

# Challenges in Automating eMortgages

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FOR YEARS, THE MORTGAGE INDUSTRY has been wrestling with the challenge of how to make applying for and getting a mortgage faster and cheaper. Today, it still can take months, involve several parties and require the completion of up to 1,000 pages of highly regulated legal documentation. ■ The parties involved can tally nearly a dozen and include the buyer, the seller, the lender, a real estate agent, a closing agent or attorney, the county recorder, a title company, various insurance companies and various real estate services. ■ The documentation is also expensive, and must be created, verified, approved and routed among all these various parties. It starts with the mortgage application, with additional documents added throughout the process, assembled at the closing and finally disseminated through the post-closing stage to secondary marketing and final custody. ■ By the time this whole process is complete, the lender has often incurred costs of \$1,200 to \$1,500 per loan. Various estimates indicate that more than \$2,500 of savings per loan can be achieved through eMortgage automation. ■ Although this is a significant benefit, eMortgages are not just about cost savings. For the borrower, automation will dramatically simplify and reduce the time to complete a mortgage. For the lender and other industry players, it will automate the mortgage paper chase, making the market more competitive.

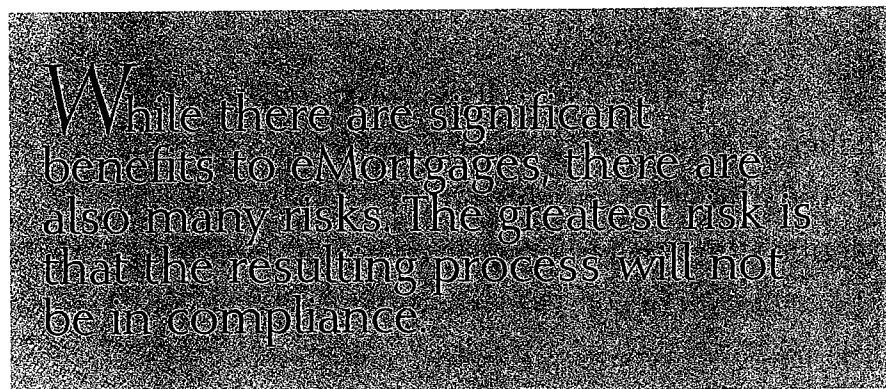
Work is progressing on many fronts to overcome the countless hurdles to producing a widely available paperless mortgage.

So if eMortgages are so great, why isn't everyone offering them? To answer that, it first helps to go back and trace how far we have come.

The automation of eMortgages really began in earnest in the late 1990s, when several factors started to converge. First, the Mortgage Bankers Association (MBA) and leading mortgage organizations realized that industrywide data and document standards would be essential to create all electronic or eMortgages.

In 2000, the Electronic Signatures in Global and National Commerce Act (E-SIGN) became law, providing eMortgages a strong legal basis. MBA formed the Mortgage Industry Standards Maintenance Organization (MISMO) industry group to develop the eMortgage core standards. Around the same time, several companies attempted to develop the first eMortgage closing platforms.

Stewart Title Co., Houston, an industry leader in mortgage services and technology, took some pioneering steps with live trials of electronic closing technology. From these early trials,



Stewart learned key lessons it later applied when the time came to build a production eClosing system based on MISMO standards. However, being a pioneer always presents challenges.

To help understand some of those challenges in the context of eMortgages it helps to review the complex landscape of the varying closing processes, regulations and standards. Also, to fully understand the complex nature of this challenge, one needs to consider how the industry could adapt technology to address these needs while working with existing technology platforms.

#### The closing process

The mortgage closing is the culmination of a lengthy process in which the buyer, seller, settlement agent and others come together to review, adjust and finalize the documents involved in the loan closing. The closing affects two primary actions. The first is the transfer of the title of the property in exchange for the sale price. The second is the activation of a mortgage, when a loan is required to complete the transaction.

Certain documents required by law to protect the borrower and the lender in the lending process are also required. In general, these documents include:

- HUD-1 settlement statement, Truth-in-Lending statement
- Promissory note, mortgage or deed-in-trust (security instrument), deed
- Sworn affidavits, riders, notices, applications for information, endorsements, disclosures, addendums

- Sale and purchase agreement, appraisal report, title insurance, property survey

- Other required insurance—including mortgage, homeowner, flood, etc.

- Certificates—including occupancy, etc.

Certain actions performed on the documents will impact which technology is used for automation, how automated processes occur and which standards, laws and regulations come into play. Specifically, these actions include:

- Review—applies to all documents

- Signing—applies to most of the documents

- Notarization (witnessing)—applies to the mortgage, deed and affidavits

- Recording—applies to the mortgage (security instrument) and deed

- Assignment—applies to the mortgage note

Figure 1 shows the closing document flow from pre-closing to secondary marketing.

Because of the need throughout the process to create, route and review these documents among many parties, paper generates delays, errors and added costs. However, automating the process is equally challenging because the laws, regulations and customs at the county, state and federal levels practically guarantee that no two counties have the exact same process.

A service provider that wants to offer eMortgage automation on a national level will have to adapt its solution. This adaptation must apply to each document and process variation across the 3,400 counties

and 50 states, as well as for the various laws and regulations enforced by specific federal departments and agencies.

#### Impact of laws, regulations and standards on eMortgages

There are many laws, regulations and standards the various parties in the process must follow to ensure compliance throughout the eMortgage process. While there are significant benefits to eMortgages, there are also many risks. The greatest risk is that the resulting process will not be in compliance. The impact of noncompliance can be significant:

*Unenforceable transactions:* This is the most serious situation. If a court finds the enforceability of key electronic documents invalid or unreliable, then the value of the transaction may be in jeopardy for any of the parties in the transaction. Problems can result, including fraud due to poor security or improper closing practices due to poor process automation.

*Fines and penalties:* With the complexity of federal, state and county regulations affecting real estate transactions, it's easy to misinterpret how they apply in the context of eCommerce laws such as E-SIGN and the Uniform Electronic Transactions Act (UETA). A poor implementation could create a noncompliant closing process, resulting in fines from regulators or penalties from investors.

*Lack of acceptance:* The mortgage process is a supply chain with many participants. A lack of standards, clear laws and regulations will slow acceptance by all the parties in the supply

