

eClosing Pilot guidelines

Guidelines for participating in CFPB eClosing Pilot



Consumer Financial
Protection Bureau

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1. Pilot overview

Consistent with the CFPB's mission to increase transparency in financial markets and to provide tools and opportunities that empower consumers to make better financial choices, the Bureau is enthusiastic about the potential to improve the mortgage closing experience for American consumers. The CFPB's specific vision is for a "*knowledgeable, empowered homebuyer experiencing a more efficient, consumer-friendly process.*"

As stated in the report, *Mortgage Closings Today: A Preliminary Look at the Role of Technology in Improving the Closing Process for Consumers*, the CFPB believes that there may be opportunities to leverage technology to solve some of the issues that cause frustrations for both consumers and professionals in the mortgage closing process. Specifically, the Bureau hypothesizes that technology-enabled electronic closing (eClosing) solutions may have the potential to improve consumer understanding and empowerment and efficiency for all involved. Accordingly, the CFPB is launching a pilot program to further evaluate eClosing solutions and to determine how these solutions can help achieve the proposed vision for an improved closing process.

Throughout this document, pilot "participant" signifies a partnership between a technology vendor providing an eClosing solution and a lender that has contracted with the vendor to close loans using that solution. A lender that has an in-house eClosing solution with functionality similar to current vendor options will also be an eligible participant for this pilot. Participants cannot include only a lender, only a vendor, or a partnership that does not have a contract in execution prior to finalizing its participation in the pilot.

The intention of this pilot is for the CFPB to conduct targeted research on eClosing solutions and to release the findings publically. To achieve both of these goals, the CFPB will dictate certain terms of the research environment, including specific tests, defined test groups, and a minimum number of loans to close during the pilot. Furthermore, the CFPB will need to collect quantitative and qualitative data in a controlled environment. Therefore, participants may be

asked to provide a survey to consumers, to assist the CFPB with arranging selected interviews with consumers, and to provide specific anonymized loan-level data to the CFPB. The loan-level data relevant to this study may include data on cost, time, and/or process (e.g., errors, consumer interaction) that will help the CFPB to evaluate the use or impact of eClosing features. The Bureau encourages participants to respond with descriptions of the relevant types of data that they are already able to track and collect today.

The CFPB plans to negotiate unique statements of work with each pilot participant, so many of the specific responsibilities and criteria for participation will be finalized through individual discussions that will occur over the next several months. However, the following sections outline the base functionality required for participants to join the pilot and offer some suggestions for advanced functionalities that may have the potential to benefit consumers.

2. Minimum required functionality

To join the CFPB's pilot on electronic closings, each participant must currently have a system that meets minimal technical capabilities and requirements, as demonstrated by specific features and functionalities. The CFPB created these minimum requirements to ensure that the pilot program is focused on the specific features and consumer outcomes that the Bureau is seeking to evaluate.

As stated previously, the CFPB's vision is for a "knowledgeable, empowered homebuyer experiencing a more efficient, consumer-friendly process." Our ultimate objective is to create a more consumer-friendly environment in which consumers:

- Understand the commitment they are making
- Are empowered to play an active role resulting in a sound transaction
 - Which in some situations can be to walk away or negotiate
- Experience a more efficient and transparent process

Accordingly, the Bureau will only accept solutions that are designed to improve these outcomes, in the determination of the CFPB – for example, by effectively bringing key terms and information to the consumer's attention or by helping consumers play a more active role in the process.

The minimum required technical functionality for this pilot is as follows:

1. Managing document and data transfer

Pilot participant must have an eClosing solution with the ability to store and transfer documents and data securely between different parties involved in the real estate

transaction, including the lender, consumer, settlement agent, and downstream investors. It must also include, or have a contract with, a secure "eVault" to store the documents following the transaction.

2. Secure technology platform enabling transparent, collaborative workflow

Pilot participant must have a technology "platform" which acts as a central repository for all closing documents and allows for the various stakeholders not only to view documents, but also to interact with them. These platforms can be based in either desktop software or an online site. It is acceptable if documents are available individually or as part of a combined file.

3. Facilitating electronic signatures

Pilot participant must offer the ability to accept electronic signatures from the borrower on the closing documentation. Their process must be consistent with the legal framework outlined in E-SIGN and UETA¹. Solutions may utilize a range of technologies to collect legally operative eSignatures, including a digital signature pad or "click to sign" (i.e., clicking to add a computer-generated graphic signature). Participants do not need to accept eSignatures on all closing documents – hybrid processes that combine both legally operative wet signatures and legally operative eSignatures will be acceptable.

4. Ability to audit

Pilot participant must have a solution that creates a clear audit trail for the transaction. This requirement includes the use of date and time stamps to track when documents are sent to the borrower and electronically executed at closing. Participants must also use tamper-evident seals on all electronically-signed documentation, be able to track the authoritative, transferable document of record, and ensure that the single version of that document is readily identifiable and non-duplicable.

5. Ability to sanitize data

Pilot participant should be able to strip, mask, or otherwise minimize access to sensitive data fields not necessary for analysis, including specific types of personally identifiable

¹ In accordance with applicable law, the participants should offer the electronic process as an "opt-in" choice that requires consumer consent. Consumers must still have the option to complete a paper process. If a consumer chooses to switch back to a paper process, there should be no direct switch fee.

information. Pilot participants should also be able to support the CFPB in analyzing and mitigating the privacy risks that may be raised by the pilots.

In addition to these functionalities, each participant will be required to include the following criteria in their proposal:

- **Data Samples**

Pilot participant must have enough consumers involved in the pilot to produce a data sample that is large enough for meaningful analysis. Therefore, the Bureau asks that any potential participant respond with an estimation of the number of eClosings they would expect to complete during a three-month pilot, with a breakdown of purchase versus refinance transactions.

- **Consumer Awareness Methodology**

Pilot participant should describe how their proposed solution is expected to increase consumer awareness of, and understanding of, the key terms of the loan, the material obligations undertaken and promises made by each party, and the nature and scope of the documents being signed.

3. Additional advanced features

The CFPB also requests that pilot participants include additional features aimed at further improving these outcomes. Many of these features may not be included in eClosing platforms on the market today, so participants may need to create additional functionality prior to the pilot commencement. The following section includes some examples of potential new features, but participants should not read this as a complete list or feel constrained by these ideas. This pilot should be a vehicle for consumer-friendly innovation, and the CFPB welcomes new suggestions for additional features beyond those outlined below.

The Bureau will not require participants to build all of these types of features or to meet all of the goals below. As a result, different participants may choose to develop and test a selected subset of new features, some of which will be different from those being developed or tested by other participants. The CFPB will be prepared to launch the pilot program as early as October 2014 and would like potential participants to respond with a project plan that can be completed by October 2014. However, the Bureau is aware that building additional functionalities is resource-intensive and therefore may be willing to consider alternative timelines.

Examples of potential advanced functionalities that the CFPB would be interested in testing in this pilot include:

1. Enabling consumer understanding and empowerment

The CFPB seeks to test advanced eClosing features that may result in increased consumer understanding and empowerment. These features will help consumers become more knowledgeable of the most important information, including the terms, fees, and affordability of their loan; justification for any difference between their initial quotes and fees at the closing table; and their rights, responsibilities, and consequences as a homebuyer. Also, they will empower consumers to play a more active role in the closing process and to feel confident that they control the process, rather than having a process dictated to them.

- Educational materials, such as document summaries, term definitions, or process explanations that consumers can review prior to the closing table. These tools could be embedded within the documents in the eClosing platform or linked to online websites. In most cases, the CFPB will design the materials and provide the content, content topics, or consultation on the proposed content to the pilot participants. The CFPB is interested in seeing tools that allow for diversity in consumer preferences and individual learning styles, such as the use of text and video formats.
- Customized "stacking order" or sequencing of documents that allows the pilot participant to control which specific documents display at the front of the stack when viewed by the consumer prior to and at the closing table.
- Formatting and presenting approaches that highlight the documents containing the key legal obligations and promises, and that, within those documents, spotlight the key terms of the deal.
- Expanded communication tools embedded in the eClosing platform to increase the consumer's ability to contact key participants and ask questions when reviewing the documents prior to closing. Examples of such tools could include a direct message feature to send a secure email to relevant parties.

2. Enabling, evaluating, and incentivizing early document review

Having sufficient opportunity to review the documents is critical to consumer understanding and empowerment. Accordingly, in this pilot, the Bureau is interested in studying technology solutions that provide the full closing package to consumers prior to the closing table. The ideal timeframe for delivery is three business days prior to closing, in line with requirements for the Closing Disclosure in the new "Know Before You Owe" rule that will go into effect in August 2015². In addition to simply enabling early review, the CFPB is interested in platforms that can collect data that provides information about how, when, and for how long consumers viewed these documents prior to closing. Furthermore, pilot participants might encourage consumers to view documents prior to

² Note that participants will still utilize the existing forms during the pilot, including the Good Faith Estimate (GFE) and the HUD-1

arriving at the closing table by requiring acknowledgement of receipt and/or providing incentives for consumers to read the documents.

3. Facilitating detection of change and errors in closing documents

The CFPB hopes this pilot will test tools and functionality to help consumers and industry stakeholders identify errors or changes in the closing documents. These features are particularly relevant for comparing the HUD-1 to the original GFE. Examples of advanced features could include a side-by-side comparison tool and/or a summary of changes in costs between the two documents. Additionally, any new quality checks that can be built into the process to identify errors prior to closing will be welcome additions for testing during this pilot.

4. Ability to manage multiple platform versions

The CFPB intends to test two versions of eClosing with each participant: a "base" eClosing that includes the aforementioned minimal required functionality and an "advanced" eClosing that includes features similar to those listed in this section. Therefore, the Bureau is ideally looking for participants that are able to simultaneously provide two versions of their solution (with and without these advanced features).

To reiterate: the list above is not intended to be exhaustive or comprehensive. The CFPB welcomes further input on additional features, functionality, and related data that would improve the closing process for consumers by advancing the broader goals of improved understanding, empowerment, and efficiency. The Bureau looks forward to seeing the creative solutions that will emerge through this pilot program and to partnering with pioneering companies who are helping to advance innovative solutions in the marketplace.