

PARTICIPATION RULES WAIVER

Section 27 Electronic Conveyancing National Law (NSW)

Title

This instrument is: Participation Rules Waiver PR1/2014 – Certifications.

Enabling Provisions

Under sections 23 and 25 of the Electronic Conveyancing National Law (NSW) (the National Law) the Registrar General (“Registrar”) has determined Version 2 of the Participation Rules (Participation Rules) which come into effect on and from 1 September 2014

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 Rule

Participation Rule 7.10.

Explanatory Statement

Under Participation Rule 7.10, a Subscriber to an Electronic Lodgement Network (“ELN”) must comply with the Certification Rules set out in Schedule 3 of the Participation Rules.

Participation Rules Version 2 effects a number of changes from Version 1. One of the changes is a change to the wording of Certification 5 in Schedule 3. It is understood that the wording of that certification in Release 1 of Property Exchange Australia Ltd’s ELN, known as “PEXA”, is not the same as the updated wording in the Certifications Rules contained in the NSW Participation Rules Version 2.

It is further understood that the certification will be updated to be identical to the Certification Rules at a time proposed by Property Exchange Australia Ltd and agreed to by the Registrar.

The Registrar is of the view that the variation in wording is not material to the certifications being given.

Waiver

Subject to the Conditions, the Registrar grants Subscribers to PEXA a partial waiver of the Subscriber’s obligation to comply with Participation Rule 7.10 relating to Certification 5.

Conditions

The partial waiver of Participation Rule 7.10 relating to Certification 5 is granted on the following conditions:

1. This waiver is conditional on all mortgagees providing the certifications set out in Version 1 of the NSW Participation Rules, that is, the following certification is provided in substitution for Certification 5 that would otherwise be required under the current Participation Rules.

“5. The Subscriber or the mortgagee it represents:
(a) has taken reasonable steps to verify the identity of the mortgagor; and
(b) holds a mortgage on the same terms as this Registry Instrument signed by the mortgagor.”

2. This waiver will be taken to be a notice marked as “For Communication to Subscribers” under Operating Requirement 19.4(d) and Property Exchange Australia Ltd must provide notice of the waiver and any expiry or revocation of the waiver to Subscribers.

Commencement

This waiver commences on: 1 October 2014

Period during which this waiver applies

This waiver operates until the earlier of:

- (a) Property Exchange Australia Ltd changing the ELN to enable Certification 5 in the Participation Rules to be given by Subscribers; or
- (b) the publication by the Registrar that the waiver is revoked.

Dated

29 August 2014

Signed by:



Des Mooney
Registrar General