

COMPONENTS OF A DIGITAL CLOSING:
eCOLLABORATION



Part 5 of 5

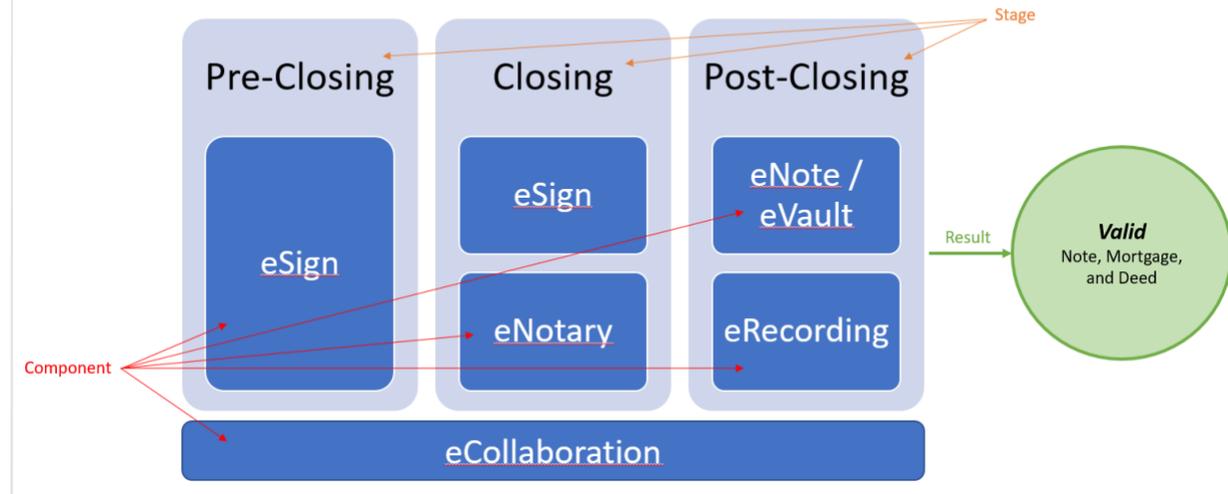


**ALLIANT
NATIONAL**
TITLE INSURANCE COMPANY



COMPONENTS OF A DIGITAL CLOSING

What does a Digital Closing actually involve?



This paper is one in a series of handbooks intended to familiarize Alliant National agents with the Digital Closing Process and its five major components: eSign, eNotary, eNote/eVault, eRecording and eCollaboration. Each handbook in this series explores one component. The purpose of the component is briefly described and placed within the context of the stages of the transaction (*i.e.* pre-closing, closing and post-closing) and within the context of the broader Digital Closing Process. Laws, regulations, technological requirements and specific technologies are discussed where appropriate.

It is our hope that you will find this collection of handbooks to be a comprehensive, ready reference as the industry transitions toward the digital closing environment.



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The information contained herein is not intended to serve as legal or financial advice and should not be relied upon for legal or financial decisions; consultation with a qualified professional for specific advice tailored to the user's situation is recommended.

Component: eCollaboration

Description: The Purpose of eCollaboration

Preface

The infrastructure to support a full digital closing is still in development. Industry associations such as MISMO (see **Component: eNote / eVault**) and PRIA (see **Component: eRecording**) are continuously working to advance the capability. Adoption and success depend upon the willingness and efforts of *all* stakeholders (*e.g.* real estate, title insurance and mortgage industries) to work together and communicate with each other.

The American Land Title Association (ALTA) and the Mortgage Bankers Association (MBA) have worked to educate members by jointly sponsoring a Digital Closing and eMortgage Boot Camp in different locations throughout the year 2020; this joint effort is an excellent example of eCollaboration.¹ This final handbook in Alliant National's *Components of a Digital Closing* series emphasizes how industry stakeholders have an important role **helping each other** provide a functional and compliant digital closing experience that meets the changing needs of consumers.

Definition, Purpose and Benefits

Collaboration

To fully appreciate the notion of collaboration as it applies to the digital environment, it may first be helpful to consider some traditional definitions of "collaboration":

- [Merriam-Webster's online Dictionary](#) states that to "collaborate" is "to work jointly with others or together especially in an intellectual endeavor," and "to cooperate with an agency or instrumentality with which one is not immediately connected."
- [Wikipedia](#) states that "Collaboration is the process of two or more people or organizations working together to complete a task or achieve a goal."
- [The Free Dictionary online](#) states that "collaboration" is "the act of working with another or others on a joint project" and is "something created by working jointly with another or others."

Collaboration In a Digital Environment→ eCollaboration

"eCollaboration" is collaboration in an electronic environment. Specifically, it is *collaboration in an electronic Digital Closing Process (DCP) environment*. That said, the definition of "eCollaboration" for the purpose of this paper is " ... people working together and completing shared processes."²

The DCP requires multiple parties working together on a multi-step process involving a multitude of legal, technical and operational requirements to make it work. Every component of the DCP requires collaboration among stakeholders for a successful outcome. Together, these stakeholders are creating a new ecosystem called the Digital Closing Process.

¹ See ALTA [Digital Closing & eMortgage Boot Camp](#) webpage, or MBA [Digital Closing & eMortgage Boot Camp](#) webpage to register for a Boot Camp.

² [What Collaboration Really Means](#), Published by ThoughtFarmer Intranet Blog

eCollaboration as a Component of the Digital Closing Process

The following are but a few of the many eCollaborations that take place during a DCP:

Lenders with Vendors (See Components: eSign, eNotary, eNote / eVault)

- Lenders create the eDocuments (except for the deed) that are ultimately executed by the owner/borrower during the DCP.
- Lender must approve of the closing vendor.
- The chosen closing platform vendor must have, or be integrated with, an eVault that is acceptable to the lender (if the lender is not providing the eVault, itself) for securing the executed eNote.

Lenders with GSEs (See Component: eNote / eVault)

- Lenders that desire to do business with the Government Sponsored Enterprises (GSEs) must consider GSE requirements. For example:
 - Lenders must use vendors for eNote, eVault, eClosing Systems that are acceptable to the GSEs.
 - Lenders and closing agents or attorneys must be cognizant of any GSE restrictions regarding how the closing or notarization is conducted.³

eNotaries with Closing Agents/Attorneys (See Component: eNotary)

- Closing agent/attorney must make sure that the eNotary is properly licensed and/or registered to perform eNotarizations for execution of eDocuments in accordance with the laws of the state where the subject real property is located.
- eNotary must obtain the correct eDocuments from the closing agent/attorney for execution by the owner/borrower/seller with eNotarization.
- eNotary must conduct the notarization in accordance with the requirements of the law so that the closing is properly completed.

Vendors with Closing Agents/Attorneys (See Components: eSign and eNotary)

- Closing agent/attorney is responsible for due diligence vetting of third-party vendors – resources are available to assist with the vetting process (*e.g.* The Texas Land Title Association (TLTA) offers suggested [Questions to Ask Your Digital Closing Technology Vendor](#))
- Closing agent/attorney must coordinate with the vendor to provide the necessary technology. For example:
 - Closing agent/attorney drafts the deed, but vendor provides the conversion software or services to create a valid deed in an electronically executable eDocument format for eRecording.
 - Vendor provides the technology for conducting the digital closing. The closing agent/attorney will need to learn how to use the technology if participating in the DCP.

³ For example, Freddie Mac limits the use of Remote Online Notarization (RON) to states where it is allowed, but requires that the eNotary be “licensed and domiciled in the state in which the mortgage premise is located and the electronic notarization law was enacted.” [See FreddieMac Single-Family Business FAQs on Electronic Loan Documents, eRecording and eNotarization, FAQ #4, “Does Freddie Mac allow remote eNotarization?”](#)

- Note, some vendors provide training services and may charge for this; others may not provide training, but may have dedicated support personnel to call for assistance; others may offer free demonstrations upon request.

Closing Agents/Attorneys with Owner/Borrower/Seller

- When conducting a RON, the closing agent/attorney coordinates with eNotary, closing platform vendor, and owner/borrower/seller to make sure that all parties have the required software and hardware to receive, execute, eNotarize and transmit the eDocuments.

Closing Agents/Attorneys with Title Insurance Underwriter (See Components: eNotary and eRecording)

- Whether the intent is to conduct a face to face (*i.e.* physically present), or a RON DCP, the closing agent/attorney must follow the title insurance underwriter's guidelines and requirements for conducting an eClosing.

Closing Agents/Attorneys with Recorders (See Component: eRecording)

- Closing agent/attorney must verify that the county recorder accepts the *specific* land transaction eDocument(s) (*e.g.* deed, mortgage, or deed of trust) for eRecording (not just verify that the recorder eRecords).
- Closing agent/attorney must make sure that the recorder's requirements are met and that the eDocument is delivered to the recorder in an acceptable file format.
- Closing agent/attorney must make sure that there is an acceptable submitter agent (*e.g.* an eRecording vendor) from whom the recorder will accept eDocuments for recording.

Vendors with Recorders (See Component: eRecording)

- Submitter agent (*e.g.* the vendor who files the eDocument with the registrar's office for recording) must have the required technology to transmit documents for eRecording to the county recorder, in the file format required by the recorder.
 - Some recorders require the submitter agent to be registered as a "Trusted Submitter," which may include executing a Memorandum of Understanding or other agreement.

Closing Agents/Attorneys with Industry Associations (e.g. State Land Title Association(s), ALTA, PRIA, MISMO)

- Industry associations, with stakeholder input, play a vital role in the drafting and lobbying for legislation that affects the DCP (*e.g.* drafting model RON legislation⁴).
- Industry associations provide numerous resources to help educate and support stakeholders (see footnote 1 re ALTA & MBA Digital Closing & eMortgage Boot Camp).
- [Mortgage Industry Standards Maintenance Organization \(MISMO\)](#) provides Remote Online Notarization (RON) Standards "to promote consistency across mortgage industry practices and state regulations to allow the use of audio-visual communication devices to notarize documents in a virtual online environment."
- In order to *be* a valuable resource, industry associations must obtain stakeholder participation.

⁴ To view the MBA-ALTA Model Legislation for Remote Online Notarization, go to either the ALTA [Digital Closings](#) webpage or the MBA [State Legislative and Regulatory Resource Center](#) webpage, from where the document can be downloaded.

Closing Agent/Attorney with the Insurance Regulator

- Closing Agent/Attorney must meet federal E-SIGN and state UETA requirements, *and comply with insurance laws and the insurance regulator's directives* when transmitting closing documents and issuing title insurance policies electronically.
 - Example: Review AZ Ins. Bulletin [6-2002](#): “ ... For purposes of delivery and other communications required or permitted by this state and its attendant regulations, delivery and communication by electronic or other verifiable means shall not be precluded where agreed to by the parties involved ... ”

Rules: Federal and State Statutes and Regulations

There are no laws and regulations applicable to eCollaboration, itself. However, eCollaboration has been influential in the development of the law concerning eSignatures, eNotarization and electronic transactions. eCollaboration also enables stakeholders to meet the requirements of the law by working together to achieve a legally compliant process (see examples provided above).

The other **Components of the Digital Closing Process** (referring to each article in this series) provide detailed information regarding the development of state and federal law impacting the DCP, including the history of stakeholder involvement.

Links: Relevant Sources and Articles

- [eClosing and Buying a Home: Technology's Role in Closing on a Mortgage](#), Authored by Noerena Limón, Published by the Consumer Financial Protection Bureau (CFPB), Oct. 4, 2017
- Simplifile White Paper: [As 'E' as Can Be \(Building a True End-to-End E-Mortgage Process Through Automated Collaboration and Post Closing\)](#)
- [The Role of Collaboration in Digital Transformation](#), Authored by Rene Millman, Published by ITPRO, June 19, 2017
- [ALTA's Digital Closing Readiness Checklist](#), Produced by ALTA's Digital Closing Taskforce On Ramp Workgroup, October 2019 (*a prime example of how the DCP necessarily requires numerous interactions and eCollaborations*)

Technology

Ultimately, the success of the movement to embrace a *fully* Digital Closing depends upon the collaboration of legislators, recorders, the real estate financial and title insurance industries, their supporting technology vendors, and other interested stakeholders. Stakeholders continue to coordinate their efforts to create a legally acceptable, uniform and flexible technology that achieves the goal of providing constructive notice throughout the United States with eRecording in every county of a deed, mortgage and deed of trust, deemed valid in the form of an eDocument.⁵ Likewise, these stakeholders

⁵ States continue to enact URPERA and enabling legislation; see [Component: eRecording](#) for the latest information on pending legislation and recently enacted statutes.

are pushing forward to create an environment where a legally valid eNote is embraced by *all* lenders and their financial partners (*e.g.* servicers, aggregators, etc.) in the mortgage banking industry.

Vendors: Key Service Providers

There is a proliferation of new technology vendors, as well as new partnerships between them and with other stakeholders in this exciting age of eCollaboration. The other **Components of the Digital Closing Process** provide links to vendors whom either Alliant National Title Insurance Company has vetted and approved for business with its title agents, or are representative of the companies offering digital services. If there is a vendor that is not listed as vetted, but with whom an agent desires to “eCollaborate,” please contact the Alliant National Title Underwriting Department.