



eClosings and eMortgages (eNotes) Frequently Asked Questions

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I. Definitions

Q1. What is an eClosing?

An eClosing is the act of closing a mortgage loan electronically. This occurs through a secure electronic environment where some or all of the closing documents are executed and accessed online (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 traditionally wet-signed while other documents throughout the process are signed electronically.

Q2. What is an eMortgage?

An eMortgage is a mortgage loan where the critical loan documentation, specifically the promissory note (eNote), is created electronically, executed electronically, transferred electronically and ultimately stored electronically. An “eClosing” produces an “eMortgage” only if the promissory note is signed electronically. *Note: This can still include a traditionally wet-signed security instrument.*

II. eSignatures and eClosing General Questions

Q3. Does Fannie Mae accept electronic signatures (eSignatures) on closing documents?

Yes. Per the *Selling Guide*, Fannie Mae accepts eSignatures on all closing documents. Only lenders seeking to originate and deliver eNotes to Fannie Mae must seek prior approval. Refer to *Selling Guide* sections [A2-5.1-03](#) (Electronic Records, Signature, and Transactions) and [A2-5.1-04](#) (Lender’s or Document Custodians Electronic Transactions with Third Parties).

Q4. What is the legal basis for eSignatures?

The legal basis for eSignatures was established with the Electronic Signatures in Global and National Commerce Act (ESIGN), enacted by Congress on June 30, 2000. Also, 47 states, the District of Columbia, and the U.S. Virgin Islands, have adopted laws based on the Uniform Electronic Transactions Act (UETA), a model for state statutes that was made available in 1999 by the National Conference of Commissioners on Uniform State Laws. The remaining three states (WA, IL, and NY) each have their own statutes to address electronic signatures.

These laws serve as legal infrastructure to support creation of valid, enforceable closing documents and eMortgages.

Q5. What are the anticipated benefits of eClosings?

Fannie Mae regularly solicits comments from our lenders who are conducting eClosings. Several highlights about eClosings were identified by these lenders, such as:

- Faster liquidity in the secondary market
- Operational efficiencies (cost savings)
- Quicker warehouse inventory turn times
- Elimination of inefficient workflows
- Increased data quality
- Consistency and accuracy in the closing process (fewer, if any, post-closing conditions)



- Potential loss of notes eliminated, resulting in better collateral control
- Improved risk management
- Reduced carbon and ecological footprint
- Reduced courier and shipping fees

The eClosing process also offers *consumers* a more streamlined closing experience as it incorporates advanced features such as access to documents prior to close, and several educational features.

Q6. When should lenders engage in conversations with interested third parties (i.e., settlement agents, document providers, warehouse banks, etc.) regarding their plans for eClosings?

Typically when implementing eClosings *without* an eNote, lenders should engage with both their title/settlement agents and document providers to determine their ability to execute a set of eClosed documents.

If a lender is planning to deliver eNotes to Fannie Mae, they should engage in additional conversations with their warehouse banks, servicers, and document providers to determine their ability to deliver eNotes in the specified SMART Doc format and/or where applicable, have completed testing delivery via the MERS® eRegistry (*Note: Refer to section IV for more information on MERS*).

Q7. Can some of the closing documents be signed prior to the closing date in an eClosing process?

Fannie Mae requires that the Note and Mortgage documents be signed by all parties on the closing date. Execution of other documents may occur outside of and prior to closing at the discretion of the lender and settlement agent, and in accordance with applicable laws and regulatory requirements.

Q8. Does Fannie Mae provide guidelines around selecting a technology vendor?

Fannie Mae neither endorses technology vendors, nor establishes compliance checks for technology solution provider systems, including correspondents and third-party originators systems. However, a list of technology solution providers and eNote Service providers is provided on the [eMortgages/eClosings page](#) (*Note: These servicers have volunteered to include their information on this list*).

Lenders should be sure to choose a solution that fits their needs and adheres to our representation and warranty framework and selling guidelines. Below are some considerations for choosing an eClosing solution provider:

- Do they support full execution of a complete closing package, including an eNote?
 - If not, what are their plans to implement eNote delivery?
 - If so, does it require access to a third-party closing platform? What are the implementation requirements?
- Do they offer a fully automated workflow with your current document provider?
- Does their solution include an eVault solution and/or have they partnered for eVault integration? If access is through a third-party, please describe the process for implementation.
- Does their solution facilitate the creation of valid eSignatures and eNotes under ESIGN and UETA?
- Have they completed proper testing protocols for delivering an eNote to an investor?
- Can they provide up-to-date audit trails within the process?
- Do they utilize encrypted user authentication, protected access to accounts, and tamper-seal evidence (where appropriate)?
- Can they provide transaction-level reporting on file status?
- Do they provide a paper option if/when a document cannot be delivered electronically?
- Is their disaster recovery plan up-to-date and how could it impact you?
- Do their features and benefits align with your “e” vision and your plan for eNotes (i.e., does your timeline match their timeline for an implementation date)?



III. eMortgage (eNote) Questions

Q9. Does Fannie Mae purchase eMortgages (eNotes)?

Yes. We are actively purchasing eMortgages that meet our published guidelines – through both Whole loans and MBS executions. We purchased the first two eMortgages on the secondary market in 2003, and continue to purchase eNotes every day. Our updated guidelines are detailed in our *Guide to Delivering eMortgage Loans to Fannie Mae*, available on the [eMortgages/eClosings page](#) of FannieMae.com.

Q10. Are there industry standards for eMortgages?

Yes. The Mortgage Industry Standards Maintenance Organization® (MISMO) eMortgage work group was formed in 2001 to develop standards for efficient eMortgage processes, transactions, and XML data protocol. MISMO specifications are required for producing and executing an eNote, which utilizes the MISMO SMARTDoc V1.02 standard. The MISMO eMortgage Guidelines and Recommendations are available at www.mismo.org.

Q11. Which type of mortgage loans can be delivered to Fannie Mae as eMortgages?

Most conventional first mortgages can be delivered to Fannie Mae as eMortgages. This includes fully amortizing fixed-rate and adjustable-rate monthly payment mortgages, and fixed-rate and adjustable-rate biweekly payment mortgages. The only possible exceptions include some products that require additional or special purpose legal documents (such as HomeStyle® Construction-to-Permanent mortgages, co-op properties and mortgages secured by Puerto Rico properties).

Q12. How are eMortgages serviced?

Fannie Mae's standard servicing requirements apply when servicing eMortgage loans. In addition, servicers must identify their eMortgages on their servicing systems. Servicers must have access to an eVault (either their own or a third party's) which is fully integrated with the MERS eRegistry to enable them to record payoffs, charge-offs, or loan assumptions for eMortgage loans. Prior to transferring servicing portfolios that contain eMortgages, the transferring servicer must ensure that the transferee servicer knows that there are eMortgages in the portfolio and is able to service them. In the event of a foreclosure, there are special loss mitigation procedures servicers must follow, such as contacting their Fannie Mae Servicing Consultant and working with our designated attorneys.

Q13. Does Fannie Mae permit third parties to act as custodians of eNotes?

Fannie Mae currently acts as custodian for all of our eMortgage loans, but relies upon third-party custodians to certify eNotes at delivery.

- For Whole loan deliveries: Fannie Mae currently requires that lenders use our designated document custodian (Bank of New York Mellon) for certification of eNotes.
- For MBS deliveries: Fannie Mae will consider requests for approved document custodians to complete the certification of an eNote that is being issued in MBS pools.

IV. Mortgage Electronic Registration System (MERS)

Q14. What is the MERS eRegistry?

The MERS eRegistry is the system of record identifying the owner and location of the electronic promissory note (eNote). The MERS eRegistry allows eNotes to be registered and uniquely identified for tracking and verification.

Q15. Is lender setup required to use the MERS eRegistry?

Yes. Lenders must become a MERS member to use the MERS eRegistry. Lenders can request a membership application from MERS by calling 1-800-646-MERS or downloading the application from www.mersinc.org. Access to the MERS eRegistry requires system integration and a testing cycle.



Q16. Are lenders required to use the MERS eRegistry for eMortgages delivered to Fannie Mae?

Yes. Fannie Mae's eMortgage Delivery technology (eMD) and processes are integrated with the MERS eRegistry. Lenders are required to register the eNote on the MERS eRegistry immediately after closing. To deliver eMortgages to Fannie Mae, lenders must use MERS eDelivery to deliver the eNote and then initiate a request with the MERS eRegistry to transfer ownership of the eNote to Fannie Mae.

Q17. Are servicers required to register with MERS?

Yes. Servicers must register with MERS so their MERS Organization ID can be reflected on individual loan records within MERS eRegistry, enabling them to perform loan status updates. By registering with MERS and acquiring eVault connectivity to the MERS eRegistry, servicers are able to accept control of an eNote in the event of foreclosure, or initiate a transfer of servicing update to the eRegistry in the event of a servicing transfer. Servicers should contact MERS for more information (www.mersinc.org).

Q18. Are warehouse lenders required to register with MERS?

Yes. If you are planning to fund eNotes through a warehouse lender, they will need to register with MERS and have access to an eVault for communicating with the eRegistry. Once an eNote is registered with MERS by the originator, the lender will then transfer control of the eNote to the warehouse lender until delivery into the secondary market.

Q19. Can a bailee letter be submitted by a warehouse bank for eNotes?

In lieu of a bailee letter, Fannie Mae utilizes a tri-party funding agreement between the lender, Fannie Mae, and the warehouse funding provider. The agreement acts as a master bailee agreement for eNotes transferred to Fannie Mae by the warehouse provider on behalf of the lender.

V. eMortgage Delivery Process

Q20. What are the steps in the eMortgage delivery process?

Below is a high-level overview of the process for a lender delivering an eMortgage to Fannie Mae:

- eNote and possibly other documents are eSigned by borrower and notary through use of an eClosing system
- The eClosing system tamper seals the documents
- eNote is registered on MERS eRegistry within one business day
- Lender transmits eNote and other investor documents to Fannie Mae using MERS eDelivery
- Lender initiates a transfer of Control & Location to Fannie Mae via the MERS eRegistry
- Lender submits delivery data to Fannie Mae, including Special Feature Code 508 (eMortgage)
- Loan is certified and funded, assuming all requirements are met

Q21. What are the requirements for delivering eMortgages to Fannie Mae?

Standard Fannie Mae requirements regarding underwriting and eligibility for delivery to Fannie Mae apply to eMortgages. Additional eMortgage-specific delivery guidelines and technical requirements are contained in the *Guide to Delivering eMortgage Loans to Fannie Mae* and *eMortgage Technical Requirements*, both available on the [eMortgage/eClosings page](#).

For More Information

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