



LEGAL PRACTITIONERS FIDELITY FUND

SOUTH AFRICA

List of Recoverable and Non-Recoverable Bank Charges approved by the Fund's Board of Control and issued on 30 April 2009

1. EXPOSITION OF THE VARIETY OF BANK CHARGES LEVIED ON LEGAL PRACTITIONER'S TRUST ACCOUNTS

1.1. MONTHLY BASIC FEE

Some banks charge a minimal monthly fee, sometimes described as an administrative fee. This fee has traditionally been regarded as recoverable by practitioners from the Fund.

RECOVERABLE FROM THE FUND

1.2. CHEQUE PROCESSING FEE

Banks charge a fee for processing each cheque issued. The fee is a banded structure dependent upon the quantum of each cheque. This fee has traditionally been regarded as recoverable by practitioners from the Fund.

RECOVERABLE FROM THE FUND

1.3. ELECTRONIC PAYMENT FEE

The banks charge a fee for processing each electronic payment. The fee is a banded structure dependent upon the quantum of each payment. As this fee is similar in nature to 1.2 above, it should be recoverable from the Fund.

RECOVERABLE FROM THE FUND

1.4. CHEQUE BOOKS ISSUED BY THE BANKS

The cost of cheque books supplied by the banks is currently recoverable from the Fund.

RECOVERABLE FROM THE FUND

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1.5. ELECTRONIC PAYMENT SYSTEMS – MONTHLY SUBSCRIPTION

The four large banks offer sophisticated electronic banking systems. In addition to the normal per item processing fee (see 1.3 above), clients are charged a monthly subscription. In many instances the banks levy a single subscription to cover services provided on both the trust and business banking accounts. To date, practitioners have been advised to do their own apportionment of the subscription based upon the respective volumes of trust and business transactions; the trust portion being recoverable from the Fund.

RECOVERABLE FROM THE FUND. BANKS TO BE ENGAGED BY THE FUND IN ORDER TO DEVELOP A MORE ACCURATE WAY OF ALLOCATING CHARGES TO THE TRUST ACCOUNT.

1.6. UNIDENTIFIABLE DEPOSITS – TRACING FEES

Practitioners often experience a problem identifying deposits made over the counter into their trust accounts by unknown entities. The banks charge a fee when assisting practitioners to establish the source of these funds. Some banks offer a system which requires depositors to complete the reference section on the deposit slip correctly, for a monthly additional fee (payable by the recipient).

RECOVERABLE FROM THE FUND

1.7. REFER TO DRAWER CHEQUES

Dishonoured cheques deposited in a trust account give rise to a service fee charge to the recipient's trust account in each instance.

NOT RECOVERABLE FROM THE FUND

1.8. BANK GUARANTEES

The banks charge for each guarantee issued. The established practice by business development staff is to advise practitioners that the cost of guarantees should be recovered from clients.

NOT RECOVERABLE FROM THE FUND



1.9. SPECIAL CLEARANCE OF CHEQUES DEPOSITED

Practitioners wishing to pay out against the proceeds of cheques deposited to their trust accounts often instruct their bankers to “specially clear” certain deposits. This process enables practitioners to pay out against a deposit within a few days instead of having to wait for the normal period of 10 days.

NOT RECOVERABLE FROM THE FUND.

1.10. BANK CHARGES SPECIFICALLY RELATED TO THE HANDLING OF CASH

Over the years, the banks have significantly increased their charges for transactions involving the handling of cash. This has had a significant impact upon certain practitioners who are obliged, because of the nature of their practices, to pay out and receive large amounts of cash.

The reason advanced by the banks for these increased charges is that the cost of providing security arrangements has escalated dramatically. The banks’ stated intention with regard to their charging structure is to match their charges as closely as possible with their expense structures.

**IN PRINCIPLE, CHARGES RELATED TO THE HANDLING OF CASH SHOULD BE
REGARDED AS RECOVERABLE FROM THE FUND**

1.10.1. CASH DEPOSIT FEES

Cash deposits are expensive. There are reported instances of clients in conveyancing matters arriving with suitcases of money. Cash deposits that are in excess of the prescribed amount must be reported in terms of FICA.

Some practitioners have adopted a policy to advise clients that the firm does not carry a sufficient level of insurance cover to be able to receipt large amounts of cash. Clients are instructed to deposit the cash directly into the firm’s trust account; the cash deposit fee to be paid separately over the counter by the client.

RECOVERABLE FROM THE FUND

1.10.2. CHEQUES CASHED

Over the counter cash withdrawals incur a fee in addition to the normal cheque processing fee (see 1.2 above). A cheque encashed will incur an encashment fee, as well as a cheque processing fee. Practitioners often need to encash cheques in



situations where the client has no banking account. MVA matters are a good example.

RECOVERABLE FROM THE FUND. NOTED HOWEVER THAT THE RULES PROHIBIT THE ISSUE OF TRUST CHEQUES PAYABLE TO CASH.

1.11. FOREIGN EXCHANGE TRANSACTIONS

1.11.1. COMMISSION ON FOREIGN EXCHANGE TRANSACTIONS

Banks charge a commission for converting currency to another denomination.

NOT RECOVERABLE FROM THE FUND.

1.11.2. FEES PAYABLE FOR FOREIGN EXCHANGE APPLICATIONS

The Reserve Bank and the commercial banks may charge fees for processing applications for foreign exchange, in situations where funds are being remitted to a foreign payee.

NOT RECOVERABLE FROM THE FUND.