

MODEL PARTICIPATION RULES – GUIDANCE QUERY

GUIDANCE FOR E-SETTLEMENT SUBSCRIBERS AND THEIR INSTRUCTING PRACTITIONERS

1. INTRODUCTION

A conveyancer or lawyer (Instructing Practitioner) may instruct a conveyancer or lawyer who is a Subscriber to act on behalf of the Instructing Practitioner's Client to undertake work in an Electronic Lodgment Network, including creating and Digitally Signing electronic Registry Instruments and other electronic Documents. The Subscriber instructed by the Instructing Practitioner is referred to in this guidance query as an 'e-settlement Subscriber'.

This guidance query aligns with Version 5 of the Model Participation Rules and explains the application of the Model Participation Rules where an e-settlement Subscriber is engaged regarding:

- verification of identity;
- proper completion of a Client Authorisation;
- verification of right to deal;
- certifications;
- retention of evidence; and
- compliance examinations.

Capitalised terms have the same meaning given to them in the Model Participation Rules, Model Operating Requirements or Electronic Conveyancing National Law.

This guidance query does not constitute legal advice, nor does it replace prudent conveyancing practice. Nothing written in this guide overrides the Electronic Conveyancing National Law, Participation Rules, any other relevant legislation of the Jurisdiction in which the property is situated (for example, legislation governing the conduct of conveyancers or lawyers) or Registrars' Prescribed Requirements.

2. VERIFICATION OF IDENTITY

The e-settlement Subscriber must take reasonable steps to verify the identity of the Client. The e-settlement Subscriber may specifically appoint the Instructing Practitioner to undertake the verification of identity by a written agency agreement, either as an agent or as an Identity Agent.

Identity Agent means a Person who is an agent of either a Subscriber, or a mortgagee represented by a Subscriber, and who:

- (a) the Subscriber or mortgagee reasonably believes is reputable, competent and insured in compliance with Insurance Rule 2; and
- (b) is authorised by the Subscriber or mortgagee to conduct verification of identity on behalf of the Subscriber or mortgagee in accordance with the Verification of Identity Standard.

If the Instructing Practitioner is appointed as an Identity Agent, the e-settlement Subscriber must ensure that the Instructing Practitioner complies with the requirements for Identity Agents under the Model Participation Rules. This includes meeting the requirements to be an Identity Agent, applying the Verification of Identity Standard and providing an Identity Agent Certification as set out in Schedule 9 of the Model Participation Rules.

For further information see MPR Guidance Note #2 – Verification of Identity at:

https://www.arnecc.gov.au/publications/mpr_guidance_notes

3. PROPER COMPLETION OF A CLIENT AUTHORISATION

There must be a Client Authorisation directly between the e-settlement Subscriber and the Client. The e-settlement Subscriber is the Representative and should be noted on the Client Authorisation as such. It is not necessary for the Instructing Practitioner to sign the Client Authorisation.

Representative Agent means a person authorised by a Representative to act as the Representative's agent including to sign the Client Authorisation. The Instructing Practitioner is not the Representative Agent and should not sign the Client Authorisation as such, unless the e-settlement Subscriber specifically appoints the Instructing Practitioner as its Representative Agent by a written agency agreement. Where the Instructing Practitioner signs the Client Authorisation as Representative Agent, the e-settlement Subscriber's details should still be noted in the Representative section.

The Instructing Practitioner is not the Client Agent and should not sign the Client Authorisation as such, unless the Instructing Practitioner has been appointed as attorney for the Client under a power of attorney.

There must be a Client Authorisation directly between the e-settlement Subscriber and each Client(s), including where those Clients are referred to the e-settlement Subscriber by the same Instructing Practitioner.

Attachments A to D contain some examples of the front pages of properly completed Client Authorisations where the Subscriber is an e-settlement Subscriber. Note that these are just examples, and consideration should be given to the particular circumstances of each case.

For further information see MPR Guidance Note #1 – Client Authorisation at:

https://www.arnecc.gov.au/publications/mpr_guidance_notes

4. VERIFICATION OF THE RIGHT TO DEAL

It is the e-settlement Subscriber who must take reasonable steps to verify that the Client is a legal Person and has the right to enter into the Conveyancing Transaction.

For further information see MPR Guidance Note #4 – Right to Deal at:

https://www.arnecc.gov.au/publications/mpr_guidance_notes

5. CERTIFICATIONS

It is the e-settlement Subscriber who must provide the certifications as to Identity, Authority, Evidence and Correctness when Digitally Signing electronic Registry Instruments and other electronic Documents.

For further information see MPR Guidance Note #3 – Certifications at:

https://www.arnecc.gov.au/publications/mpr_guidance_notes

6. RETENTION OF EVIDENCE

It is the e-settlement Subscriber who must retain the supporting evidence for the transaction for at least seven years.

For further information see MPR Guidance Note #5 – Retention of Evidence at:

https://www.arnecc.gov.au/publications/mpr_guidance_notes

7. COMPLIANCE EXAMINATIONS

It is the e-settlement Subscriber who must comply with any Compliance Examination, including producing all the requested documentation.

For further information see MPR Guidance Note #6 – Compliance Examinations at:

https://www.arnecc.gov.au/publications/mpr_guidance_notes

A – ABC Pty Ltd (e-settlement Subscriber) completes the Client Authorisation which is signed by Frederick Albert Bloggs and Freda Amy Bloggs (Clients) and Eric Lodge, an employee of ABC Pty Ltd

CLIENT AUTHORISATION

Version 5.0

When this form is signed, the Representative is authorised to act for the Client in a Conveyancing Transaction(s).

Privacy Collection Statement: The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Representative Reference: **BLOGGS-16-4-15**

CLIENT DETAILS	CLIENT 1		CLIENT 2	
	NAME	FREDERICK ALBERT BLOGGS	NAME	FREDA AMY BLOGGS
	ACN/ARBN		ACN/ARBN	
	ADDRESS	11/53 ALBERT ST, BRISBANE	ADDRESS	11/53 ALBERT ST, BRISBANE

TRANSACTION DETAILS	AUTHORITY TYPE	
	<input checked="" type="checkbox"/> SPECIFIC AUTHORITY (set out conveyancing transaction details below)	<input type="checkbox"/> STANDING AUTHORITY ends on revocation or expiration date: ____/____/____ (tick relevant conveyancing transaction(s) below)
	CONVEYANCING TRANSACTION(S) 1	CONVEYANCING TRANSACTION(S) 2
	PROPERTY ADDRESS 11/53 ALBERT ST, BRISBANE	PROPERTY ADDRESS 10/100 QUEEN ST, BRISBANE

LAND TITLE REFERENCE(S) (and/or property description) 71011681 LOT 1 ON RP 1569	LAND TITLE REFERENCE(S) (and/or property description) 10/100 QUEEN ST, BRISBANE
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<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> OTHER	<input type="checkbox"/> MORTGAGE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> WITHDRAWAL OF CAVEAT	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> OTHER	<input type="checkbox"/> MORTGAGE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> WITHDRAWAL OF CAVEAT
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ADDITIONAL INSTRUCTIONS SALE OF THIS PROPERTY	ADDITIONAL INSTRUCTIONS PURCHASE OF THIS PROPERTY
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CLIENT AUTHORISATION AND SIGNING	CLIENT 1 / CLIENT AGENT 1	CLIENT 2 / CLIENT AGENT 2
	I CERTIFY that: (a) I am the Client or Client Agent; and (b) I have the legal authority to instruct the Representative in relation to the Conveyancing Transaction(s); and (c) if I am acting as a Client Agent that I have no notice of the revocation of my authority to act on behalf of the Client. I AUTHORISE the Representative to act on my behalf, or where I am a Client Agent to act on behalf of the Client, in accordance with the terms of this Client Authorisation and any Participation Rules and any Prescribed Requirement to: (a) sign documents on my behalf as required for the Conveyancing Transaction(s); and (b) submit or authorise submission of documents for lodgment with the relevant Land Registry; and (c) authorise any financial settlement involved in the Conveyancing Transaction(s); and (d) do anything else necessary to complete the Conveyancing Transaction(s).	
	Frederick Albert Bloggs	Freda Amy Bloggs
	DATE 16/11/19 CLIENT/CLIENT AGENT NAME FREDERICK ALBERT BLOGGS CAPACITY	DATE 16/11/19 CLIENT/CLIENT AGENT NAME FREDA AMY BLOGGS CAPACITY

If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME DATE	If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME DATE
--	--

REPRESENTATIVE DETAILS AND SIGNING	REPRESENTATIVE	REPRESENTATIVE AGENT (if applicable)
	NAME ABC Pty Ltd	
	ACN/ARBN 101 469 148	
	ADDRESS 1/100 KING STREET, BRISBANE	

I/We CERTIFY that reasonable steps have been taken to ensure that this Client Authorisation was signed by each of the persons named above as Client or Client Agent.

SIGNATURE OF REPRESENTATIVE OR REPRESENTATIVE AGENT IF APPLICABLE:

Eric Lodge	
DATE 16/11/19	DATE / /
SIGNATORY NAME: ERIC LODGE	SIGNATORY NAME:
CAPACITY:	CAPACITY:

B – ABC Pty Ltd (e-settlement Subscriber) appoints Lamb Lawyers (Instructing Practitioner) as its Identity Agent and Lawrence Lawyer, an employee of Lamb Lawyers, verifies the identity of Frederick Albert Bloggs and Freda Amy Bloggs (Clients) and ABC Pty Ltd completes the Client Authorisation which is signed by Frederick Albert Bloggs and Freda Amy Bloggs in person and Eric Lodge, an employee of ABC Pty Ltd

CLIENT AUTHORISATION

Version 5.0

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Representative Reference: **BLOGGS-16-4-15**

CLIENT DETAILS		CLIENT 1	CLIENT 2	
TRANSACTION DETAILS	NAME	FREDERICK ALBERT BLOGGS	FREDA AMY BLOGGS	
	ACN/ARBN			
	ADDRESS	11/53 ALBERT ST, BRISBANE	11/53 ALBERT ST, BRISBANE	
TRANSACTION DETAILS	AUTHORITY TYPE	<input checked="" type="checkbox"/> SPECIFIC AUTHORITY (set out conveyancing transaction details below)	<input type="checkbox"/> STANDING AUTHORITY ends on revocation or expiration date: / / (tick relevant conveyancing transaction(s) below)	<input type="checkbox"/> BATCH AUTHORITY (attach details of conveyancing transaction(s))
		CONVEYANCING TRANSACTION(S) 1	CONVEYANCING TRANSACTION(S) 2	
	PROPERTY ADDRESS	11/53 ALBERT ST, BRISBANE	10/100 QUEEN ST, BRISBANE	
	LAND TITLE REFERENCE(S) (and/or property description)	71011681 LOT 1 ON RP 1569		
TRANSACTION DETAILS	CONVEYANCING TRANSACTION(S)	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> MORTGAGE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> WITHDRAWAL OF CAVEAT <input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> MORTGAGE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> WITHDRAWAL OF CAVEAT <input type="checkbox"/> OTHER	
	ADDITIONAL INSTRUCTIONS	SALE OF THIS PROPERTY	PURCHASE OF THIS PROPERTY	
CLIENT AUTHORISATION AND SIGNING		CLIENT 1 / CLIENT AGENT 1	CLIENT 2 / CLIENT AGENT 2	
		I CERTIFY that: (d) I am the Client or Client Agent; and (e) I have the legal authority to instruct the Representative in relation to the Conveyancing Transaction(s); and (f) if I am acting as a Client Agent that I have no notice of the revocation of my authority to act on behalf of the Client. I AUTHORISE the Representative to act on my behalf, or where I am a Client Agent to act on behalf of the Client, in accordance with the terms of this Client Authorisation and any Participation Rules and any Prescribed Requirement to: (e) sign documents on my behalf as required for the Conveyancing Transaction(s); and (f) submit or authorise submission of documents for lodgment with the relevant Land Registry; and (g) authorise any financial settlement involved in the Conveyancing Transaction(s); and (h) do anything else necessary to complete the Conveyancing Transaction(s).		
		Frederick Albert Bloggs	Freda Amy Bloggs	
		DATE 16/11/19	DATE 16/11/19	
REPRESENTATIVE DETAILS AND SIGNING		CLIENT/CLIENT AGENT NAME CAPACITY	CLIENT/CLIENT AGENT NAME CAPACITY	
		FREDERICK ALBERT BLOGGS	FREDA AMY BLOGGS	
		If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME Lawrence Lawyer DATE 16/11/19	If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME Lawrence Lawyer DATE 16/11/19	
REPRESENTATIVE DETAILS AND SIGNING		REPRESENTATIVE	REPRESENTATIVE AGENT (if applicable)	
		NAME ACN/ARBN ADDRESS		
		ABC Pty Ltd 101 469 148 1/100 KING STREET, BRISBANE		
REPRESENTATIVE DETAILS AND SIGNING		I/We CERTIFY that reasonable steps have been taken to ensure that this Client Authorisation was signed by each of the persons named above as Client or Client Agent. SIGNATURE OF REPRESENTATIVE OR REPRESENTATIVE AGENT IF APPLICABLE:		
		Eric Lodge		
		DATE 16/11/19	DATE / /	
		SIGNATORY NAME: ERIC LODGE CAPACITY:	SIGNATORY NAME: CAPACITY:	

C – ABC Pty Ltd (e-settlement Subscriber) appoints Lamb Lawyers (Instructing Practitioner) as its Representative Agent and Lawrence Lawyer, an employee of Lamb Lawyers, completes the verification of identity and the Client Authorisation which is signed by Frederick Albert Bloggs and Freda Amy Bloggs (Clients) in the presence of Lawrence Lawyer and Lawrence Lawyer

CLIENT AUTHORISATION

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When this form is signed, the Representative is authorised to act for the Client in a Conveyancing Transaction(s).

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Representative Reference: **BLOGGS-16-4-15**

CLIENT DETAILS		CLIENT 1	CLIENT 2
TRANSACTION DETAILS	NAME	FREDERICK ALBERT BLOGGS	FREDA AMY BLOGGS
	ACN/ARBN		
	ADDRESS	11/53 ALBERT ST, BRISBANE	11/53 ALBERT ST, BRISBANE
TRANSACTION DETAILS	AUTHORITY TYPE	<input checked="" type="checkbox"/> SPECIFIC AUTHORITY (set out conveyancing transaction details below) CONVEYANCING TRANSACTION(S) 1	<input type="checkbox"/> STANDING AUTHORITY ends on revocation or expiration date: ____/____/____ (tick relevant conveyancing transaction(s) below) CONVEYANCING TRANSACTION(S) 2
	PROPERTY ADDRESS	11/53 ALBERT ST, BRISBANE	10/100 QUEEN ST, BRISBANE
	LAND TITLE REFERENCE(S) (and/or property description)	71011681 LOT 1 ON RP 1569	
	CONVEYANCING TRANSACTION(S)	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> MORTGAGE <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> WITHDRAWAL OF CAVEAT <input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> MORTGAGE <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> WITHDRAWAL OF CAVEAT <input type="checkbox"/> OTHER
ADDITIONAL INSTRUCTIONS	SALE OF THIS PROPERTY	PURCHASE OF THIS PROPERTY	
CLIENT AUTHORISATION AND SIGNING	CLIENT 1 / CLIENT AGENT 1		CLIENT 2 / CLIENT AGENT 2
	I CERTIFY that: (g) I am the Client or Client Agent; and (h) I have the legal authority to instruct the Representative in relation to the Conveyancing Transaction(s); and (i) if I am acting as a Client Agent that I have no notice of the revocation of my authority to act on behalf of the Client. I AUTHORISE the Representative to act on my behalf, or where I am a Client Agent to act on behalf of the Client, in accordance with the terms of this Client Authorisation and any Participation Rules and any Prescribed Requirement to: (i) sign documents on my behalf as required for the Conveyancing Transaction(s); and (j) submit or authorise submission of documents for lodgment with the relevant Land Registry; and (k) authorise any financial settlement involved in the Conveyancing Transaction(s); and (l) do anything else necessary to complete the Conveyancing Transaction(s).		
	Frederick Albert Bloggs DATE 16/11/19 CLIENT/CLIENT AGENT NAME FREDERICK ALBERT BLOGGS CAPACITY _____ If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME _____ DATE _____		Freda Amy Bloggs DATE 16/11/19 CLIENT/CLIENT AGENT NAME FREDA AMY BLOGGS CAPACITY _____ If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME _____ DATE _____
	SIGN HERE		SIGN HERE
REPRESENTATIVE DETAILS AND SIGNING	REPRESENTATIVE		REPRESENTATIVE AGENT (if applicable)
	NAME ABC Pty Ltd		Lamb Lawyers
	ACN/ARBN 101 469 148		101 469 147
	ADDRESS 1/100 KING STREET, BRISBANE		1/100 QUEEN STREET, BRISBANE
I/We CERTIFY that reasonable steps have been taken to ensure that this Client Authorisation was signed by each of the persons named above as Client or Client Agent. SIGNATURE OF REPRESENTATIVE OR REPRESENTATIVE AGENT IF APPLICABLE:			
SIGNATORY NAME: _____ CAPACITY: _____		Lawrence Lawyer DATE 16/11/19 SIGNATORY NAME: Lawrence Lawyer CAPACITY: _____	

D – Frederick Albert Bloggs and Freda Amy Bloggs (Clients) appoint Lawrence Lawyer as a Client Agent through a power of attorney and ABC Pty Ltd (e-settlement Subscriber) verifies the identity of Lawrence Lawyer and completes the Client Authorisation which is signed by Lawrence Lawyer (Client Agent) and Eric Lodge, an employee of ABC Pty Ltd

CLIENT AUTHORISATION

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CLIENT DETAILS		CLIENT 1	CLIENT 2
TRANSACTION DETAILS	NAME	FREDERICK Albert BLOGGS	FREDA Amy BLOGGS
	ACN/ARBN		
	ADDRESS	11/53 ALBERT ST, BRISBANE	11/53 ALBERT ST, BRISBANE
TRANSACTION DETAILS	AUTHORITY TYPE	<input checked="" type="checkbox"/> SPECIFIC AUTHORITY (set out conveyancing transaction details below) CONVEYANCING TRANSACTION(S) 1	<input type="checkbox"/> STANDING AUTHORITY ends on revocation or expiration date: ____/____/____ (tick relevant conveyancing transaction(s) below) CONVEYANCING TRANSACTION(S) 2
	PROPERTY ADDRESS	11/53 ALBERT ST, BRISBANE	10/100 QUEEN ST, BRISBANE
	LAND TITLE REFERENCE(S) (and/or property description)	71011681 LOT 1 ON RP 1569	
	CONVEYANCING TRANSACTION(S)	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> MORTGAGE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> WITHDRAWAL OF CAVEAT <input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> MORTGAGE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> WITHDRAWAL OF CAVEAT <input type="checkbox"/> OTHER
ADDITIONAL INSTRUCTIONS	SALE OF THIS PROPERTY	PURCHASE OF THIS PROPERTY	
CLIENT AUTHORISATION AND SIGNING	CLIENT 1 / CLIENT AGENT 1		CLIENT 2 / CLIENT AGENT 2
	I CERTIFY that: (j) I am the Client or Client Agent; and (k) I have the legal authority to instruct the Representative in relation to the Conveyancing Transaction(s); and (l) if I am acting as a Client Agent that I have no notice of the revocation of my authority to act on behalf of the Client. I AUTHORISE the Representative to act on my behalf, or where I am a Client Agent to act on behalf of the Client, in accordance with the terms of this Client Authorisation and any Participation Rules and any Prescribed Requirement to: (m) sign documents on my behalf as required for the Conveyancing Transaction(s); and (n) submit or authorise submission of documents for lodgment with the relevant Land Registry; and (o) authorise any financial settlement involved in the Conveyancing Transaction(s); and (p) do anything else necessary to complete the Conveyancing Transaction(s).		
	Lawrence Lawyer DATE 16/11/19 CLIENT/CLIENT AGENT NAME LAWRENCE LAWYER CAPACITY ATTORNEY If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME DATE		Lawrence Lawyer DATE 16/11/19 CLIENT/CLIENT AGENT NAME LAWRENCE LAWYER CAPACITY ATTORNEY If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME DATE
	SIGN HERE		SIGN HERE
REPRESENTATIVE DETAILS AND SIGNING	REPRESENTATIVE		REPRESENTATIVE AGENT (if applicable)
	NAME ABC Pty Ltd		
	ACN/ARBN 101 469 148		
	ADDRESS 1/100 KING STREET, BRISBANE		
I/We CERTIFY that reasonable steps have been taken to ensure that this Client Authorisation was signed by each of the persons named above as Client or Client Agent. SIGNATURE OF REPRESENTATIVE OR REPRESENTATIVE AGENT IF APPLICABLE:			
Eric Lodge DATE 16/11/19 SIGNATORY NAME: ERIC LODGE CAPACITY:		Eric Lodge DATE / / SIGNATORY NAME: ERIC LODGE CAPACITY:	
SIGN HERE		SIGN HERE	