

Settlement Processes in the Digital Era

Establishing Forms of Communication

- Restricting all communication through a third party (i.e. Agent) is insufficient per legal precedent
 - How is this managed with Agents/attorneys who wish to isolate their clients?
 - What is the minimum legal standard/requirement for communication directly with Principals?
- Who establishes the forms of communication?
- What are we legitimately able to mandate in the communication process with Principals? Others?
- When and how is initial contact made with Principals?
- What options are being offered to Principals?
- What forms of communication will you accept?
 - What about the Lender? Exchange Accommodator?
 - How is this communicated to transaction participants?
- How is your scope/integration of service conveyed to Transaction Coordinators?
- Does your practice consider the best/most efficient form of communication for a given circumstance?

Communications Media

- Keeping personal and business accounts separate
- Does your policy allow for use of personal phones? If so, what procedures are in place mitigate the associated risks?
- Is texting an acceptable form of communication for official business? How do you document those communications?
- WhatsApp? WeChat?
 - How do you document your escrow file to record these communications?
 - Delivery of documents and information to third party portals/platforms?
- Is e.Fax a secure platform?
 - e.demand delivery?
 - VOIP?
- What additional technologies might settlement agents need when RON becomes available?
- Establish definitions for the increasing variety of media

Digital Signatures

- Do you have a digital signature platform?
- Define difference between Digital and Digitized.
- What are the legal requirements under UETA, ESIGN, Digital Certificates and RULONA (revised uniform law on notarial acts)?
- Are there limitations on what type of documents you will accept with digital (vs. ink) signatures?
- Signatures to the CAR RPA are delivered direct to the source (distributing) Realtor only; they effectively become only a facsimile to the escrow holder
 - Do you accept signatures obtained indirectly thereby losing the validation information?
 - What form of authentication/verification is prudent? Possible?
 - Do you have increased requirements for sensitive materials, i.e. Wire Instructions?
 - Is it practical to establish a preferred protocol for execution of Grant Deeds?

Email Communication

- Define the term “secure e-mail”
- Define the term “encrypted”
- Must every communication be encrypted?
 - What are guidelines for determining sensitivity of a message?
 - How is password information delivered to recipients?
 - Do you multiple channels for delivery of documents and passwords
- How do you manage the volume of email?
 - Are group emails efficient/practical?
 - Assess whether e-mail is the appropriate tool for a given instance
- What techniques can be implemented to avoid cyber-bullying? (Response scripts?)
 - What is the context and method?
 - Employees
 - Consumers
 - Agents
 - Transaction Coordinators
 - Lender
 - Reply-All

Privacy and Confidentiality Issues:

- Authorizations for Independent Transaction Coordinators
- Authorizations for mortgage Brokers and Loan Processors
- Security of Devices and processes
 - E-Mail
 - Fax
 - Telephone Communications
 - Texting
 - Skype

Passwords and Password Management:

- What are your procedures for Passwords
 - Creation
 - Maintenance
 - Storage
 - Recovery