

Undertaking by Outgoing Mortgagee in favour of Incoming Mortgagee for Delivery of Documents

Information Statement

The states of Western Australia, New South Wales, Victoria and South Australia are mandating lodgement of discharges of mortgage and new mortgages for refinances, including commercial refinances, through an electronic lodgement network for settlement of certain refinances between authorised deposit taking institutions (ADIs) commencing 1 August 2017. Western Australia has since deferred its commencement date and now intends to have regulations in place during the fourth quarter of 2017 that will require electronic lodgment by 1 December 2017 for all mortgages, discharges of mortgages and refinances.

Property Exchange Australia (PEXA) in conjunction with the Australian Bankers' Association (ABA), Customer Owned Banking Association (COBA), ADIs and practitioners have jointly developed a standard form of "Undertaking by Outgoing Mortgagee in favour of Incoming Mortgagee for Delivery of Documents" (Undertaking) for use in connection with the settlement of commercial refinance transactions.

This Information Statement sets out the status of the Undertaking and its intended use.

Status of Undertaking

The Undertaking is provided for the optional use by ADIs and practitioners as part of refinancing settlement arrangements.

The Undertaking is designed and intended to be used as a standard form. This is to provide certainty and to facilitate the management of non-land securities and other documentation which would normally be exchanged between settlement parties at settlement.

The Undertaking is neither endorsed nor approved by PEXA, ABA or COBA or the employees or members of these bodies.

The appropriateness and use of the Undertaking is entirely a matter for individual businesses, based on legal advice provided to them specifically, and the transaction in contemplation and the nature of their business operations.

Accessing the Undertaking

The ABA is providing the form of Undertaking and this Information Statement on its website at: www.bankers.asn.au and is available for downloading by anyone who wishes to use the Undertaking in accordance with this Information Statement.

The Undertaking is dated to indicate its currency and version. The current version will not be changed without consultation and the agreement of PEXA, ABA, COBA and practitioners representing ADIs who have requested to be consulted.

Although the Undertaking is intended to be used as a standard form, it is available in an editable format.

Conditions of download and for confidence in using the Undertaking

Because the Undertaking is intended to be used as a standard form, if it is modified by or on behalf of the outgoing mortgagee (other than by including the variable information required to complete the document) or is substituted by a non-standard form of undertaking, the intended recipient (i.e. the incoming mortgagee) should be notified of this.

Anyone relying on, or using the Undertaking, must not represent it as having been endorsed or approved, or its use required by, PEXA, ABA or COBA or the AFC or any of their members or employees.



Strong banks – strong Australia

This will save an incoming mortgagee verifying whether the Undertaking provided to the incoming mortgagee is the same as that on the ABA's website.

July 2017.