



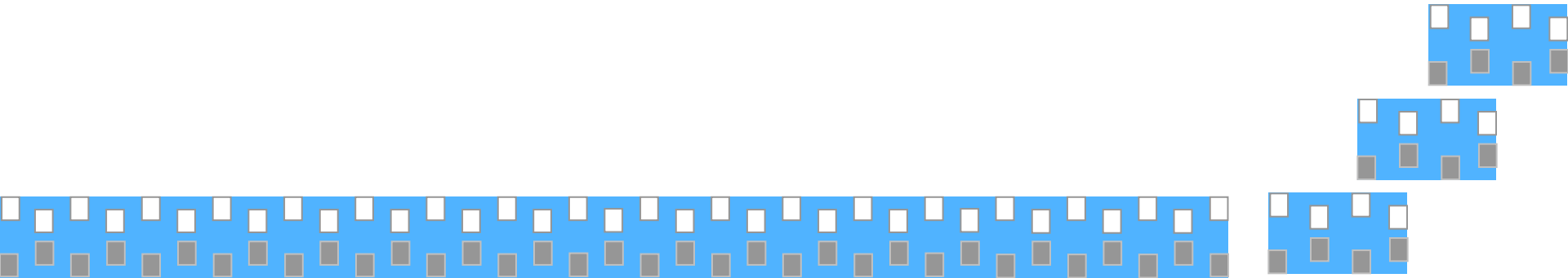
AUSTRALIAN REGISTRARS NATIONAL ELECTRONIC CONVEYANCING COUNCIL

Australian Registrars' National Electronic Conveyancing Council

INDUSTRY FORUM

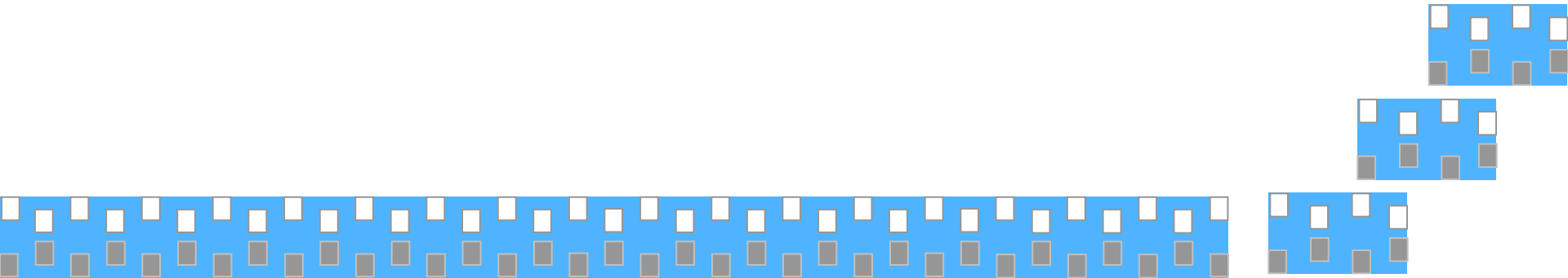
Version 3
Model Participation Rules

Melbourne, 15 June 2015



Forum Overview

- Welcome
- Where We Have Been
- How We Got Here
- What is Important
- The Five Key Issues
- Coffee
- Q&A
- Close

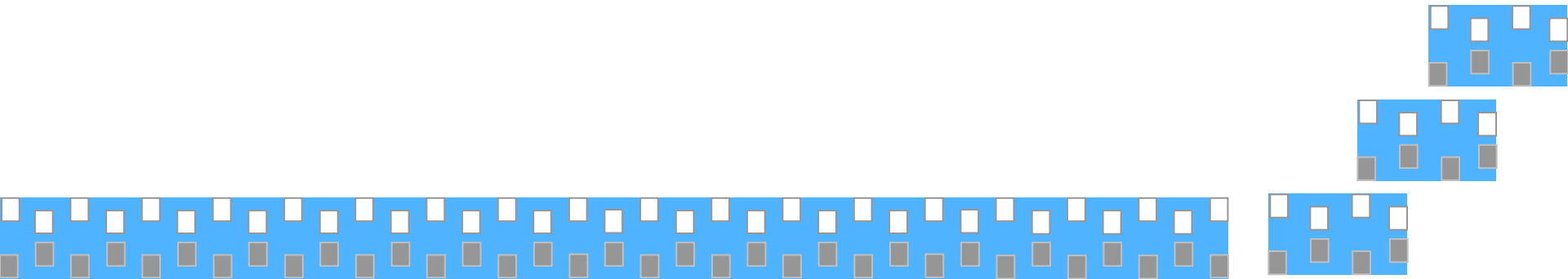


Where We Have Been

- Version 1 MPR promulgated in April 2013
- Version 2 MPR promulgated in March 2014
- Version 3 Consultation Drafts published in January 2015
- Submissions on Version 3 Consultation Draft closed in March 2015

How We Got Here

- 20 submissions received in February and March 2015
- 150 issues identified from submissions
- Independent advice sought on Subscriber responsibility options and Subscriber Agent insurance requirements
- Additional information collection from non-bank lender and mortgage broker representatives



What is Important

Stability

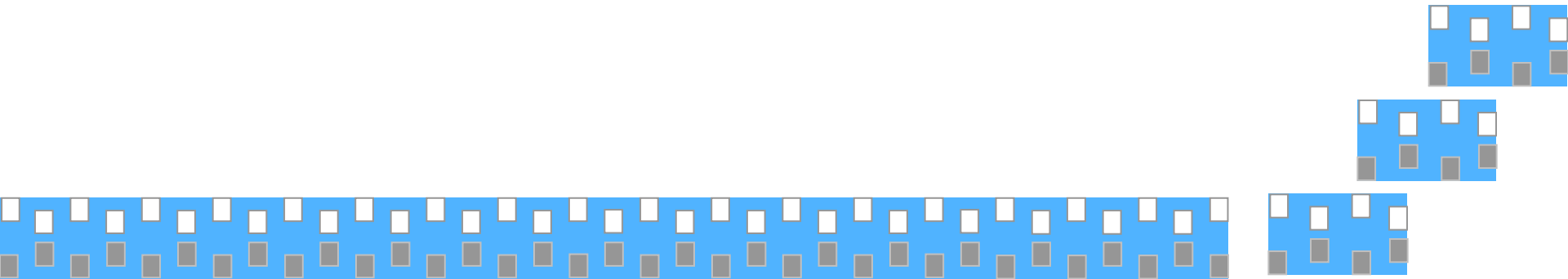
Version 3 MPR needs to be locked down for at least a year.

Participation

There must be no unreasonable barriers to participation in electronic conveyancing.

Take-up

There must be no unreasonable obstacles to using electronic conveyancing.



Overview of Vol Regime

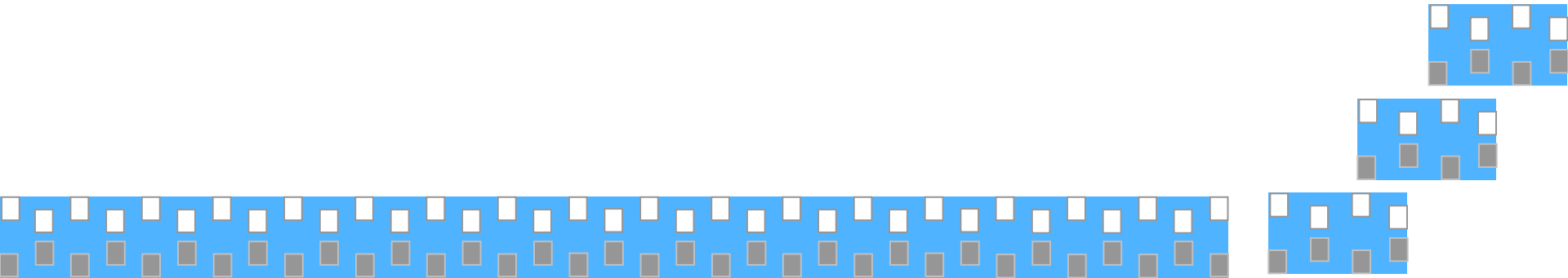
1. Subscriber (or mortgagee represented by the Subscriber) can either:
 - ✓ apply the Vol Standard or
 - ✓ use other reasonable steps.
2. Subscriber or represented mortgagee using an Identity Agent (formerly Subscriber Agent) must:
 - ✓ believe that the Agent is reputable and competent and holds the required insurances
 - ✓ direct the Identity Agent to use the Vol Standard.
3. Use of the Vol Standard by either:
 - ✓ a Subscriber
 - ✓ an Identity Agent engaged by a Subscriber
 - ✓ a mortgagee represented by a Subscriber
 - ✓ an Identity Agent engaged by a represented mortgagee

will be deemed to constitute taking reasonable steps, ie the so-called “safe harbour”.

4. Otherwise, Subscriber can use any agent to apply either the Vol Standard or other reasonable steps.

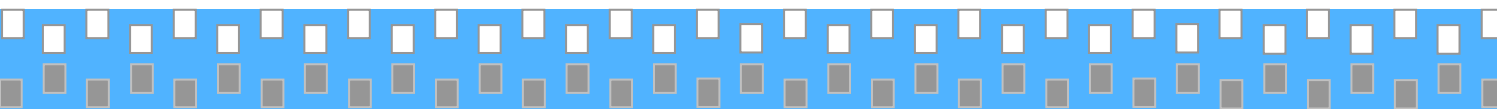
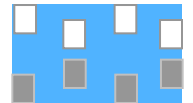
The Five Key Issues

- Subscriber responsibility in Vol
- Subscriber Agent insurance for Vol
- Use of Subscriber Agents in Vol
- The Vol Standard
- Document signing in conjunction with Vol



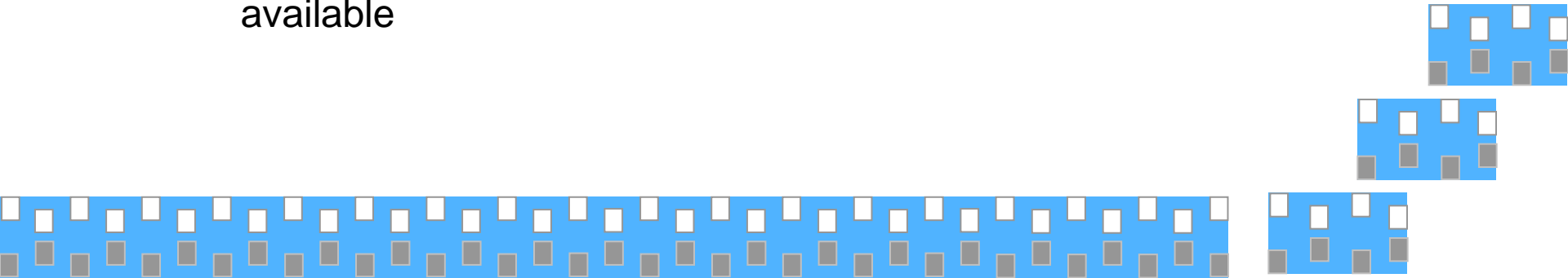
Subscriber Responsibility in Vol

- Two models considered
- Common law vs strict liability
- Common law approach adopted
- Subscriber responsible for Subscriber Agent negligence, but generally not Subscriber Agent fraud
- Subscriber only responsible for Subscriber Agent fraud if complicit in the fraud or could reasonably have prevented it
- Subscriber Agent responsible for own fraud
- Legislated Torrens compensation arrangements unaffected



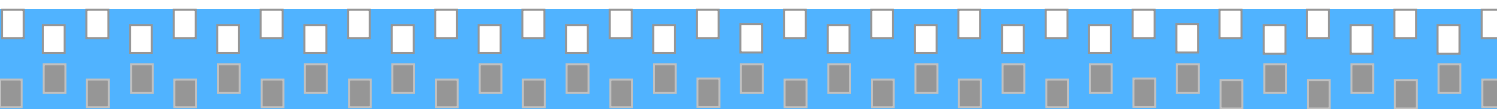
Subscriber Agent Insurance for Vol

- Requirements can be obtained commercially
- Requirements to remain unchanged for time being
- Independent risk assessment to be conducted
- Industry representatives to be invited to participate in risk assessment
- Risk assessment likely to take 6 to 12 months
- Insurance requirements will be reviewed when risk assessment available



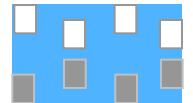
Use of Subscriber Agents in Vol

- Subscriber Agents are reputable, competent & insured
- Subscriber Agents must be used to get safe harbour when applying Vol Standard
- Subscribers can continue to use their existing Vol processes including using agents, if those processes constitute reasonable steps
- Other agents can, for example, service remote areas, including overseas, and exceptional circumstances
- If other agents use the Vol Standard it is likely a Court will consider that reasonable steps have been taken.



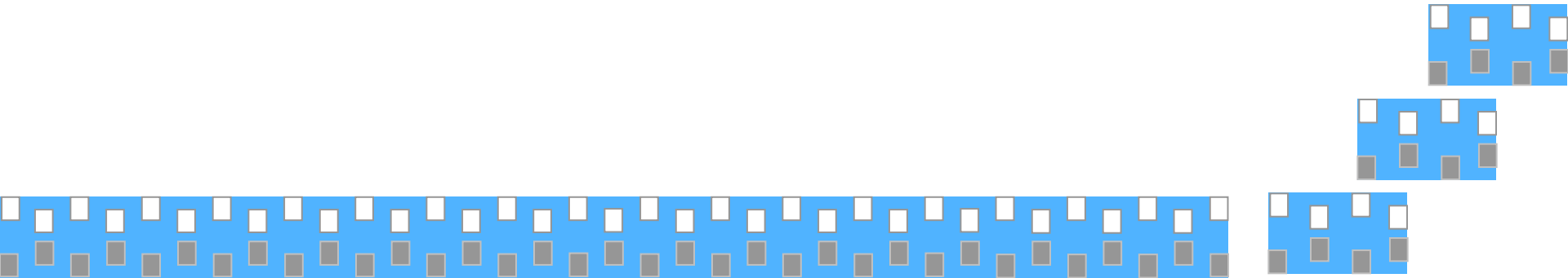
The Vol Standard

- Re-drafted to be generic
- Subscriber & Subscriber Agent replaced with Identity Verifier
- Identity Verifier can be Subscriber, mortgagee represented by a Subscriber, Subscriber Agent or other agent
- New identity document category for Australian nationals in Australia with foreign passports
- Vol overseas removed – DFAT to be consulted
- Signings in conjunction with Vol removed (see next slide)
- Re-verifications after 2 years clarified



Document Signing and Vol

- Concurrent document signing and Vol removed from MPR and Vol Standard
- Document signing in conjunction with Vol considered best practice
- Subscriber responsible for ensuring signing by person whose identity has or will be verified
- Subscriber must take reasonable steps to establish link between signing and Vol







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Thank you for attending

Further queries and feedback can be sent to:

chair@arnecc.gov.au

