From Desk to Digital: Best Practices and Standards for Fraud Prevention in All Notary Environment

1 hour CE (Ethics)
1 hour CLE (General, Technology)

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W. Jeffry Stein, Esq. is Chief Underwriting Counsel and Senior Vice President for Alliant National Title Insurance Company. Jeff is responsible for underwriting and support of our independent agents throughout the country.

With over forty years experience working for title insurers in both claims and underwriting, as well as in private practice actually writing title policies for title insurers, he brings a deep and rich understanding of not just the legal ramifications inherent to the title insurance industry, but of the critical elements necessary to ensure an Independent title insurance agent's success. Jeff is a past president of the FLTA and current member of the ALTA Forms Committee.

When not wrangling title issues, Jeff can be found racing cars, taking professional quality pictures and working with his wife on their horse farm.

OVERVIEW

Name of Provider: Alliant National Title Insurance Company

Name of Course: From Desk to Digital: Best Practices and Standards for Fraud Prevention in All Notary Environments

Targeted audience: Florida Title Insurance Agents and other Title Insurance Professionals

Course Objectives:
Participants will gain insights into:

- The importance of Identity verification
- Proven methods for identity verification across all platforms
- National and state-level standards and compliance requirements
- Tools and technologies to safeguard electronic notarial acts

Course Relevance:
In order to protect consumers and provide reliable title insurance and closing services it is critical that an understanding of the many issues related to Identity theft and the use of notaries be developed and continuously improved upon.

Study Method: Classroom

Course Level: Intermediate

OUTLINE

I. Introduction and Definitions — **5 Minutes**
   Why are we concerned with identity verification and why isn't it enough to rely on the Notary

II. Identity Verification — **15 Minutes**
   a. Minimal Review, Alliant National Standards
   b. ALTA suggested guidelines
   c. Secure My Transaction, using a service to verify

III. Notary Guidelines — **10 Minutes**
   a. Florida Statutes
   b. Alliant National additional requirements

III. Notarization outside of your Office — **20 Minutes**
   a. Mobile Notary
   b. RON
   c. use of a service to provide RON

Total Instruction Time - **50 minutes**

Total Break Time - **10 minutes**

Total Time - 60 minutes

FROM DESK TO DIGITAL: BEST PRACTICES AND STANDARDS FOR FRAUD PREVENTION IN ALL NOTARY ENVIRONMENTS

With notarial services expanding into digital and mobile spaces, maintaining the integrity of notarized documents is more critical than ever.

This seminar focuses on **practical best practices and Alliant National's standards** to protect against **fraud** and **forgery in remote, mobile, and traditional** notarization settings.

Participants will gain insights into:

- Proven methods for identity verification across all platforms
- National and state-level standards and compliance requirements
- Tools and technologies to safeguard electronic notarial acts
- The importance of Identity verification

Forgeries are on the rise. Each claim results in significant losses, averaging well into six figures.

Notarization of documents was created to verify the identity of the person signing documents. Is it still enough? We will explore the answer.

How about the notary? If the notary is outside of your employment, is the notary a real notary, or are they fake too?

Some questions we should explore:

How do you verify that the notary is not a fake?

How do you verify that the individual/party is not a fake?

We now have Remote Online Notarizations. States have various levels of authentication in their statutes. So, is RON enough? Have the KBA and verification efforts been fooled?

A. Identity Verification

Verifying the identity of the party signing a document we intend to insure or that you are going to rely upon is critically important regardless of the method of notarization.

Please stay vigilant even when using RON or even more so with in person and mobile notarizations.

In all cases we strongly recommend and encourage you to take the additional step of using a third party identification verification service on all closings for all parties.

1. Alliant National guidelines What to look for when authenticating any ID.

Note that even following these guidelines, it is very difficult to determine if any given ID is authentic. We strongly recommend that an identity verification service be used in all cases unless you do actually know the individual personally.

Minimal review of the Identification should include the following.

1. The name must be the same as the name on the documents to be signed. If there is a variance, contact an Alliant National Underwriter before proceeding. (A mobile notary should contact the title agent, who should then contact an Alliant National Underwriter.)
2. The address must agree with the address provided in the transaction documents.
3. The photo must match the person who is appearing to sign.
4. The age shown on the identification must match the age of the person.
5. The signature must match the signature of the party, do not hesitate to look at signatures on previously recorded documents.

The notary must either (i) make a legible copy of the ID presented, or (ii) complete and sign the Identification and Notary Certification form for each party whose signature is notarized.

The agent must retain in its permanent file a legible copy of the ID presented, or an executed Identification and Notary Certification form.

If a sample signed document is provided, the notary must compare the signature of the signing party with the signature on the sample document.

If the signatures do not reasonably match, contact an Alliant National Underwriter before proceeding. (A mobile notary who is unable to reconcile the signatures must contact the agent who must then contact an Alliant National Underwriter before proceeding.)

2. ALTA Guidelines

Identity Verification Methods

The following section discusses the various methods of identity verification that are available. No method or methods completely eliminate the risk of impersonation or forgery, but the objective is to use the tools available to reduce the risk.

1. Verification of Government ID provided by a signer

- Description: Physical document verification of a government issued photo ID (driver's licenses, passports). Designed to answer the question: Does the individual possess an authentic Government issued identity document that supports their claim to a physical identity?
- Potential actions to verify:

  Where possible, obtain and validate the ID of a signer in advance of the closing.

  Require multiple forms of government ID, at least one of which is unexpired.

  Cross referencing data sources: Data in the government ID cross-referenced with DMV database, or similar, to determine if: The database corroborates the ID and the provided personal information The expiration date, issue date, and id number can be verified

  The data in the ID cross-references with data provided using the bar code or other similar coding.

  Tamper and manipulation detection methods (color, text patterns).

  Automated security feature detection (holograms, UV patterns).

  The expected features of the government ID of the jurisdiction.

  Use of systems or tools to identify forged government IDs:

  Print quality and color matching: Advanced systems check for inconsistencies in print quality and color across the document, which may indicate physical alterations.

  Font consistency analysis: Systems examine the consistency of fonts used throughout the document to identify potential tampering.

  Photo replacement detection: Some fraudsters physically replace the photograph on a genuine document, which can be caught by sophisticated verification systems.

  Image compression analysis: Systems check for signs of image manipulation by analyzing compression artifacts.

Pixel-level analysis: Advanced algorithms perform detailed examinations of pixel arrays to identify modified principal components.

2. Database Verification of Personal Information provided by the signer

- Description: checking that information an end user provides about themselves - such as name, date of birth, etc. - matches a record in a known database, and that at least some of the records tie the person to the property.
- Potential actions to verify:

Verification of claimed personally identifiable information (PII) against credit bureaus, government agencies, and other authoritative databases. Recommended elements to verify include:

First Name

Last Name

Address

Phone Number

Date of Birth

Social Security Number (or national ID if outside of US)

Watchlist screening and compliance checks

Unless otherwise required, there is no need to disclose the databases being utilized to persons being verified or persons involved in the transaction.

3. Personal Contacts and References received from the signer

- Description: Ensure that the reference sources the signer claims to have can corroborate the signer's information
- Potential Actions to Verify:

  Independently search and obtain contact information for the reference

  Send letter to the reference using the reference's publicly available address

  Contact signer's real estate agent, attorney, mortgage lender, and/or accountant

4. Biometric Verification for the signer

- Description: In situations where the signer is remote, it may be helpful to determine whether the person presenting the ID is the rightful owner using physical attributes, such as requesting a "selfie" to compare against the ID.
- Potential actions to verify:

  Facial comparison between selfie and photo ID

  Liveness detection – preventing spoofing attempts and/or deepfakes by requesting that remote individuals follow action commands (e.g., turn left, turn right, raise your hand)

5. Use of open-source personal information to verify signer

- Description: Determine whether the provided phone number, email address and photo are likely to be those of the person who should be the signer.
- Recommended actions to verify:

  Public search of email addresses, phone numbers, and photos. This may be used to verify if the phone number and email address have been associated with the individual's name and address in public records or commercial databases. Compare these items to information presented by the person.

  Domain Validation: Checks the validity of the email domain.

  Syntax Check: Ensures the email address follows proper formatting.

  Disposable Email Detection: Identifies temporary email addresses that have not previously been associated with the individual or represents a recently created email address.

3. Use of a third-party verification service.

We strongly encourage the use of a third-party verification service on all transactions for all parties unless you personally know the individuals executing the documents in your presence.

There are many services available. Some examples include:

- Certified ID
- Intellicheck
- Val-ID
- Proof
- Closing Lock
- Land Lock

B. Alliant National Notary Guidelines

Whenever we are working with a notary, or we are the notary, there are guidelines, both in our Florida Statutes and additionally in our experience.

We will explore three basic Notarization formats. In Person, whether done by ink or electronically, using a mobile notary and finally remote online notarization.

1. General Notary Guidelines for use regardless of the type of notarization:

A. Florida Statutes:

Florida law regarding acceptable identification for notarial acts must be followed. These should be considered a minimum threshold.

Florida Notary laws are found in Chapter 117. The relevant portion of these reads as follows (emphasis has been added):

(5) **A notary public may not notarize a signature** on a document **unless** he or she **personally knows, or has satisfactory evidence**, that the person whose signature is to be notarized is the individual who is described in and who is executing the instrument. A notary public shall certify in the certificate of acknowledgment or jurat the type of identification, either based on personal knowledge or other form of identification, upon which the notary public is relying. In the case of an online notarization, the online notary public shall comply with the requirements set forth in part II of this chapter.

(a) For purposes of this subsection, the term "personally knows" means having an acquaintance, derived from association with the individual, which establishes the individual's identity with **at least a reasonable certainty**.

(b) For the purposes of this subsection, the term "**satisfactory evidence**" means the **absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person whose signature is to be notarized is not the person he or she claims to be** and any one of the following:

1. The sworn written statement of one **credible witness personally known to the notary public or the sworn written statement of two credible witnesses whose identities are proven to the notary public** upon the presentation of satisfactory evidence that each of the following is true:
   a. That the person whose signature is to be notarized is the person named in the document;
   b. That the person whose signature is to be notarized is personally known to the witnesses;
   c. That it is the reasonable belief of the witnesses that the circumstances of the person whose signature is to be notarized are such that it would be very difficult or impossible for that person to obtain another acceptable form of identification;
   d. That it is the reasonable belief of the witnesses that the person whose signature is to be notarized does not possess any of the identification documents specified in subparagraph 2.; and
   e. That the witnesses do not have a financial interest in nor are parties to the underlying transaction; or
2. Reasonable reliance on the presentation to the notary public of any one of the **following forms of identification, if the document is current or has been issued within the past 5 years and bears a serial or other identifying number:**
   a. A **Florida identification card or driver license** issued by the public agency authorized to issue driver licenses;
   b. A **passport issued by the Department of State of the United States;**
   c. A **passport issued by a foreign government if the document is stamped by the United States Bureau of Citizenship and Immigration Services;**
   d. A **driver license or an identification card issued by a public agency authorized to issue driver licenses in a state other than Florida or in a territory of the United States, or Canada or Mexico;**

e. **An identification card issued by any branch of the armed forces of the United States;**

f. **A veteran health identification card issued by the United States Department of Veterans Affairs;**

g. **An inmate identification card issued on or after January 1, 1991, by the Florida Department of Corrections for an inmate who is in the custody of the department;**

h. **An inmate identification card issued by the United States Department of Justice, Bureau of Prisons, for an inmate who is in the custody of the department;**

i. **A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized;** or

j. An **identification card issued by the United States Bureau of Citizenship and Immigration Services.**

B. Alliant National additional or modified requirements:

Alliant National requires one of the forms of identification listed below:

1. **Unexpired driver's license or identification card issued by a U.S. state, territory, or federal government,**
2. **Unexpired Passport – United States or foreign country,**
3. **Unexpired United States military ID,**
4. **Permanent Resident Card ("Green Card"), or Employment Authorization document (EAD, or "work permit") issued by the U.S. Citizenship and Immigration Services, or Visa issued by the United States,**
5. **Identification card issued by a federally recognized U.S. tribal government.**

The notary must carefully review each form of identification provided. This applies even when the person comes to your office or when they are remote from your office.

In all cases a second type of ID should be reviewed in addition to the governmental ID. This can be a membership ID with a photo or other ID.

2. Documents signed outside of your office:

Any title document signed outside your direct control must be conducted by either:

i. a licensed and bonded mobile notary selected by you as the title agent and covered by E&O insurance. We strongly recommend a minimum of $250,000.00 coverage (Mobile Notaries); or

i. a Remote Online Notary (RON) validly licensed in the state of appointment.

A. Mobile Notaries: General Guidelines for Out of Office Signings with a Mobile Notary

The Mobile Notary must be selected by you and not the customer. You must have direct contact with the mobile notary.

You must maintain evidence of the mobile notary's license, bond and E&O coverage.

You must provide the mobile notary with written instructions to be followed in the signing and acknowledgement process.

When the documents are received from the mobile notary, you must carefully review the documents to be sure that they comply with the requirements set forth herein. If our requirements have not been met, the documents may not be acceptable for title insurance purposes and should not be used to close a transaction without specific approval from an Alliant National Underwriter.

You can refer to the Agents Resource Center for a list of mobile notaries we have reviewed and who have met some basic criteria. This is not a mandatory or exclusive list but is there to be helpful to you in selecting a mobile notary service.

Even after carefully selecting a Mobile Notary for your transaction, and having submitted your instructions, it is still necessary to work to verify the identity of the individual who is executing your documents. It is not something that should be left exclusively to the notary.

B. Remote Online Notary: General Guidelines for Signings with RON

The second option for executing documents outside of your direct control is the use of a Remote Online Notary (RON) .

Requirements for using a RON notary on a transaction to be insured by Alliant National are:

- All parties must expressly authorize the use of RON technology. This authorization may be contained in the closing instructions or in a separate written instrument, as long as the consent in the separate written instrument does not conflict with the closing instructions.

- All parties must also provide a separate, electronic written consent prior to the execution of documents electronically. This is obtained from the vendor providing the RON platform.
- It is not necessary to record the consents in the public records, but you must retain a copy in your electronic records.
- Confirm that the state and county where the property is located accepts electronic documents for recording, or that they will allow "papering out" of the electronic documents for recording.
- Florida does allow RON documents to be papered out (printed to paper) and recorded.
- Each person whose signature will be notarized must be a United States citizen or permanent resident.
- If signers are neither United States citizens nor permanent residents and will be signing in the United States, Alliant National requires an in-person notarization by a Florida or other state's notary.
- If signers are neither United States citizens nor permanent residents and will be signing outside of the United States, obtain prior underwriting approval from Alliant National. There are occasions where we will allow non-US Citizens to use RON providers governed by VA law where KBA is not required. In these cases, in addition to the ID requirements, we require an affidavit from a credible witness who has a professional license and who can themselves pass the KBA requirements and is present during the RON session.
- Each person whose signature will be notarized must pass the multi-factor authentication administered by the RON platform.
- **A RON transaction must comply with all Florida notarial requirements and any Florida specific RON requirements.**
- When using a jurat, the remote online notary must ensure that the oath is administered, and verbal confirmation is captured during the video/audio recording.
- The form of acknowledgment and attestation must comply with the laws of Florida.

Selection of a RON Provider.

- We encourage the use of a provider that has been vetted by MISMO. They maintain a list of those that they have approved. This is a link to the list: https://www.mismo.org/events-education/certifications/emortgage-technology-certification/ron/certified-ron-providers

- There are also services using one or more of these approved providers that you can choose, such as Network Transaction Solutions. This is a link to their web page: https://networktransactionsolutions.com/eclosing-with-ron/
- Alliant National has reviewed various RON providers and has made a list of providers which met our review criteria. You may access that list on the Agents Resource Center.
- When selecting any RON Technology Provider or RON they must be properly licensed and approved by the State in which that RON is located.
  - Please check the state's webpage for vendor authorization before using the vendor. These states have such lists: Arkansas, Colorado, Florida, Kansas, Louisiana, Maryland, Michigan, Missouri, Nebraska, Nevada, New Mexico, Pennsylvania, Utah, Wisconsin.

EXHIBIT A

Alliant National Suggested instructions

NOTARY INSTRUCTIONS

Before witnessing any signatures, you must obtain satisfactory evidence that the party in your presence is the party whose name appears on the documents. One of the following forms of government-issued photo identification must be provided by each party:

1. Unexpired driver's license or identification card issued by a U. S. state, territory, or federal government,
2. Unexpired Passport – United States or foreign country.
3. Unexpired United States military ID;
4. Permanent Resident Card ("Green Card"), or Employment Authorization document (EAD, or "work permit") issued by U.S. Citizenship and Immigration Services, or Visa issued by the United States.
5. Identification card issued by a federally recognized U.S. tribal government

You must obtain a second form of ID with a photograph. This ID does not need to be one of the preceding 5 types of IDs. An acceptable example would be a membership card

You must compare the name, address, photograph, signature, and date of birth of the party with the identification provided and the document being signed.

You may provide a legible color copy of the identification used or using the identification, provide the information below and return the identification to the party.

Notary, you must fill in the following information for each party and each ID used for verification of that party and execute the notary information and certification.

IDENTIFICATION VERIFICATION

Name of Party:

Type of ID:

__ Driver's License issued by

__ Identification card issued by of this type:

__ U.S. Military ID • U.S. Passport • Passport issued by

__ ID described in #4 above of this type:

__ Tribal ID as in #5 Last 4 digits of ID: _____ Expiration of ID: _____

Name on document matches name on identification: __ Yes __ No

Address on document matches address on identification: __ Yes __ No

Photograph matches person before you: __ Yes __ No

Signature on document matches signature on identification: __ Yes __ No

Date of birth reasonably matches age of person before you: __ Yes __ No

Name of Party:

Type of ID:

__ Driver's License issued by

__ Identification card issued by of this type:

__ U.S. Military ID • U.S. Passport • Passport issued by

__ ID described in #4 above of this type:

__ Tribal ID as in #5 Last 4 digits of ID: _____ Expiration of ID: _____

Name on document matches name on identification: __ Yes __ No

Address on document matches address on identification: __ Yes __ No

Photograph matches person before you: __ Yes __ No

Signature on document matches signature on identification: __ Yes __ No

NOTARY INFORMATION AND CERTIFICATION

I hereby certify, under penalty of perjury, that I am authorized to act as a Notary Public in the jurisdiction set out below; and that in performing my duties as a Notary Public I have complied with all applicable state and local laws. I further certify that I have received and reviewed original government issued identification as set out above, which has not expired and which bears a photo or physical description and a signature which matches the signature on the documents executed by the applicable party. My information below is true, correct, and current.

Notary name: _____

Notary best contact phone: _____

Notary mailing address: _____

Notary for _____ County, State of _____ or for _____ State at large

Notary commission expires: _____

_____

Signature of Notary Public

Stamp or affix Notary Seal in box to the right