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Q/A with Mark Mackey of IDS

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MBA NewsLink recently posed questions to Mark Mackey, vice president of International Document Services Inc., Salt Lake City, Utah, a mortgage document preparation vendor for initial disclosures and closing documents. He can be reached at mark@idsdoc.com.

MBA NEWSLINK: Consumer Financial Protection Bureau Director Richard Cordray recently announced a new focus on the mortgage closing process, calling the current closing process “fraught with anxiety.” He also said lenders should be focusing on electronic processes to simplify closings. This is a good thing, right?

MARK MACKEY: Yes, it’s a very good thing for a number of reasons. First, it ultimately helps the borrower. The current closing process can be overwhelming for borrowers, given the huge stack of documents they are presented. Further, borrowers have an extremely limited amount of time to read through those documents, much less to really understand what it is they are signing, and in some cases, the loan officer may not even be present to answer borrower questions. Using an e-closing process would eliminate a lot of the anxiety borrowers face because they would have time to review the documents and ask questions beforehand.

Additionally, closings could be conducted at the borrower’s convenience. Many borrowers have taken to shopping for their mortgages online, and may even complete the initial application process online. Moving the closing process to an electronic environment would offer borrowers the option of completing their mortgage online as well. Moreover, closings are typically conducted during the workweek, making scheduling a challenge, and unforeseen challenges that can delay closing often arise at the last minute. For someone that’s already taken time off of work or made childcare arrangements, these delays can prove inconvenient and frustrating.

NEWSLINK: We’ve been talking about electronic closings and the need to simplify the closing process for decades. Why are so many lenders still talking about the need to do that, instead of doing it?

MACKEY: Part of it is, in my opinion, everyone has been waiting for somebody to take the lead and to produce a standard for the process. Everyone understands the mechanics of signing a document electronically and sending it, but at some level, that was looking at it too simply. Now, the question becomes, “What is the end lender or the secondary investor going to accept?”

No one’s really established a standard. Further, the industry is far too large for one lender or investor to set the standard because no one wants to build a process to meet the standards for just one company, nor would that standard necessarily carry weight with any regulatory body. Now that the CFPB has stepped in and said they are going to develop a pilot program for e-closings, evaluate the process and fine tune it, there’s finally a body with the authority to create a standard that’s going to make it happen.

NEWSLINK: Even the Federal Housing Administration said it will accept electronic signatures. Can we say the industry has reached a tipping point?

MACKEY: I would say that there certainly is more momentum and that e-Sign is going to happen one way or another--it’s inevitable. For the most part, the front end of the origination process is there. Of course, there still are a couple of quirks. For example, the borrower’s authorization and certification form goes to third parties to ask for their permission to get the information about that borrower. However, that third party may not accept e-signatures, or perhaps they accept them, but they don’t have a way of validating that your process is correct.

Almost all of the companies in the mortgage industry come out and validate the e-signature process to make sure it’s compliant, but not every small little credit union, for example, has the resources to go out and validate every process out there. If that borrower has an account with that credit union, the credit union may not accept the digital signature because how do they know that signature was authorized and executed by the borrower in question.

Also, keep in mind there have been a lot of small changes slowly chipping away at the brick wall facing lenders regarding e-Signatures all these years. Technology and desire have long outpaced e-signature acceptance and adoption, but I would say, at this point, we finally have cracked that brick wall.

Part of the delay on the closing side has been that now you are dealing with real money. Before, you were just disclosing and providing information, but once you get to closing, it's official. Money is changing hands there, and it raises the stakes. If something were incorrect on a disclosure, the borrower may not get the loan, but no one is out any real money. However, if there's fraud involved in closing, there's a lot of money involved so there certainly is a higher standard for closing--and rightly so. If the CFPB can step in and create a process that mitigates a lot of risk lenders face regarding e-closings, then I think the industry will be less hesitant to take the entire process electronic.

NEWSLINK: What should a lender look for in a vendor to implement an electronic closing process?

MACKEY: Even though e-closings are still a theoretical concept, lenders need to verify that their vendor has a plan and are staying on top of changes to prepare for the standards as they come. Obviously, a vendor that isn't currently offering e-Sign for initial disclosures certainly won't be ready to do e-closings because that's too big of a leap to make.

Lenders should also look for vendors with a track record of early adoption of technology, as well as continuous refinement of current systems to adapt to the changing needs of the marketplace. You can learn a lot by asking some key questions, such as:

• Has the vendor made any steps toward system compatibility with tablets or other electronic devices?
• When did the company make the switch from a Windows -based system to the Web?
• What is the company's track record in terms of data security and system stability?

NEWSLINK: What would you say to a company that still uses a paper closing process?

MACKEY: Using a paper process isn't going to hurt them in the short term, but they can't be satisfied with the status quo forever. Right now, 99 percent of the lenders in this country are still doing paper closings. However, there will come a time when lenders will need to "adapt or die," so to speak, and they need to be prepared to move to an electronic closing process.

Of course, there's not much to do in the way of preparation, but I would recommend that lenders that aren't currently using e-Sign on the front end should convert to that immediately. Otherwise, it's going be too much of a leap to move from a fully paper-based process straight into an electronic environment. Now is a great time for lenders to make that switch and get comfortable operating in at least a partially electronic environment so it's not such a shock to the system when the entire process goes electronic.

Lenders can also start providing electronic documents to borrowers ahead of time to work out the kinks in that process.

Overall, I would encourage lenders to be on the lookout for parts of the process that they can take electronic, and when they see that opportunity, reach out to that particular investor, lender or what have you that's associated with that piece to figure out how to make it happen in a way that keeps everyone in compliance.