Let E-Signatures Retain Their Independence

New technology allows for a more secure digital mortgage transaction

By Pem Guerry

This past October, the Consumer Financial Protection Bureau's new Truth in Lending Act and Real Estate Settlement Procedures Act Integrated Disclosure rule took effect, bringing more guidelines to mortgage-loan procedures. The TRID rule, as it is commonly known, requires consumers to indicate their intent to proceed with a loan transaction before a lender can charge a fee to process the application.

Although there are many components of mortgage transactions, this additional piece is expected to drive the use of electronic signatures, or e-signatures, within the industry, as they allow consumers' intent to be conveniently and formally documented by lenders. This means a traditional process now weighted heavily by the burden of paper and ink is on track to enter the digital space.

Yet, there may be many originators — and consumers — who have concerns about the growing adoption of e-signature technology. After all, the ink-and-paper signature is centuries old, there is seemingly a continuing drip of news involving data breaches or cyberattacks, and mortgage loans are inherently important transactions. These concerns, however, are unwarranted if originators deploy the right e-signature technology.

The term e-signature does little to define the actual technology used to sign transactions online. E-signatures can operate in many different ways — and the differences between them will have an impact on the ultimate security and longevity of signed documents.

For instance, some e-signatures are merely electronic representations of your handwritten signature. These use an image with representative text to show you agree with the terms in a document, but there is little to no underlying legal evidence to prove you signed. These are more or less symbolic.

Others go a step further. Some e-signatures provide digital evidence that a signature has occurred, but that evidence is stored on an e-signature vendor's server. Thus, clients are forever dependent on that vendor to prove that a document's signature is legal and valid. Because there is a vendor requirement to access this legal evidence, these types of e-signatures are generally reliant on proprietary

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Pem Guerry is the executive vice president of SIGNiX, a digital-signature solutions provider that makes signing documents online safe, secure and legal for any business. SIGNiX offers an independently verifiable cloud-based digital-signature solution, which combines workflow convenience with superior security. Learn more about what makes SIGNiX different at signix.com. Follow SIGNiX on Twitter @signixsolutions. Reach Guerry at pguerry@signix.com.

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technology. As a result, if relationships change between the originator and the vendor — or if a link breaks, as they commonly do — an e-signature's validity may be in jeopardy. Should you ever need to defend a loan document in court, dependence on a third party could be a major issue.

The most secure type of e-signature takes verification a step further. It is an independent e-signature, because it can stand alone without any dependence on a vendor. This type of e-signature permanently embeds a signature's cryptographic information and legal evidence into a signed document using public key infrastructure (PKI). PKI uses public and private digital keys that are provided and managed by a trusted third party, so it is often considered more secure than e-signatures that are dependent on the vendor for verification. PKI also uses encryption to ensure messages are kept confidential. Independent e-signatures also are called digital signatures based on specific, highly secure technology that is used to embed, encrypt and validate e-signatures.

Independent e-signature technology can be an ideal option for the mortgage loan origination industry in four distinct ways:

■ **Ownership and control.** Because independent e-signatures are self-contained and their legal evidence can be accessed directly from the signed document — with or without an Internet connection — users are given complete ownership and control of documents. Not only can e-signatures be verified anywhere anytime, but originators can, if preferred, require their vendor to digitally shred its copies of signed documents so that the vendor has no control over or access to those important transactions.

■ **Longevity.** As noted, access to an independent e-signature's legal evidence is not dependent on a vendor. And independent e-signature technology is based on international public standards that will always be discoverable in the public domain. Also, the independent e-signature and associated legal evidence is permanently embedded in each document and cannot be removed. Because of these factors, independent e-signatures remain perpetually valid — from the day signed to year 30 and beyond. With the life of loans spanning as long as several decades, this secure and transparent access to permanent legal evidence is critical for the assurance of long-term validity.

■ **Transparency.** To support an e-signature's validity, independent e-signatures produce comprehensive digital audit trails, which record every part of the signature process. Users can see precisely when each action occurred and when each document was reviewed and signed. Users are given all the information, which provides the full story of the transaction for safekeeping.

■ **Security and trust.** Not only do independent e-signatures use PKI technology, but they also require users to authenticate their identity before the signing process can begin. Although many different types of identity-authentication measures exist, lenders may consider using knowledge-based authentication (KBA), where users answer multiple-choice questions about themselves based on closely held facts stored in public databases — such as information about property or vehicles owned in the past three decades. Users also can require signers to vet their identity twice, such as using KBA and then providing a PIN code sent via text message.

Independent e-signatures also use tamper-evident technology to alert users if there is any change to a document after a signature occurs. The combination of embedded and encrypted evidence, a transparent audit trail, robust identity authentication and tamper-evident technology makes even substantial financial transactions, like mortgages, secure in the digital space.

When e-signatures can be used confidently, lenders and originators reap the maximum value of the technology. Because signatures may be obtained anywhere, anytime, there is no need to wait days for a scheduled closing meeting. Transactions can occur nearly instantaneously, allowing loan professionals to be more productive with their time and to close more loans. This is especially valuable at a time when interest rates remain low.

E-signatures also take loan originators one step closer to a paperless office, reducing the amount of ink, paper, envelopes, shipping, storing and processing necessary for paper-based transactions. Lenders and originators could save tens of thousands of dollars annually from these costs alone, improving their company's bottom line.

Inertia isn't slowing down the progress of digital technology. And with new regulations adding to the complexity of mortgage loan processing, this may be the right time for loan originators to seriously consider independent e-signatures to streamline operations while protecting the integrity of mortgage documents into the unforeseeable future. ■

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