



Myths: eClosings and eMortgages (eNotes)

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This document debunks common misconceptions and “myths” around eClosings, eMortgages, and Fannie Mae’s processes. For more information, refer to the [eClosings and eMortgages page](#) on FannieMae.com.



Myth #1: An eClosing is the same as an eMortgage/eNote

Truth: The act of closing a mortgage loan electronically is an eClosing. This occurs through a secure electronic environment where some or all closing docs are accessed and executed via the web. This is also known as the “execution” phase of creating an electronic mortgage loan. This is often a hybrid process in which certain key documents (e.g., Note, Security Instrument) are printed to paper and wet-signed while other documents throughout the process are signed electronically.

An “eClosing” only produces an eMortgage/eNote *IF* the promissory note is signed electronically (eNote = eMortgage).

Myth #2: Going “e” is an all or nothing proposition

Truth: An eClosing process can have tremendous benefits for lenders, even if they are beginning with a hybrid process in which the note and/or security instrument are still wet-signed paper documents. Your ultimate goal may be to go paperless; however, originating, selling, and servicing eNotes imposes additional requirements and considerations on lenders. Starting with a hybrid eClosing approach allows lenders to realize the benefits of electronic documents through operational efficiencies. Lenders can provide a vastly improved borrower experience through eClosings, all the while moving toward a full paperless process as the industry works to remove obstacles specific to eNotes.

It is important to note that in order to be entirely paperless the security instrument will typically need to be eNotarized and eRecorded. While 2/3 of U.S. households currently reside with an eRecording-enabled jurisdiction, eNotarization capabilities vary significantly by state. However, many eMortgages today utilize a hybrid process, with the security instrument traditionally wet-signed and notarized, and subsequently imaged and submitted for eRecording. The ability to eRecord does not rely on eSignatures or eNotarization, but a truly paperless process requires all three elements.

Please see eNotarization and eRecording Myths (#11, #12, and #13) below for more information.

Myth #3: Fannie Mae does not allow electronic signatures without special approval

Truth: Fannie Mae has long accepted electronic signatures on documents in the closing process without seeking approval. Refer to the following sections within the *Selling Guide* for electronic signature and electronic records storage guidelines: [A2-5.1-03](#) (*Electronic Records, Signature, and Transactions*) and [A2-5.1-04](#) (*Lender’s or Document Custodian’s Electronic Transactions with Third Parties*).

Note: Selling/Servicing eMortgages (eNotes) **does require program approval** from Fannie Mae due to additional process and technology requirements.

Myth #4: eSigned disclosures need to be re-signed at closing



Truth: Fannie Mae policy does not require electronic disclosures to be re-signed at closing. Lenders have asked if the Loan Application or 1003 must be re-signed with a wet-signature at closing. The answer is no; an electronic signature is sufficient.

Myth #5: eSignatures are not accepted by VA or FHA

Truth: Both FHA and VA accept eSignatures on select documents. On August 22, 2013, the Department of Veterans Affairs (DVA) released a [circular](#) describing their acceptances of eSignatures. On January 30, 2014, the Department of Housing and Urban Development (HUD) said it would accept eSignatures on most FHA loans, effective immediately. This was followed by a Ginnie Mae announcement in March of 2014 that they will begin accepting electronic signatures on loan documents except for Notes, Security Instruments, or loan modification agreements.

Specific references include the following: HUD released a Mortgagee Letter ([ML 2014-03](#)) to inform lenders that their new policy "applies to FHA Single Family Title I and II forward mortgages and Home Equity Mortgages." Ginnie Mae issued an [All Participant Memorandum 2014-01](#), which states its position on electronic signatures and documents.

Myth #6: Not all states have laws that support the use of electronic signatures

Truth: To date, 50 States have adopted some form of eSign statute or law. 47 states have adopted either the version of the Uniform Electronic Transactions Act (UETA) approved by the Uniform Law Commission, or a modified version of UETA. 3 states (WA, IL and NY) have adopted their own statutes to address electronic signatures. Additionally, in 2000, Congress enacted the Electronic Signatures in Global and National Commerce Act which creates legal certainty for the use of electronic signatures and records under federal law.

Myth #7: eNotes are not legal

Truth: eNotes are completely legal. Under ESIGN and UETA, eNotes can be originated, validated, and are legally and fully enforceable as long as all legal requirements for a valid electronic signature are met.

Myth #8: Lenders are not generating eNotes today

Truth: As of February 2015, the MERS eRegistry has registered 328,642 eNotes and this number continues to grow on a weekly basis. There are approximately 60 lenders/investors registered on the MERS eRegistry, and 12 technology vendors who are currently integrated with the eRegistry to deliver eNotes in a SMARTDoc format.

Myth #9: Warehouse lenders are not supporting eNotes

Truth: Although the lack of support for eNotes by warehouse lenders has been a deterrent to industry adoption in the past, many warehouse banks have begun to actively investigate eNotes and adapt to systems, operational processes, and revenue models to accommodate eNotes. Fannie Mae is happy to engage with your warehouse partners about supporting eNotes, or provide a list of warehouse lenders who currently support eNotes.

Myth #10: Servicers are not servicing eNotes

Truth: Several large servicers are actively servicing eNotes. Fannie Mae has published a list of currently approved Servicers on the Fannie Mae [eClosings and eMortgages page](#) and is actively working with new servicers on eNote approval. Minimum requirements for servicing eNotes are published in Fannie Mae's *Guide to Delivering eMortgage Loans to Fannie Mae*, and includes having access to an eVault with connectivity to the MERS eRegistry in order to maintain eNotes and effect status updates. Fannie Mae is happy to work with your servicing partner(s) to help them become enabled and approved to service eMortgages.

Myth #11: Most states will not permit eNotarization

Truth: In order to be *truly* paperless, the mortgage or security instrument must also be electronically notarized prior to recording. Although ESIGN provides for eNotarization, some states have implemented programs that govern the



process and the notaries performing it. To date, the following is an updated list of eNotarization statuses in the United States*:

- 11 states have programs that govern eNotarization: AR, CO, IA, IN, MN, MO, NC, OR, PA, VA, WV
 - In these states the notary is required to register as an electronic notary. Some states may require additional training.
- 7 states take a “hands-off” approach: CA, FL, MD, TX, UT, VT, WI
 - In these states notaries can be electronically enabled and are not required to register with the state.
- 1 state provides for in-person eNotarization as well as long-distance interstate and intrastate video eNotarization: VA
- 1 state provides for in-person eNotarization as well as long-distance intrastate video eNotarization: MT
- 1 state has declined to take a position either way: OH
- 6 states have programs that govern eNotarization but are dormant: AZ, DE, KS, NM, NV, ND
 - Electronic notarizations are not being conducted presently in these states.
- 2 states permit eNotarization for land records only: NY, WA

In the remaining states, the appointing authority has yet to recognize eNotarization for their notaries public. While you cannot be truly paperless in all states today, there is value in pursuing the hybrid process until such time as eNotarization becomes more prevalent.

**Information provided by the [Pennsylvania Association of Notaries](#) (PAN). Fannie Mae recommends that lenders check with their specific statutory authority to confirm the most current data.*

Myth #12: Few counties allow eRecording

Truth: eRecording is permitted in approximately 1,488 counties covering about 2/3 of the U.S. population, as the largest, most widely populated counties allow eRecording. Coverage has steadily increased year over year and continues to do so. To determine if your jurisdiction allows eRecording, please visit the [eRecording County List](#) published by the Property Records Industry Association (PRIA).

Myth #13: eClosings require me to have a dual process in place until all counties accept eRecording

Truth: The fact that eRecording is not yet universal is a legitimate process issue, but not the reason for having a dual capability. In addition, because a very small portion of the overall closing package is actually recorded (i.e., Security Instrument and applicable riders) we suggest that lenders consider starting with a “mostly paperless” eClosing solution utilizing eSignatures. For those documents that must be wet-signed, they can be printed and signed. This promotes a more educated and empowered consumer-focused process, while helping to drive automation in the housing finance market. In addition, a paperless eClosing solution promotes lender operational efficiencies allowing for faster delivery to the secondary market.

Myth #14: eClosings are just too costly to initiate

Truth: Recently, many Loan Origination Systems and document providers are making it easier to conduct eClosings. Many technologies work with one another and/or have custom integrations available. While there may be incremental costs to implement, the pick-up in operational savings and repeat customer business could outweigh initial costs.

Additionally, several lenders who conduct eClosings today have seen immediate returns in the following areas:

- Reduced post-closing processes (almost no rework)
- Reduced funding times
- Reduced warehouse line usage times
- Faster processing into the secondary market due to standardized quality control processes and improved data standards

**Myth #15: Lenders must offer a paper option**

Truth: As part of their business processes and strategies, lenders may choose to implement all electronic processes. Although ESIGN requires that lenders obtain consumer consent prior to providing legally-mandated disclosures electronically, there are no laws or Fannie Mae requirements compelling lenders to perform loan transactions on paper. However, some consumers may still desire a paper option and lenders should address that need as part of their strategy, even if not required by law.

Myth #16: The lack of a Bailee Letter process for eNotes impedes warehouse lending entrants

Truth: Fannie Mae currently utilizes a tri-party funding agreement in lieu of the Bailee letter. This agreement acts as a master Bailee Agreement for eNotes delivered to Fannie Mae by a warehouse lender on behalf of a Fannie Mae lender.

The Funding Agreement:

- Locks down the wiring instructions, should Fannie Mae purchase the loans;
- Allows Fannie Mae to control the eNote as designated custodian for the warehouse bank as a secured party and designee for the lender until purchased;
- Requires Fannie Mae to return control to the warehouse bank, should we decide not to purchase the loan.

Contact Us:

For questions regarding the use of electronic signatures and implementing eClosing solutions, please email the eMortgage team at eMortgage_Info@fanniemae.com. We are happy to discuss your strategies and answer any additional questions.