

## **COMMON ERRORS FROM SUBSCRIBER COMPLIANCE EXAMINATIONS**

### **CLIENT AUTHORISATION**

The common errors relating to a Client Authorisation are:

#### **1. The authority type is either not selected, or incorrectly selected**

It is important that the correct authority type in the 'Transaction Details' panel is selected.

**'Specific Authority'** should be selected when the Client authorises the Subscriber to act for the Client in completing a specific Conveyancing Transaction. The Property Address and Land Title Reference(s) fields must also be completed, together with ticking the categories of Conveyancing Transactions.

**'Standing Authority'** should be selected when the Client authorises the Subscriber to act for the period set out in the Client Authorisation, either until a specified expiration date, or if no date is specified, until the Client Authorisation is revoked by the Client. The categories of Conveyancing Transactions must be ticked.

**'Batch Authority'** should be selected when the Client authorises the Subscriber to act in a batch of Conveyancing Transactions, such as in an apartment or greenfield development. Details of the Conveyancing Transactions the Batch Authority is intended to cover should be attached.

#### **2. The Client Authorisation is not signed and dated by the Client or Client Agent and the capacity of the Client Agent is not completed**

The Client or the Client Agent must sign and date the Client Authorisation.

If the Client Authorisation is signed by a Client Agent, the capacity of the Client Agent, for example an attorney or a director of a company, must be shown.

#### **3. The Client Authorisation is not signed and dated by the Representative or Representative Agent**

The details of the Representative, and the Representative Agent (if appointed) must be completed. The Representative, or their Representative Agent, also needs to sign and date the Client Authorisation.

If the Client Authorisation is signed by the Representative Agent, the Representative does not also need to sign the Client Authorisation. An Identity Agent should not sign as Representative Agent unless they have also been appointed as the Subscriber's Representative Agent.

If the Client Authorisation is witnessed by an Australian Consular Office officer, the Australian Consular Office officer also writes their name and the date in the panel under the Client signature.

If the Client Authorisation is witnessed by an Identity Agent, the Identity Agent also writes their name and the date in the panel under the Client signature.

For more information read the Model Participation Rules Guidance Note #1 – Client Authorisation available at [https://www.arnecc.gov.au/publications/mpr\\_guidance\\_notes](https://www.arnecc.gov.au/publications/mpr_guidance_notes).

## VERIFICATION OF IDENTITY

The common errors relating to verification of identity are:

### 1. Not providing sufficient evidence of steps taken to verify identity

Written details of the steps taken to verify identity together with the supporting evidence of those steps must be provided. The material provided in response to the compliance examination must be sufficient to demonstrate the steps that were taken (including the timing of the steps) and must include copies of any identity documents sighted and retained by the Subscriber.

### 2. Believing that the AML/CTF ‘know your customer’ regime is the same as the Verification of Identity Standard

The *Anti-money Laundering and Counter-terrorism Financing Act 2006* (AML/CTF) ‘know-your-customer’ regime is not the equivalent of the Verification of Identity Standard as set out in Schedule 8 of the Model Participation Rules. If a Subscriber is relying on the AML/CTF regime, this is only evidence of steps taken and may or may not constitute reasonable steps for the purpose of complying with the Model Participation Rules.

### 3. Incomplete application of the Verification of Identity Standard

When Subscribers indicate that they have undertaken verification of a Client or Client Agent’s identity in accordance with the Verification of Identity Standard in the Model Participation Rules, then all aspects of that standard must be followed.

The Verification of Identity Standard is not followed if there is no face-to-face in-person interview with the Person Being Identified, even if the documents listed in the Categories are provided.

For more information read the Model Participation Rules Guidance Note #2 – Verification of Identity available at [https://www.arnecc.gov.au/publications/mpr\\_guidance\\_notes](https://www.arnecc.gov.au/publications/mpr_guidance_notes).

## VERIFICATION OF RIGHT TO DEAL

The common errors relating to verification of the right to deal are:

### 1. **Not providing sufficient evidence**

Written details of the steps taken by the Subscriber, together with supporting evidence of those steps, to verify the right to deal must be furnished. The material provided in response to the compliance examination must be sufficient to demonstrate the steps that were taken (including the timing of the steps) and must include copies of any right to deal documents sighted and retained by the Subscriber.

### 2. **Incoming mortgagee relying only on a title search or copy of a certificate of title**

When a title search or copy of a certificate of title is the only supporting evidence produced to demonstrate that a Subscriber has taken reasonable steps to verify that the transacting party is a legal Person and has the right to enter into the Conveyancing Transaction, a Subscriber should explain in writing the reasonable steps they have taken to tie the registered proprietor to the mortgagor.

For more information read the Model Participation Rules Guidance Note #4 – Right to Deal available at [https://www.arnecc.gov.au/publications/mpr\\_guidance\\_notes](https://www.arnecc.gov.au/publications/mpr_guidance_notes).