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FAQs on Electronic Loan Documents

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When selling loans to Freddie Mac, you can use a combination of printed and electronic versions of the required loan documents. Our guidelines for electronic transactions and documents are outlined in Chapter 1401 of the *Single-Family Seller/Service Guide (Guide)*. However, an additional set of requirements apply for eMortgages as described in our *eMortgage Guide* [PDF]. Seller/Service providers need a separate Freddie Mac approval if they wish to originate, sell and/or service eMortgages.

The following FAQs provide supplemental information about our requirements for electronic loan documents and electronic signatures.

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General

1. [How is Freddie Mac supporting the adoption of electronic loan documents and eMortgages?](#)

Freddie Mac has been accepting electronic loan documents and eMortgages since 2005 and continues to support eClosings and eMortgages by being flexible in its requirements and adding resources to assist Seller/Servicer adoption efforts. Freddie Mac is also working with various trade associations, title companies, service bureaus, and other members of the mortgage finance industry, as well as with technology providers. We want to better understand the challenges our Seller/Servicers face in their adoption process and assist them in developing solutions to overcome those challenges.

2. What is the legal basis for accepting electronic signatures in lieu of ink signatures?

The validity of electronic signatures (in lieu of ink signatures) is based on the federal Electronic Signatures in Global and National Commerce Act (ESIGN) and the Uniform Electronic Transactions Act (UETA), as enacted in the applicable state. ESIGN and the UETA put electronic signatures and electronic records on an equal legal footing with pen and ink signatures and paper records. Most, but not all states, territories, and the District of Columbia have enacted the UETA since 1999, and the federal government enacted ESIGN in 2000. ESIGN pre-empts the UETA, wherever enacted or not enacted, to the extent it is (a) inconsistent with the model UETA promulgated by the National Conference of Commissioners on Uniform State Laws in 1999 or (b) nonexistent. In addition, ESIGN complements the UETA by providing federal law that facilitates the use of electronic federal consumer disclosures in an electronic mortgage transaction.

3. What is Freddie Mac's view of electronic signatures?

Freddie Mac believes electronic signatures on electronic loan documents that comply with ESIGN and UETA are valid. We have established minimum requirements for our customers which supplement ESIGN and UETA to bolster the validity, effectiveness and enforceability of electric signatures used in eMortgage transactions. Our requirements are described in detail in our [eMortgage Guide](#) [PDF]

4. How does an eClosing differ from a paper-based closing?

In an eClosing, most or all of the steps in the closing process take place online, that is, documents are prepared, viewed, signed, stored and transmitted electronically. Generally, both paper closings and eClosings have the same parties, legal documentation and need for valid enforceable mortgage loan documents.

Electronic Documents System Due Diligence Review

1. Chapter 1401 of the Guide requires Sellers to perform due diligence reviews on the systems used and to verify the systems comply with the Sellers' minimum security standards. What resources are available to provide guidance on recommended security standards?

Best practices and security standards for electronic transactions can be found on the Federal Financial Institutions Examination Council Website and the Mortgage Industry Standards Maintenance Organization (MISMO) [Website](#) .

2. What information should I keep in our due diligence file?

We recommend you keep:

- Internal or any vendor documentation confirming system compliance with UETA, ESIGN and other applicable state and regulatory requirements.

- Documentation confirming discussions with internal or external computer/ technology experts and internal or external legal experts regarding systems compliance.

- Confirmation of ongoing effectiveness of controls with routine examinations and testing of security and privacy controls by qualified third parties.

- Other documentation such as a SSAE 16 (SAS 70 Type II) review.

- Any relevant information on all technology providers, including a comprehensive list of your technology providers.

3. We do business with several correspondents and third-party originators that use electronic documents, but we have not reviewed the systems they use for such documents. Is this permitted?

Correspondents and third-party originators must certify to Sellers that their systems have undergone the same due diligence review required for the Seller's systems as outlined in Guide Section 1401.8. Their systems must comply with UETA, ESIGN, and other applicable state and federal regulatory requirements. We encourage

Sellers to share their lists of eligible technology providers with correspondents and third-party originators.

eMortgages

1. Are there types of mortgages that are not eligible to be delivered as eMortgages?

Yes. Loans that require special documentation are not eligible for delivery as eMortgages. These are:

- Mortgages in which a Power of Attorney is used for a borrower
- Mortgages secured by manufactured homes
- Texas Equity Section 50(a)(6) Mortgages
- Mortgages documented using a New York Consolidation, Extension & Modification Agreement ("NYCEMA")
- Mortgages in which the borrower is a trust (e.g., Living Trust or an Illinois Land Trust)
- Biweekly Mortgages (even if such mortgages are otherwise eligible under Seller's Purchase Documents)
- Cooperative Share Mortgages (even if such mortgages are otherwise eligible under Seller's Purchase Documents)

2. Do I need to find a custodian to certify eMortgages?

No. Freddie Mac will act as your custodian for the eNotes, by holding the authoritative copies of the eNotes in our eNote vault. We use an automated certification process to ensure the data delivered in the Selling SystemSM for each eMortgage matches the data on the eNotes in our eNote vault. However, if there are paper documents associated with any eNote, your paper Document Custodian may need to become involved to complete the certification process.

Our in-house automated certification process for eMortgage offers several benefits, including:

- Quicker loan funding.
- Potential for increased liquidity due to shorter timeframes from origination to sale of the loan in the secondary market
- Eliminates human error risk associated with the manual "stare and compare" certification process.

3. How does Freddie Mac support warehousing arrangements for eMortgages?

We require tri-party agreement between the Seller, warehouse provider and Freddie Mac in lieu of Bailee letters. We act as the custodian of the eMortgage for the warehouse provider and the Seller, from the time the eMortgage is delivered to us until we either transfer the purchase proceeds to the warehouse lender according to the wire transfer instructions in the Form 996E, or decline to purchase the eMortgage and return them to warehouse provider.

4. What are the requirements for servicing eMortgages?

Standard Freddie Mac servicing requirements apply to eMortgages. However, there are additional requirements that Servicers must comply with including, but not limited to:

- Identifying all Freddie Mac eMortgages in the servicing portfolio.
- Recording all status changes and required actions that occur during the life of the eMortgage in the MERS® eRegistry.
- Accepting an offer of "Transfer of Control/Location" as required from Freddie Mac, in the event of a foreclosure or eMortgage repurchase or other servicing legal matter.
- Creating an offer of "Transfer of Control/Location" as required to Freddie Mac, in the event of termination of a foreclosure or other servicing legal matter.
- Confirming that the MERS eRegistry accurately reflects Freddie Mac is the "Controller" and "Location" at all pertinent times.

For additional details on servicing eMortgages, refer to our [eMortgage Guide](#) [PDF].

5. What is the MERS eRegistry?

MERS eRegistry (operated by MERSCORP Holdings, Inc.) serves as the system of record to identify the current

controller (holder) and location of the Authoritative Copy of an eNote (transferable record). It also helps identify the Servicer, if any, authorized by the controller to make certain updates in the MERS eRegistry.

6. What is the MERS eDelivery?

MERS eDelivery (operated by MERSCORP, Inc.) is used by MERS eRegistry members to deliver documents and data related to an eMortgage from one MERS eRegistry member to another.

7. What happens if my MERS membership is terminated?

If your MERS membership is terminated or if you are unable to record loan events in the MERS eRegistry, the servicing of Freddie Mac's eMortgages will be transferred to an approved eMortgage Servicer.

8. What are the due diligence requirements for eMortgage systems?

Review our eMortgage [approval requirements checklist](#) [PDF] for a summary of our systems due diligence requirements. For details on eMortgage system due diligence, refer to our [eMortgage Guide](#) [PDF].

9. Can a legal analysis obtained by a technology vendor be used by multiple Seller/Services?

Freddie Mac performs the legal analysis of the eClosing and eNote vault systems to review compliance with Freddie Mac requirements. If the systems are provided by a vendor, the legal analysis performed on those may be used by several Seller/Services as part of their approval with Freddie Mac; provided, however, the legal analysis will be supplemented by Freddie Mac to address any integration issues with each Seller/Service.

eRecording and eNotarization

1. What is eRecording?

eRecording is the process of electronically recording a copy of a Security Instrument and other recordable documents that were either created as paper documents or electronic documents, with the local public land recording office. Please see Chapter 1401 of the Guide for additional details on eRecording.

2. What counties allow eRecording?

Over 1400 counties permit eRecording. The list of counties that permit eRecording is published on the Property Records Industry Association (PRIA) [Website](#).

3. Which states permit electronic notarization?

ESIGN allows eNotarization, however, the states have implemented programs that govern the eNotarization process and these programs vary in their requirements. As the list of states that permit eNotarization continues to grow, please reach out to us for the latest information. Your legal counsel may also be able to research this for you.

eNotarization face to face only: AR, CA, CO, FL, IA, MD, MN, NC, OH, OR, PA, TX, WI, WV.

eNotarization face to face, and long distance: MT, VA

eNotarization for real property only: NY and WA.

4. Does Freddie Mac allow remote eNotarization?

Yes. In states that permit remote electronic notarization, loans in which the borrower's electronic signature on an electronic Security Instrument or other electronic documents is remotely and electronically notarized are eligible for sale to Freddie Mac. The notary public must be licensed and domiciled in the state in which the mortgaged premise is located and the electronic notarization law was enacted.

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