

PARTICIPATION RULES WAIVER

New South Wales

Section 27 *Electronic Conveyancing National Law (NSW)*

Title

This instrument is Participation Rules Waiver PR 1/2015 – Verification of Identity by Subscriber Mortgagee.

Enabling Provisions

1. Under sections 23 and 25 of the Electronic Conveyancing National Law (NSW) (the National Law) the Registrar General (“Registrar”) has determined and published Version 2 of the Participation Rules relating to use of an Electronic Lodgment Network (Participation Rules) which came into effect on and from 1 October 2014.
2. Section 27 of the National Law permits the Registrar to waive compliance with all or any provisions of the Participation Rules if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

Affected Requirement

Participation Rule 6.5.1(b).

Explanatory Statement

Under Participation Rule 6.5.1(b), a Subscriber who is a mortgagee (“Subscriber Mortgagee”) must, if the mortgagor is not represented by a Subscriber, take reasonable steps to verify the identity of each mortgagor or their agent at or before the signing of the mortgage.

The Registrar understands that some Subscriber Mortgagees may follow business processes in mortgage transactions, whereby verification of identity of a mortgagor who is not represented by a Subscriber (“an unrepresented mortgagor”) is not undertaken at the same time as signing of a mortgage.

The Registrar is of the view that the Participation Rules should be amended to maintain the requirement that Subscriber Mortgagees verify the identity of an unrepresented mortgagor, but remove the requirement that this be done at the same time as signing of a mortgage.

The Registrar has determined that a waiver should be granted pending formal amendment of the Participation Rules.

Waiver

Subject to the Conditions, the Registrar grants all Subscriber Mortgagees a partial waiver of the obligation to comply with Participation Rule 6.5.1 in relation to the requirement in paragraph (b) that verifying the identity of each unrepresented mortgagor or their agent be done at or before the signing of the mortgage.

Conditions

Partial waiver of Participation Rule 6.5.1 as described above is granted on the condition that Participation Rule 6.5.1 with the following revised paragraph (b) is complied with:

- (b) where the Subscriber is a mortgagee, and the mortgagor (in its capacity as mortgagor) does not have a Representative, each mortgagor or their agent;

Commencement

This waiver commenced on 1 April 2015.

Period during which this waiver applies

This waiver operates until the earlier of:

- (a) an amended version of the Participation Rules which contains the above revised paragraph (b) for Participation Rule 6.5.1 comes into effect; or
- (b) the publication of a revocation of this waiver by the Registrar.

Dated: 3 July 2015

Signed by:



**Des Mooney
Registrar General**