THE NEW ELECTRONIC DOCUMENT EXCHANGE

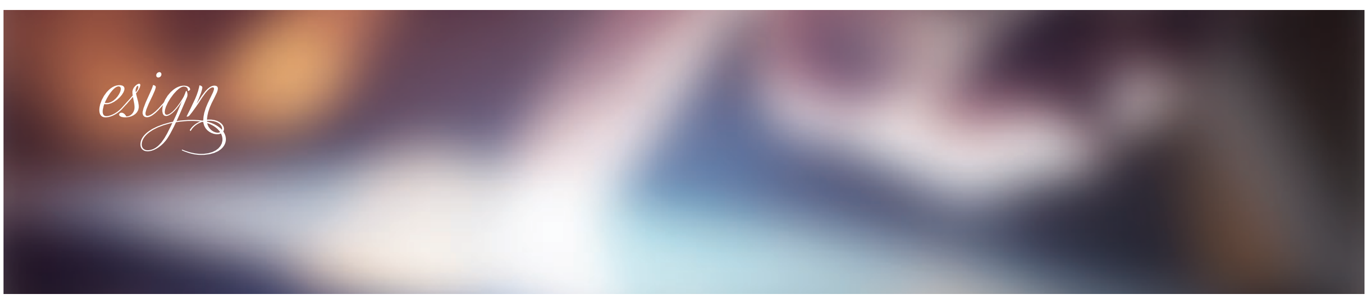
When it comes to electronic documents, you can finally say signed, sealed and delivered!

By Randy Schmidt

The time to send, receive and sign documents electronically has arrived. Recent regulatory and agency changes have brought the electronic document exchange discussion back to the forefront. Regulatory changes requiring lenders to provide additional documents to borrowers prior to closing have renewed lender interest in electronic document delivery. Market changes, requiring lenders to be more competitive, have them looking for better ways to communicate with their borrowers through document exchange. And the Internal Revenue Service and the Federal Housing Administration recently announced their acceptance of electronic signatures paving the way for more lenders to implement electronic signatures.

Let's start with electronic document delivery. Electronic delivery has been around for a long time. It gained momentum after the tragedy of 9/11 when airlines were grounded and lenders were forced to find alternatives to overnighting packages. In the years since, most lenders have adopted electronic delivery of their closing packages to their attorney and closing agent networks. But with the recent changes to Regulation B requiring lenders to provide borrowers a copy of appraisals or other written valuations promptly upon completion, many lenders are starting to look at delivering electronic documents directly to the consumer.

Delivering electronic documents to the borrower was made possible on June 30, 2000 when President Bill Clinton signed the Electronic Signatures in Global and National Commerce Act (ESIGN) into law. The ESIGN Act allows the use of electronic records to satisfy any statute, regulation, or rule of law requiring that such information be provided in writing as long as certain conditions are met.



ESIGN requirements specifically state that applicant must affirmatively consent to receiving their documents electronically. It also states that prior to receiving this consent that the lender must provide the consumer a clear and conspicuous statement informing them of:

- Right to have documents made available in paper form
- Right to withdraw consent and any conditions, consequences or fees in the event of withdrawal
- Whether the consent applies to a particular transaction or to an entire category of electronic records
- Procedures for withdrawing consent
- Instructions on how to request paper copy and whether any fee will be charged
- Any Hardware and/or Software requirements necessary

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If a consumer consents electronically, it must be done in a manner that reasonably demonstrates that the consumer is able to access the information in the electronic form that will be presented. The lender must also assure that once presented, the consumer has the ability to retain a copy for their own records.

ESIGN however did not change any of the timing requirements required of lenders. Initial disclosures must still be sent three days after application, appraisals must be sent promptly upon completion and final disclosures must be received by the borrower three days prior to closing. Fortunately, one of the benefits of electronic delivery is that an audit trail of the entire delivery process is created. Each step along the way is recorded with a date and time stamp making sure that you stay compliant. Rule sets may be created alerting you to any packages that need special handling.

But document delivery is only the first piece of the puzzle. While many lenders have done an excellent job of making information available to their customers, all too often it is a one-way street. Document Exchange allows for two-way communication with your borrower. Not only can you deliver documents to them safely and securely, but document exchange allows them to send documents back to you just as easily.

Many times documentation will be needed from a borrower. Perhaps you need a copy of their most recent paystub or W-2. Or maybe you need to request their last few years of tax returns. Unfortunately, many lenders have been asking borrowers to send this information via e-mail putting their customer's personal information at risk.

A recent survey published by HALOCK Security Labs of Schaumburg, Illinois found that many mortgage lenders allow practices that put their customer data at risk. In their survey of 63 U.S. mortgage lenders, they found that 45 lenders (over 70%) permitted applicants to send personal and financial information over unencrypted email. Even large lenders were not immune to this practice as their survey indicates that eight out of the eleven top lenders surveyed, again over 70%, allowed for the same unse-

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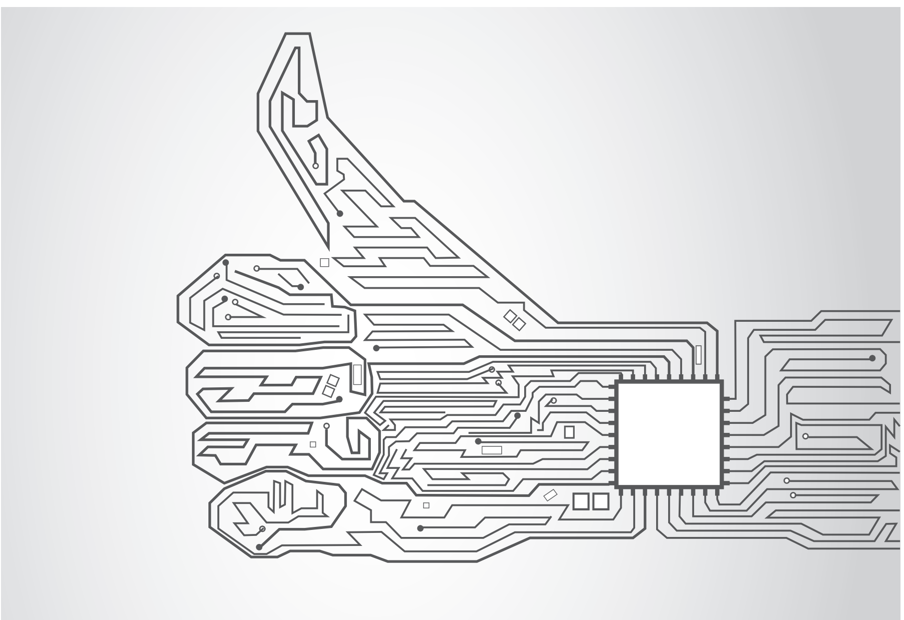

cure transmission of customer data.

While it may be the most convenient way to communicate with today's always on the go borrowers, both lenders and consumers need to rethink this practice. As Terry Kurzynksi, Senior Partner at HALOCK Security Labs, states: "Any type of weak link in a system involving sensitive information exposes people to unnecessary risk. It takes months to recover from an identity theft and minutes to log into a secure portal. Do the math."

Fortunately, creating this two way document exchange portal is relatively easy. There are many vendors offering document exchange on a Software as a Service (SaaS) or cloud platform making the barrier to entry quite painless. By using cloud services, lenders can get started with a minimal investment. They don't need to invest in multiple servers or expensive software. Scalability is also taken care of as computing power can be scaled up or down as needed. Infrastructure costs such as redundancy, disaster recovery, virus scanning, intrusion detection and others are all handled by the provider. By spreading the cost of the infrastructure among its many clients, SaaS providers allow companies to make use of a much more robust security shield than if they were to provide it themselves. Couple that with per sender, loan level or transactional pricing where you only pay for the services that you use and document exchange makes even more sense.

The final piece of process, and the one getting the most news lately, is having your documents electronically signed. Last year the Internal Revenue Service began accepting electronic signatures on the 4506-T income verification form. And most recently, the Federal Housing Administration has widened their acceptance of electronic signatures on documents associated with mortgage loans.

With the new QM rules and lenders needing to verify the borrower's ability to repay, income verification with the IRS has become commonplace. By accepting electronic signatures, the entire process can be speeded up. Instead of sending a document out to be wet signed and waiting for its return, lenders can now request the 4506-T be electronically signed and then sent directly to the IRS or their IVES vendor saving days in the verification process.

On January 30th, 2014 the Federal Housing Administration announced that it is granting expanded authority to lenders to accept electronic signatures on documents associated with mortgage loans. According to their announcement, the new policy allows e-signatures on origination, servicing, and loss mitigation documents, as well as FHA insurance claims, REO sales contracts and related addenda. Previously, FHA only allowed for electronic signatures on third party documents like sales contracts or other documents on controlled by the lender.

As part of their announcement, FHA has defined certain standards that mortgagees who wish to use electronic signatures must comply with. These standards include:

- Associating an electronic signature with the authorized document
- ESIGN Act compliance
- Intent to sign
- Single use of signature
- Authentication
- Attribution
- Credential loss management
- Integrity of records
- Quality control
- Record retention
- Information collection requirements

More information regarding these standards can be found in the U.S. Department of Housing and Urban

Development's mortgagee letter 2014-3. Many people regard FHA's acceptance as a significant milestone which will become the tipping point of widespread use of electronic signatures in the mortgage industry.

So what exactly is an electronic signature? The ESIGN Act defines an electronic signature as "an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record."

And just like document exchange, the process for adding electronic signatures to your documents is relatively easy. There are many vendors available that have solutions that will walk both you and the signers through the entire process. A typical signature process starts with the creation of your documents. Once the documents are electronically printed, signers are defined and signature points are placed on the document. The document is then delivered to a signing room where an invitation is sent to each signer. Once the signers enter the signing room and authenticate themselves, the document is presented to them for their review. The signers are taken to each individual signature point, where they can affix their electronic signature. Once all signature points have been signed, the signer is presented with a final notice that they are creating a legally binding signature and by acknowledging such they are proving their intent to sign. Once all signers have completed the process, a tamper proof seal is affixed and the e-signed document is complete.

So whether you are looking for document delivery, document exchange or electronic signatures, there is no time like the present. When it comes to electronic documents, you can finally say signed, sealed and delivered! ❖

About The Author

Randy Schmidt is President of Data-Vision, Inc. and is responsible for overall operation and strategic planning for the company. Randy became involved in the IT side of mortgage banking almost 30 years ago and has been involved in numerous projects on both the origination and servicing side of the business. In 1993, Randy co-founded Data-Vision, Inc., in Mishawaka, Indiana as a Web design company. He then combined his previous mortgage experience with Internet knowledge to bring the speed, power and availability of the Internet to the Mortgage industry. He can be reached at rschmidt@d-vision.com.

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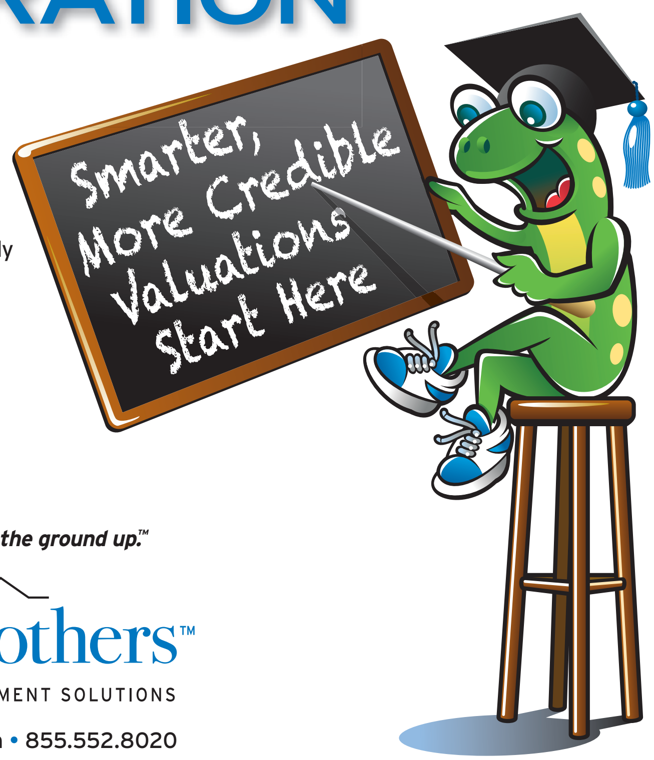

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