolk Island

(1) When exercising this delegation, the delegate must ensure that agreements relating to accounts opened and maintained in Norfolk Island require the Commonwealth and the bank to comply, to the extent possible, with the requirements of subdivision 1.2 of Part 1.

*Note:* These requirements, which relate to agreements for banking business inside Australia, include compliance with the core protocols for transactional banking services set out in subdivisions 1.3 - 1.13 of Part 1, and a number of policy documents issued by the Department of Finance.

(2) The delegate may only enter into an agreement which does not comply with paragraph 3.2(1) where it is not possible to come to a complying agreement with any bank on Norfolk Island.

3.3 Special directions - Limitation to specified countries

This delegation applies to the delegates mentioned in column 2 of the following table only in relation to bank accounts in the countries specified in column 3:

<table>
<thead>
<tr>
<th>Item</th>
<th>Delegate</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Chief Executive of the Department of Agriculture</td>
<td>Indonesia</td>
</tr>
</tbody>
</table>
Part 4  Delegation under section 9 of the Act – Official bank accounts (other than the Future Fund Management Agency)

Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 9</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To open and maintain official bank accounts in Australia in accordance with agreements under section 8 of the Act</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance Chief Executives</td>
</tr>
<tr>
<td>4</td>
<td>Special Arrangements</td>
<td>This Part does not apply in relation to the Chief Executive of the Future Fund Management Agency</td>
</tr>
</tbody>
</table>

Note: See Part 5

Division 2  Directions

4.1 Scope of delegation

This delegation applies in relation to bank accounts that are to be opened and maintained within Australia.

4.2 Name of official accounts

An official account opened and maintained in Australia that is not used solely as a settlement account (that is, an account that always has a zero balance) must include in its title the most appropriate phrase for the account, chosen from the following:

(a) ‘Official Departmental’; or
(b) ‘Official Administered Payments’; or
(c) ‘Official Administered Receipts’; or
(d) ‘Official SPM Account’; or
(e) ‘Official Exempt SPM Account’.

4.3 Notification of details of official accounts

In relation to each official account opened and maintained in Australia, the delegate must promptly notify the RBA-Central Bank of the title, the account number and the bank and branch with which it is held. The delegate must also promptly notify the RBA-Central Bank of any accounts that are closed.
4.4 **Daily reporting to RBA-Central Bank of certain large etc. payments**

(1) For the Agencies listed in Attachment D of the *Agency Banking Framework – Guidance Manual*, the delegate must ensure that, in relation to every reporting day, each Agency gives a report to the RBA-Central Bank detailing:

(a) the amount and the program (or other suitable identifier) of any individual administered payments over $5 million, or aggregate program payments over $5 million, that have been arranged for the next reporting day; and

(b) whether those payments or groups of payments will be processed through RTGS, direct entry or by cheque; and

(c) in relation to an individual administered payment over $5 million that is made electronically – the BSB number and account number of the recipient.

(2) A report under paragraph 4.4 (1) must be given:

(a) in accordance with the thresholds and times specified by the RBA-Central Bank; and

(b) electronically in the file format specified in the *Instructions for Agencies*. 
## Part 5  Delegation under section 9 of the Act – Official bank accounts (Future Fund Management Agency)

### Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 9</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To open and maintain official bank accounts in Australia in accordance with agreements under section 8 of the Act</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Chief Executive of the Future Fund Management Agency</td>
</tr>
</tbody>
</table>

### Division 2  Directions

#### 5.1 Scope of delegation

This delegation applies in relation to bank accounts to be opened and maintained within Australia.

#### 5.2 Name of official accounts

Official accounts opened and maintained in Australia by the Future Fund Management Agency that are not used solely as settlement accounts (that is, accounts which always have a zero overnight balance) must include in their title either the words:

(a) ‘Official Departmental Receipts and Payments Account’; or
(b) ‘Official Administered Receipts and Payments Account’; or
(c) ‘Official SPM Account’.

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Part 6 Delegation under section 9 of the Act – Official bank accounts (to specified Chief Executives for opening and maintaining bank accounts outside Australia)

Division 1 Delegations

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 9</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td><strong>Summary of function or power</strong></td>
<td>To open and maintain official bank accounts outside Australia in accordance with agreements under section 8 of the Act</td>
</tr>
<tr>
<td>3</td>
<td><strong>Delegates</strong></td>
<td>Chief Executive of the Attorney-General’s Department</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Director-General of AusAID</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
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<td>Chief Executive of the Department of Defence</td>
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<td></td>
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<td>Chief Executive of the Defence Materiel Organisation</td>
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<td></td>
<td>Chief Executive of the Department of Foreign Affairs and Trade</td>
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<td></td>
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<td></td>
<td></td>
<td>Chief Executive of the Department of Infrastructure and Regional Development</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chief Executive of the Department of Veterans’ Affairs</td>
</tr>
</tbody>
</table>

Division 2 Directions

6.1 Scope of delegation

This delegation applies in relation to bank accounts that are to be opened and maintained outside Australia.
6.2 Name of accounts

Except as required by subdivision 6.6, the delegate must cause the name of each official bank account to be in the following form: ‘[Agency name] Official [here insert identifying words] Account’.

6.3 Standard fees and charges etc

(1) Where an account is opened in accordance with an agreement that provides for the payment of interest to the Commonwealth and the charging of fees by the bank, the delegate must ensure that the account incurs only the bank’s standard fees and charges and that the rate of interest paid to the Commonwealth is equal to or higher than the general business rate.

(2) The delegate must also ensure that arrangements are put in place to credit any interest paid to the Official Public Account and to debit any fees and charges to a relevant departmental appropriation.

6.4 Register of details

The delegate must maintain a register of all bank accounts operated in the Agency. The register must show as a minimum, in relation to each account:

(a) the title of the account; and
(b) the account number; and
(c) the bank and branch at which it is held; and
(d) the purpose of the account.

6.5 Annual review of accounts

The delegate must, at least annually, review all the Agency’s accounts and be satisfied of the continuing need for those accounts with a view to maintaining the minimum number of accounts necessary.

6.6 Special requirements - accounts in Norfolk Island

(1) When exercising this delegation, the delegate must ensure that accounts opened and maintained in Norfolk Island comply, to the extent possible, with the requirements of subdivisions 4.2 - 4.4 of Part 4.

Note: These requirements, which relate to accounts opened inside Australia, include naming requirements and some reporting requirements in relation to those bank accounts.

(2) The delegate may only open and maintain a bank account otherwise than in compliance with paragraph 6.6(1) only if it is not possible for any Norfolk Island account to be opened and maintained in accordance with those requirements.

Note: To the extent that it is not possible to comply with paragraph 6.6(1), the delegate must still comply with the other requirements of Division 6.
6.7 **Special directions - Limitation to specified countries**

This delegation applies to the delegates mentioned in column 2 of the following table only in relation to bank accounts in the countries specified in column 3:

<table>
<thead>
<tr>
<th>Item</th>
<th>Delegate</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Chief Executive of the Department of Agriculture</td>
<td>Indonesia</td>
</tr>
</tbody>
</table>
Part 7  
Delegation under section 12 of the Act – Receipt, custody and payment of public money by outsiders

Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 12</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To give a written authorisation for an agreement or arrangement for the receipt, custody or payment of public money by an outsider</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance Chief Executives</td>
</tr>
</tbody>
</table>

Division 2  Directions

7.1  Agreements or arrangements must achieve the most efficient and effective transmission of public money

The delegate must be satisfied that any agreement or arrangement which the delegate authorises serves the Commonwealth’s interests. In particular, the delegate must be satisfied that the agreement or arrangement:

(a) ensures that public money remains in a bank account which is not an official account for the shortest period of time that is reasonable in all the circumstances; and

(b) achieves the most efficient and effective transmission of the relevant public money to an official account, or, in the case of a payment, to the recipient of the payment.

7.2  Risks must be managed

The delegate must not authorise an agreement or arrangement unless the delegate is satisfied that the risks which might arise from the way in which public money is to be handled under the agreement or arrangement will be managed in the best interests of the Commonwealth.

7.3  Compliance with Guidelines

(1) The delegate must not authorise an agreement or arrangement which provides for the outsider to engage in procurement for or on behalf of the Commonwealth unless the delegate is satisfied that the agreement or arrangement requires the outsider to comply with the Commonwealth Procurement Rules (CPRs), to the greatest extent possible.

*Note:* Some requirements of the CPRs, such as reporting on AusTender, cannot be managed or fulfilled by an outsider.

(2) Paragraph 7.3(1) does not apply in relation to agreements or arrangements providing for an outsider to engage in procurement of property or services for the purpose of providing a statutory or employment entitlement.

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(3) The delegate must not authorise an agreement or arrangement which provides for the outsider to perform duties in relation to grants administration for or on behalf of the Commonwealth unless the delegate is satisfied that the agreement or arrangement requires the outsider to comply with the Commonwealth Grant Guidelines (CGGs), to the greatest extent possible.

*Note 1:* The CGGs apply to grants administration. Paragraph 2.7 of the CGGs provides that the CGGs apply to grants administration performed by other bodies or third parties who are responsible for grants administration on behalf of an FMA Act agency.

*Note 2:* Some requirements of the CGGs, such as those relating to the Ministerial requirements outlined in paragraphs 4.2 to 4.4 of the CGGs cannot be managed or fulfilled by an outsider.

### 7.4 Period of agreements or arrangements and termination

An agreement or arrangement for the receipt, custody or payment of public money by an outsider must not be for a period greater than 5 years and the agreement or arrangement must provide for the Commonwealth to give notice to terminate the agreement or arrangement at any time.

### 7.5 Banking arrangements, interest, etc

(1) An agreement or arrangement must specify the banking arrangements which are to be followed by the outsider.

(2) The agreement or arrangement must specify that any interest earned by the outsider in relation to the public money must be remitted in full to the Commonwealth, and the timing or frequency of that remittance.

(3) Where the agreement or arrangement provides for the receipt or custody of public money, it must specify the timing or frequency of remittance of public money to the Commonwealth.

(4) Where the agreement or arrangement provides for the payment of public money, it must specify the timing or frequency of payments of public money to the intended recipient of the money.

(5) For the purposes of paragraphs 7.5 (2), (3) and (4), the timing or frequency of remittance or payment must be based on the best cash management outcome for the Commonwealth, balanced against any savings or cost advantages for less frequent remittances or payments, together with an assessment of the risks associated with public money being held in a non-official account.

### 7.6 Definitions

In this Division:

*Commonwealth Grant Guidelines* means the Commonwealth Grant Guidelines issued by the Finance Minister under regulation 7A of the Regulations;

*Commonwealth Procurement Rules* means the Commonwealth Procurement Rules issued by the Finance Minister under regulation 7 of the Regulations;

a reference to a *grant* is a reference to a grant as defined in regulation 3A of the Regulations.
Schedule 1

Delegations under the Act

Part 8

Delegation under subsection 27 (1) of the Act – Issuing drawing rights

Part 8  Delegation under subsection 27 (1) of the Act – Issuing drawing rights

Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Subsection 27 (1)</th>
</tr>
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<tbody>
<tr>
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<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To issue drawing rights</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance Chief Executives</td>
</tr>
</tbody>
</table>

Division 2  Direction

8.1  Issuing a drawing right

Drawing rights can only be issued in respect of appropriations for which the Chief Executive is responsible, comprising:

(a) appropriations allocated to agencies in the annual Appropriation Acts; and
(b) special appropriations allocated to portfolio departments through the Administrative Arrangements Order; and
(c) appropriations expressly allocated by a Minister to another agency within his or her portfolio; and
(d) the standing appropriations under sections 20 and 21 of the Act where the agency is responsible for the Special Account; and
(e) the standing appropriation in section 28 of the Act; and
(f) the standing appropriation in section 39 of the Act in relation to a delegation under that section.

Note 1: Subsection 27 (2) of the Act places an obligation on delegates to issue drawing rights under the power delegated under subsection 27 (1) where a law requires the payment of public money.

Note 2: Subsection 27 (5) of the Act provides that a drawing right cannot authorise the making of a payment of public money for which there is no available appropriation.
Part 9  Delegation under subsection 27 (4) of the Act – Revoking or amending a drawing right

Division 1  Delegation

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<th>Subsection 27 (4)</th>
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</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To revoke or amend a drawing right</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance Chief Executives</td>
</tr>
</tbody>
</table>

Division 2  Directions

9.1  Revoking a drawing right

A delegate may revoke any drawing right issued by the delegate, or a delegate of the delegate.

9.2  Amending a drawing right

Drawing rights can only be amended in respect of appropriations for which the Chief Executive is responsible, comprising:

(a) appropriations allocated to agencies in the annual Appropriation Acts; and
(b) special appropriations allocated to portfolio departments through the Administrative Arrangements Order; and
(c) those appropriations expressly allocated by a Minister to another agency within his or her portfolio; and
(d) the standing appropriations under sections 20 and 21 of the Act where the agency is responsible for the Special Account; and
(e) the standing appropriation in section 28 of the Act; and
(f) the standing appropriation in section 39 of the Act in relation to a delegation under that section.
Part 10 Delegation under subsection 34 (1) (a) of the Act – Waiver of debts owing to the Commonwealth (to the Chief Executive of the Australian Securities and Investments Commission)

Division 1 Delegation

<table>
<thead>
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<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To waive the Commonwealth’s right to payment of a debt owing to the Commonwealth</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Chief Executive of the Australian Securities and Investments Commission</td>
</tr>
</tbody>
</table>

Division 2 Directions

10.1 Amount that can be waived

The delegate may waive the Commonwealth’s right to fees payable under the Corporations Act 2001 of amounts up to $5,000 for any one fee.

10.2 Applications for waiver to be in writing

A delegate must not consider an application for waiver of a fee unless the application is in writing. In each case, the onus is on the applicant to produce supporting evidence to substantiate the application.

10.3 Extraneous circumstances must exist

A delegate must not exercise the power under subsection 34 (1) (a) of the Act unless satisfied that circumstances exist, outside the control of the officers of the applicant company or its representatives, which make it reasonable for the Commonwealth to do so.

10.4 Consideration of extent of cause of circumstances

In determining whether a fee should be waived in whole or part, a delegate must consider the extent to which the company’s officers or its representatives contributed to the circumstances of the matter.

Note: Specific matters which may warrant a fee being waived, in whole or part, include:
(a) the delay in lodgement is fully or partly the fault of ASIC; or
(b) the company’s books have been seized by the Police, ASIC or other government body; or
(c) the seizure must be unrelated to the company’s failure to lodge documents. Where a company’s accountant withholds books for non-payment of professional fees, a fee must not be waived; or
(d) where late lodgement is as a result of a Court not issuing a signed copy of an Order in time; or

Archived
(e) records are damaged or destroyed by flood, fire, storm or other disaster allowing insufficient time for their reconstruction; or

(f) exceptional circumstances delayed lodgement – eg illness/accident prevent all responsible persons from lodging within the specified period, an accounting firm merges and notifies in bulk the resulting change of name or address under which company auditors or liquidators practice; or

(g) delay in lodgement is caused by a variable industrial dispute (eg a postal strike); or

(h) the document is required to be prepared or signed overseas and there is a limited period for lodgement.
Part 11 Delegation under subsection 34 (1) (a) of the Act – Waiver of debts owing to the Commonwealth (to the Chief Executive of ComSuper)

Division 1 Delegation

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<tr>
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<td>2</td>
<td>Summary of function or power</td>
<td>To waive the Commonwealth’s right to payment of a debt owing to the Commonwealth</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Chief Executive of ComSuper</td>
</tr>
</tbody>
</table>

Division 2 Direction

11.1 Waiving the Commonwealth’s right to payment

The delegate can waive the Commonwealth’s right to payments in relation to a benefit, pension, allowance or other payment under the following Acts (as amended):

(a) the *Papua New Guinea (Staffing Assistance) Act 1973*;
(b) the *Papua New Guinea (Staffing Assistance) Termination Act 1976*;
(c) the *Defence Force Retirement and Death Benefits Act 1973*;
(d) Defence Forces Retirement and Death Benefits (Pension Increases) Acts;
(e) Defence Forces Retirement Benefits Acts;
(f) the *Defence Forces Retirement Benefits Fund (Distribution of Surplus to Pensioners) Act 1976*;
(g) Defence Forces Retirement Benefits (Pension Increases) Acts;
(h) the *Defence Forces Special Retirement Benefits Act 1960*; and
(i) the *Military Superannuation and Benefits Act 1991*. 
Part 12  Delegation under subsection 34 (1) (c) of the Act – Payment by instalments of an amount owing to the Commonwealth

Division 1  Delegation

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<tbody>
<tr>
<td>1</td>
<td>Subsection 34 (1) (c)</td>
<td>Payment by instalments of an amount owing to the Commonwealth</td>
</tr>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>Non-Finance Chief Executives</td>
</tr>
</tbody>
</table>

Division 2  Directions

12.1  Amounts owing to the Commonwealth should generally be paid in full

(1)  The delegate must have regard to the basic principle that, unless otherwise allowed by law (for example, under statute or contract), amounts owing to the Commonwealth should be paid in full immediately they become due.

(2)  In a situation where it is not possible or reasonable for an amount to be paid in full immediately and in the absence of any statutory right of the debtor to do otherwise, consideration may be given to contracting with the debtor to allow payment of the amount by instalments or in full at a deferred date.

12.2  Specific requirements

(1)  When exercising a power under subsection 34 (1) (c) of the Act, to allow payment by instalments of an amount owing to the Commonwealth, the delegate must comply with the following directions.

Cases of hardship

(2)  In a situation of claimed hardship, the delegate must:

(a)  require the debtor to provide evidence (by a statutory declaration and/or other means) sufficient to satisfy the delegate that it would be unreasonable to require the debtor to discharge the debt other than in instalments; and

(b)  have regard to the Commonwealth’s interests not being subordinate to other creditors of the same ranking.

Instalments

(3)  When allowing payment by instalments, the delegate must impose conditions on such payment with the object of ensuring that the Commonwealth recovers the amount as soon as is reasonably practicable, having regard to the debtor’s ability to repay.
Interest

(4) The delegate must:
   (a) ordinarily impose interest at the 90 day bank-accepted bill rate (available from the RBA-Central Bank) less 10 basis points; and
   (b) not impose interest at a higher rate than the 90 day bank-accepted bill rate less 10 basis points; and
   (c) if a lesser rate of interest, or no interest, is imposed – record in writing the reasons for doing so.

Note 1: A reason for not imposing interest, or imposing less than the specified rate, is that, in the particular case, the imposition of interest would cause undue financial hardship.

Note 2: This direction does not apply to Court-awarded judgment debts, as provision for interest will usually be made in the laws of the State or Territory in which judgment was obtained.

Information to be given to debtor

(5) If the delegate decides to accept payment by instalments of an amount owing to the Commonwealth:
   (a) the debtor must be informed in writing of the following matters:
      (i) the amount owing to the Commonwealth;
      (ii) the date or dates when payment is due;
      (iii) the interest rate (if any);
      (iv) any other matter the delegate considers relevant, taking into account the evidence of hardship;
      (v) the conditions of acceptance specified in subdivision 12.3; and
   (b) the debtor must confirm, in writing, acceptance of the matters specified in subparagraph 12.2 (5) (a).

Note: If the debtor does not confirm, in writing, acceptance of the conditions specified then the amounts owing to the Commonwealth should be paid in full when they become due.

12.3 Conditions

The conditions of acceptance of payment of a debt by instalments are as follows:
   (a) the delegate may, at any time, review and, if necessary, revise the arrangements to determine whether different conditions should be imposed, taking into account the debtor’s ability to pay; and
   (b) if the debtor is an official, upon termination of employment, or other engagement, with the Commonwealth, the amount outstanding must be set off against any final moneys due; and
   (c) any default of the conditions may result in legal action being commenced to recover the amount owing; and
   (d) if legal action is commenced, the Commonwealth may seek to recover its costs from the debtor.
Part 13  Delegation under subsection 34 (1) (d) of the Act – Deferring the time for payment of an amount owing to the Commonwealth

Division 1  Delegation

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<tr>
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<th>Provision of Act</th>
<th>Subsection 34 (1) (d)</th>
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<tbody>
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<td>Summary of function or power</td>
<td>To defer the time for payment of an amount owing to the Commonwealth</td>
</tr>
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<td>3</td>
<td>Delegates</td>
<td>Non-Finance Chief Executives</td>
</tr>
</tbody>
</table>

Division 2  Directions

13.1  Generally amounts owing to the Commonwealth should be paid in full

(1) The delegate must have regard to the basic principle that, unless otherwise allowed by law (for example, under statute or contract), amounts owing to the Commonwealth should be paid in full immediately they become due.

(2) In a situation where it is not possible or reasonable for an amount to be paid in full immediately and in the absence of any statutory right of the debtor to do otherwise, consideration may be given to contracting with the debtor to allow payment of the amount by instalments or in full at a deferred date.

13.2  Specific requirements

(1) When exercising a power under subsection 34 (1) (d) of the Act, to allow payment by deferment of an amount owing to the Commonwealth, the delegate must comply with the following directions.

Cases of hardship

(2) In a situation of claimed hardship, the delegate must:

(a) require the debtor to provide evidence (by a statutory declaration or other means) sufficient to satisfy the delegate that it would be unreasonable to require the debtor to discharge the debt otherwise than at a deferred date; and

(b) have regard to the Commonwealth’s interests not being subordinate to other creditors of the same ranking.

Interest

(3) The delegate must:

(a) ordinarily impose interest at the 90 day bank-accepted bill rate (available from the RBA-Central Bank) less 10 basis points; and

(b) not impose interest at a higher rate than the 90 day bank-accepted bill rate less 10 basis points; and
(c) if a lesser rate of interest, or no interest, is imposed – record in writing the reasons for doing so.

*Note 1:* A reason for not imposing interest, or imposing less than the specified rate, is that, in the particular case, the imposition of interest would cause undue financial hardship.

*Note 2:* This direction does not apply to Court-awarded judgment debts, as provision for interest will usually be made in the laws of the State or Territory in which judgment was obtained.

**Information to be given to debtor**

(4) If the delegate decides to accept payment at a deferred date, of an amount owing to the Commonwealth:

(a) the debtor must be informed in writing of the following matters:
   
   (i) the amount owing to the Commonwealth;
   
   (ii) the date or dates when payment is due;
   
   (iii) the interest rate (if any);
   
   (iv) any other matter the delegate considers relevant, taking into account the evidence of hardship;
   
   (v) the conditions of acceptance specified in subdivision 13.3; and

(b) the debtor must confirm, in writing, acceptance of the matters specified in subparagraph 13.2 (4) (a).

*Note:* If the debtor does not confirm, in writing, acceptance of the conditions specified then the amounts owing to the Commonwealth should be paid in full when they become due.

**13.3 Conditions**

The conditions of acceptance of payment of a debt at a deferred date are as follows:

(a) the delegate may, at any time, review and, if necessary, revise the arrangements to determine whether different conditions should be imposed, taking into account the debtor’s ability to pay; and

(b) if the debtor is an official, upon termination of employment, or other engagement, with the Commonwealth, the amount outstanding must be set off against any final moneys due; and

(c) any default of the conditions may result in legal action being commenced to recover the amount owing; and

(d) if legal action is commenced, the Commonwealth may seek to recover its costs from the debtor.
Part 14  Delegation under subsection 38 (1) of the Act – Finance Minister may borrow for short periods

Division 1  Delegation

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<th>Subsection 38 (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>On behalf of the Commonwealth, to enter into agreements for the provision of overdraft facilities with overseas banks, where the agreements require the money to be repaid within 90 days</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Department of Foreign Affairs and Trade Chief Executive</td>
</tr>
</tbody>
</table>

Division 2  Directions

14.1  Scope of delegation

(1) The Chief Executive of the Department of Foreign Affairs and Trade may only delegate the functions and powers contained in this delegation to the Chief Finance Officer of the Department of Foreign Affairs and Trade.

(2) This delegation only applies in relation to overdraft facilities that are to be opened and maintained outside Australia.

(3) The delegate must ensure that any agreements relating to the provision of overdraft facilities are for a maximum amount of $1 million, with the sum of all agreements not totalling more than $10 million.

(4) The delegate must ensure that the overdraft facility is only accessed in situations where funds cannot be transferred from Australia in time for a specific payment.

14.2  Standard fees and charges etc

(1) Where an overdraft facility is opened, in accordance with an agreement that provides for the charging of fees by the bank, the delegate must ensure that the account incurs only the bank’s standard fees and charges.

(2) The delegate must also ensure that arrangements are put in place to debit any fees and charges to a relevant departmental appropriation.

14.3  Annual review of overdraft facilities

The delegate must, at least annually, review all the Agency’s overdraft facilities and be satisfied of the continuing need for those facilities with a view to maintaining the minimum number necessary.
14.4 Reporting

The delegate must ensure that any use of the delegation is reported to the Department of Finance within one week of using the delegation.
Part 15  
Delegation under subsection 38 (2) of the Act – Entering into agreements for the issue to, and use by, the Commonwealth of credit cards or credit vouchers

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<tr>
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<tr>
<td>2</td>
<td>Summary of function or power</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
</tr>
</tbody>
</table>

Division 2  
Direction

15.1  
Only for issue and use of credit cards and credit vouchers

The delegate is permitted to enter into agreements only for the issue to, and use by, the Commonwealth of credit cards or credit vouchers.

*Note: Refer to Regulation 21 which relates to credit cards and credit vouchers.*
## Part 16  Delegation under section 39 of the Act – Investment of public money

### Division 1  Delegations

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 39</th>
</tr>
</thead>
</table>
| 2 | Summary of function or power                                                     | To invest public money in any authorised investment on behalf of the Commonwealth or to authorise the re-investment upon maturity of the proceeds of an authorised investment.  
Note: Delegates must ensure that the investment of public money is consistent with the requirements of section 39 of the Act, including being limited to the authorised investments set out in subsection 39(10). |
| 3 | Delegates                                                                        | Chief Executive of the Australian Securities and Investments Commission  
Chief Executive of the Department of Agriculture  
Chief Executive of the Department of Prime Minister and Cabinet  
Chief Executive of the Department of Industry  
Chief Executive of the Department of Veterans’ Affairs  
Chief Executive of the Family Court and Federal Circuit Court  
Chief Executive of the Federal Court of Australia  
Chief Executive of the National Blood Authority |

### Division 2  Directions

#### 16.1  Account from which amounts can be invested

A delegate mentioned in column 2 of an item in the following table is permitted to invest only amounts standing to the credit of a Special Account listed in column 3 of the item.

<table>
<thead>
<tr>
<th></th>
<th>Delegate</th>
<th>Special Accounts</th>
</tr>
</thead>
</table>
| 1 | Chief Executive of the Australian Securities and Investments Commission | ASIC Deregistered Companies Trust Moneys Special Account  
ASIC Security Deposits Special Account  
ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account |
<p>| 2 | Chief Executive of the Department of Agriculture                        | National Residue Survey Account                                                                    |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Delegate</th>
<th>Special Accounts</th>
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</table>
| 3    | Chief Executive of the Department of Prime Minister and Cabinet | Aboriginal and Torres Strait Islander Land Account  
Aboriginals Benefit Account |
| 4    | Chief Executive of the Department of Industry | Science and Technology Centre Donations/Sponsorship Special Account  
Ranger Rehabilitation Special Account |
| 5    | Chief Executive of the Department of Veterans’ Affairs | Defence Service Homes Insurance Special Account  
Military Death Claim Compensation Special Account |
| 6    | Chief Executive of the Family Court and Federal Circuit Court | Litigants’ Fund Special Account |
| 7    | Chief Executive of the Federal Court of Australia | Federal Court of Australia Litigants’ Fund Special Account |
| 8    | Chief Executive of the National Blood Authority | National Managed Fund (Blood and Blood Products) Special Account |

16.2 Maximum return on investment

In investing the balance of a Special Account, or authorising the re-investment of the proceeds of an investment, the delegate must take all reasonable steps to obtain the maximum return available on authorised investments, consistent with the requirements, including particular cash-flow requirements, of sound financial management of the Account.

16.3 Notification to Australian Office of Financial Management for large amounts

Before making any investment or authorising any re-investment involving an amount of $15 million or more, the delegate must provide details of the proposed investment or re-investment to the Australian Office of Financial Management.
Part 17  Delegation under subsection 43 (b) of the Act – Gifts of public property

Division 1  Delegation

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<th>Provision of Act</th>
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<tbody>
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<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td><strong>Summary of function or power</strong></td>
<td>To give written approval of a gift of public property being made</td>
</tr>
<tr>
<td>3</td>
<td><strong>Delegate</strong></td>
<td>Non-Finance Chief Executives</td>
</tr>
</tbody>
</table>

Division 2  Directions

17.1  **No approval for military firearms or gifts prohibited by law**

(1) A delegate must not approve a gift of military firearms.

(2) A delegate must not approve a gift which is prohibited by law.

*Note:* Legislation imposes obligations which may prohibit the gifting of some objects or artefacts. Contractual agreements may prohibit the Commonwealth from gifting items such as military equipment or intellectual property.

17.2  **Property generally to be disposed of at market price**

(1) If a gift of property is being contemplated, the delegate must have regard to the requirement to adhere to the Commonwealth’s general policy for the disposal of Commonwealth property, namely, that, wherever it is economical to do so, the property being disposed of should:

(a) be sold at market price, in order to maximise the return to the Commonwealth; or

(b) otherwise, should be transferred (with or without payment) to another Commonwealth Agency with a need for an asset of that kind.

(2) A departure from the Commonwealth’s general policy, encompassing disposal by gift, is permitted if the Commonwealth property in question:

(a) is:

(i) genuinely surplus to the Agency’s requirements; and

(ii) of historical or symbolic significance in relation to the proposed recipient; or

(b) holds other special significance for the proposed recipient, and there are compelling reasons to justify its gifting to that recipient.

17.3  **Consideration of creation of undesirable precedent**

(1) If a gift of property is being contemplated, the delegate is to consider whether approval in a particular case would create an onerous or undesirable precedent. If the gift would create that precedent, it must be refused.
Example: If it would be difficult, in equity, for the Commonwealth not to approve other requests for such gifts and which would in that way lead to significant losses of Commonwealth revenues.

(2) For this reason, the delegate would need publicly defensible and objective grounds to justify favouring the person or organisation with the gift, ahead of other potential recipients.

17.4 Reasonable estimate to be obtained

(1) A delegate must not exercise the power under section 43 of the Act before obtaining a reasonable estimate of the value of the Commonwealth property proposed to be gifted.

(2) If this is not possible, the delegate must use his or her discretion in assigning a notional value, and must record the basis for determining the value of the property.

17.5 Foreign nationals or organisations – special requirements

If the recipient of a proposed gift is a foreign national, foreign organisation or foreign Government, the delegate must be satisfied of the appropriateness of the proposed gift before the gift is approved.

Note: The Department of Foreign Affairs and Trade may be contacted to provide assistance in determining the appropriateness of the proposed gift. Inquiries may be sent via email to the CFO section of the Department of Foreign Affairs and Trade at Financial.Management@dfat.gov.au.
Schedule 2  Delegations under the Regulations

Part 1  Delegation under Regulation 10 – Agreement to expenditure where there is insufficient appropriation

Division 1  Delegation

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<th>Regulation 10</th>
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<td>Summary of function or power</td>
<td>To agree to expenditure that might become payable under an arrangement where there is insufficient appropriation</td>
</tr>
<tr>
<td>2</td>
<td>Delegates</td>
<td>Non-Finance Chief Executives</td>
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</tbody>
</table>

Division 2  Directions

Directions for specific types of arrangements

1.1  Departmental arrangements not extending beyond 22 years

(1) The delegate may agree to expenditure that might become payable under an arrangement for which there is insufficient appropriation if:

(a) the arrangement relates to a departmental item; and

(b) the duration of the arrangement does not extend beyond 22 years from the date on which agreement under this delegation would be given; and

(c) for the period of the forward estimates, the departmental item has uncommitted appropriation and uncommitted forward estimates which are sufficient to cover the expenditure under the arrangement as it might become payable during that period; and

(d) for each year beyond the period of the forward estimates, the expenditure that might become payable under the arrangement in each year is of an amount that would not cause the total commitments and liabilities under the departmental item for each year to exceed 20% of the forward estimate recorded for the third forward year; and

(e) for arrangements with a duration beyond the forward estimates, the responsible Minister has consented in writing to the exercise of this delegation.

(2) If an arrangement consists of or contains a contingent liability, the delegate must consider whether to agree to expenditure which might arise under that part of the arrangement in accordance with subdivision 1.3, and not under this subdivision.

(3) If an arrangement is an arrangement covered by subdivision 1.4, 1.5 or 1.6, the delegate must consider whether to agree to expenditure which might arise under that arrangement in accordance with that subdivision and not under this subdivision.
(4) If an arrangement relates to more than one departmental item, the requirements of this subdivision must be met in relation to each item.

*Note:* For example, where Chief Executives of multiple Agencies agree to jointly cover expenditure under an arrangement by way of future departmental items in relation to each of their Agencies, a single delegate may agree to the expenditure, provided that the requirements of this subdivision are met in respect of each item. This may involve more than one responsible Minister consenting under paragraph 1.1(1)(e), if necessary.

### 1.2 Administered arrangements not extending beyond 10 years

(1) The delegate may agree to expenditure that might become payable under an arrangement for which there is insufficient appropriation if:

(a) the arrangement relates to an administered item; and

(b) the duration of the arrangement does not extend beyond 10 years from the date on which agreement under this delegation would be given; and

(c) for the period of the forward estimates, the administered item has uncommitted appropriation and uncommitted forward estimates which are sufficient to cover the expenditure under the arrangement as it might become payable during that period; and

(d) for each year beyond the period of the forward estimates, the expenditure that might become payable under the arrangement in each year is of an amount that would not cause the total commitments and liabilities under the administered item for each year to exceed 20% of the forward estimate recorded for the third forward year; and

(e) for arrangements with a duration beyond the forward estimates, the responsible Minister has consented in writing to the exercise of this delegation.

(2) If an arrangement consists of or contains a contingent liability, the delegate must consider whether to agree to expenditure which might arise under that part of the arrangement in accordance with subdivision 1.3, and not under this subdivision.

(3) If an arrangement is an arrangement covered by subdivision 1.4 or 1.6, the delegate must consider whether to agree to expenditure which might arise under that arrangement in accordance with that subdivision and not under this subdivision.

(4) In this subdivision, an administered item does not include a CAC Act body payment item.

(5) If an arrangement relates to more than one administered item, the requirements of this subdivision must be met in relation to each item.

*Note:* For example, where Chief Executives of multiple Agencies agree to jointly cover expenditure under an arrangement by way of future administered items in relation to each of their Agencies, a single delegate may agree to the expenditure, provided that the requirements of this subdivision are met in respect of each item. This may involve more than one responsible Minister consenting under paragraph 1.2(1)(e), if necessary.
1.3 Arrangements consisting of or including contingent liabilities

(1) If:

(a) an arrangement consists of, or includes, a contingent liability in relation to an event, and the arrangement relates to:
   (i) a departmental item, where the duration of the arrangement does not extend beyond 22 years from the date on which agreement under this delegation would be given; or
   (ii) an administered item, where the duration of the arrangement does not extend beyond 10 years from the date on which agreement under this delegation would be given; and

(b) the delegate is satisfied, after making reasonable inquiries, that:
   (i) the likelihood of the event occurring is remote; and
   (ii) the most probable expenditure that would need to be made in accordance with the arrangement, if the event occurred, would not be significant; and

(c) the contingent liability is not an indemnity by the Commonwealth that the Commonwealth would meet the costs of civil or criminal penalties of the indemnified party or parties;

the delegate may agree to expenditure that might become payable under the arrangement (if the arrangement consists of a contingent liability) or, if the contingent liability forms only part of the arrangement, under that part of the arrangement.

Note: Subparagraph (c) prevents a delegate from agreeing to an arrangement which contemplates indemnifying another party for civil or criminal penalty costs.

(2) If an arrangement relates to more than one departmental or administered item, the requirements of this subdivision must be met in relation to each item.

Note: For example, where Chief Executives of multiple Agencies agree to jointly cover expenditure under an arrangement by way of future departmental or administered items in relation to each of their Agencies, a single delegate may agree to the expenditure, provided that the requirements of this subdivision are met in respect of each item. In these circumstances, the relevant Agencies may also wish to agree to the apportionment of risk under the contingent liability before entering into the arrangement.

1.4 Arrangements in relation to payments made under the Federal Financial Relations Act 2009

The delegate may agree to expenditure that might become payable under an arrangement for which there is insufficient appropriation if the arrangement relates to a payment to a State or Territory that is made for the purposes of the Federal Financial Relations Act 2009, including:

(a) General Revenue Assistance; and
(b) Other General Revenue Assistance; and
(c) National Specific Purpose Payments; and
(d) National Partnership Payments.
1.5 **Departmental arrangements for vehicle purchase under the Fleet Management Agreement**

The delegate may agree to expenditure that might become payable under an arrangement for which there is insufficient appropriation if:

(a) the arrangement relates to a departmental item; and
(b) the arrangement relates to the Fleet Management Agreement or successor arrangement; and
(c) the arrangement relates to vehicle purchase arrangements; and
(d) the duration of the arrangement does not extend beyond the period of the forward estimates; and
(e) for an arrangement which contains a contingent liability in relation to an event, the delegate is satisfied, after making reasonable inquiries, that the most probable expenditure that would need to be made in accordance with the arrangement, if the event occurred, would not be significant; and
(f) for the departmental item, there is uncommitted appropriation and uncommitted forward estimates sufficient to cover the expenditure under the arrangement (other than the contingency mentioned in paragraph 1.5(e)), as it would or could become payable.

*Note:* Contingent liabilities in arrangements covered by subdivision 1.5 are to be considered in accordance with paragraph 1.5(e) and not in accordance with subdivision 1.3.

1.6 **Arrangements in accordance with a decision of Cabinet, the National Security Committee of Cabinet or the Prime Minister**

(1) The delegate may agree to expenditure that might become payable under an arrangement for which there is insufficient appropriation if the arrangement has been explicitly agreed in a decision of:

(a) Cabinet; or
(b) the National Security Committee of Cabinet (NSC) or its successor; or
(c) the Prime Minister.

(2) Despite paragraph 1.6 (1), if the arrangement includes a contingent liability, the delegate must not agree to expenditure that might be payable under the arrangement unless:

(a) the likelihood of the event occurring is remote and the most probable expenditure that would need to be made in accordance with the arrangement, if the event occurred, would not be significant; or
(b) the contingent liability has been explicitly included in the relevant decision of Cabinet, NSC (or its successor) or the Prime Minister; or
(c) the contingent liability is capped to an amount that does not cause the total potential cost of the arrangement to exceed the amount specified in the relevant decision of Cabinet, NSC (or its successor) or the Prime Minister.

*Note:* Contingent liabilities in arrangements covered by subdivision 1.6 are to be considered in accordance with subparagraph 1.6(2) and not in accordance with subdivision 1.3.
(3) Despite paragraphs 1.6 (1) and (2), the delegate must not agree to expenditure under an arrangement under this subdivision in a way inconsistent with any restriction that the Finance Minister places, in a particular case, on that power to agree.

(4) If an arrangement relates to more than one departmental or administered item, the requirements of this subdivision must be met in relation to each item.

Note: For example, where Chief Executives of multiple Agencies agree to jointly cover expenditure under an arrangement by way of future departmental or administered items in relation to each of their Agencies, a single delegate may agree to the expenditure, provided that the requirements of this subdivision are met in respect of each item. For arrangements that include a contingent liability, the relevant Agencies may also wish to agree to the apportionment of risk under the contingent liability.

1.7 Arrangements in accordance with a determination of the Finance Minister

The delegate may agree to expenditure that might become payable under an arrangement for which there is insufficient appropriation if:

(a) the arrangement relates to a departmental item or administered item for which a Delegation under subdivision 1.1, 1.2, 1.3, 1.4, 1.5 or 1.6 is not available; and

(b) the exercise of the power is in accordance with a determination of the Finance Minister.

Directions relating to all types of arrangements covered by this Division

1.8 Certain arrangements not included

The delegate must not exercise the Delegation if the arrangement includes any transaction that, by a determination of the Finance Minister, is prohibited for the purpose of this Delegation.

1.9 Matters that must be considered by the delegate

(1) The delegate must not agree to expenditure that might be payable under an arrangement unless the delegate has considered the following:

(a) the total amount of public money that might become payable under the arrangement, and the times when the public money might become payable; and

(b) the applicable departmental item or administered item; and

(c) whether there is sufficient uncommitted appropriation and uncommitted forward estimates; and

(d) direct or indirect risks arising from the arrangement and any proposed transaction under it.

(2) The delegate must consider the matters in paragraph 1.9 (1), having regard to the obligation on a Chief Executive under section 44 of the Act to promote the proper use of Commonwealth resources.
1.10 Written record

The delegate must ensure that a written record is kept of:
(a) the matters mentioned in subdivision 1.9 and any other relevant factors that have been considered; and
(b) his or her agreement.

Definitions

1.11 Definitions

In this Division:

_arrangement_ means an arrangement as defined in regulation 3 of the Regulations;

there is _insufficient appropriation for an arrangement_ if the relevant Agency has an insufficient appropriation of money, under the provisions of an existing law or a proposed law that is before Parliament, to meet expenditure that might be payable under the arrangement;

expenditure is _significant_ if it is at least $20,000,000 ($20 million);

The likelihood of an event occurring is _remote_ if there is a probability of less than 5% that it will occur.
Part 2  Delegation under Regulation 30 – Finance Minister may approve payments pending probate etc.

Division 1  Delegation

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Division 2  Directions

[There are no directions.]