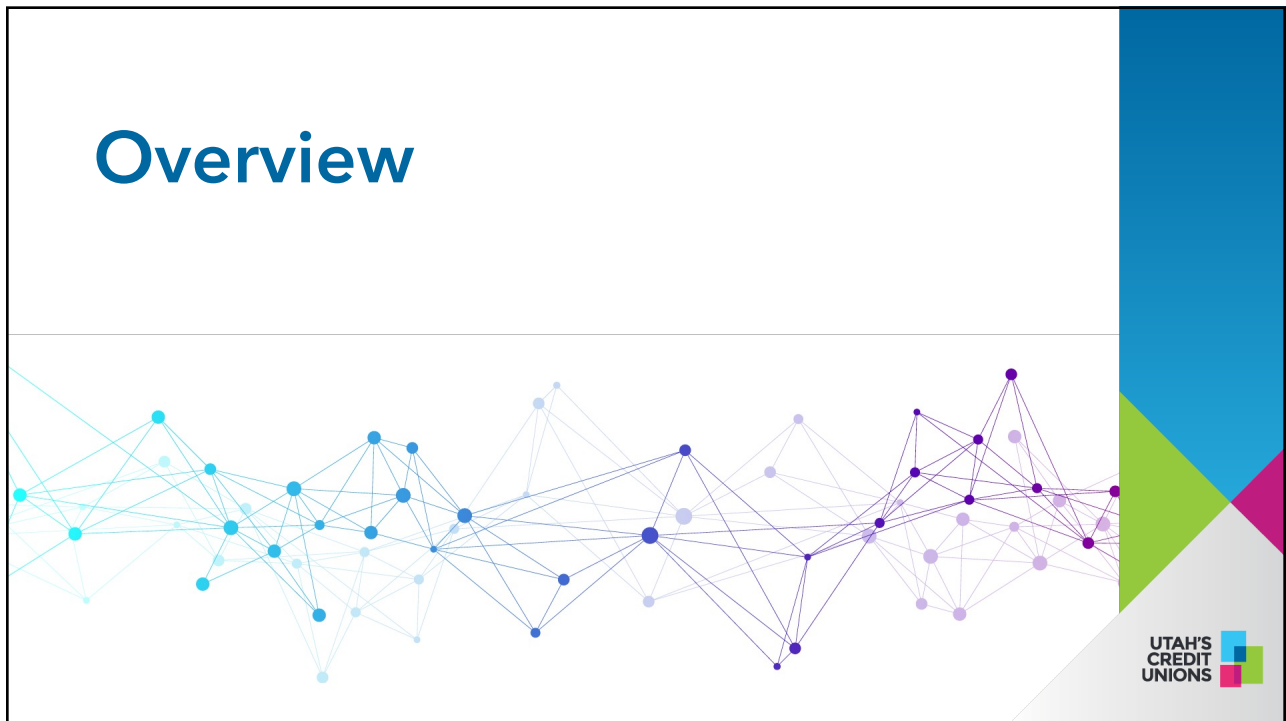




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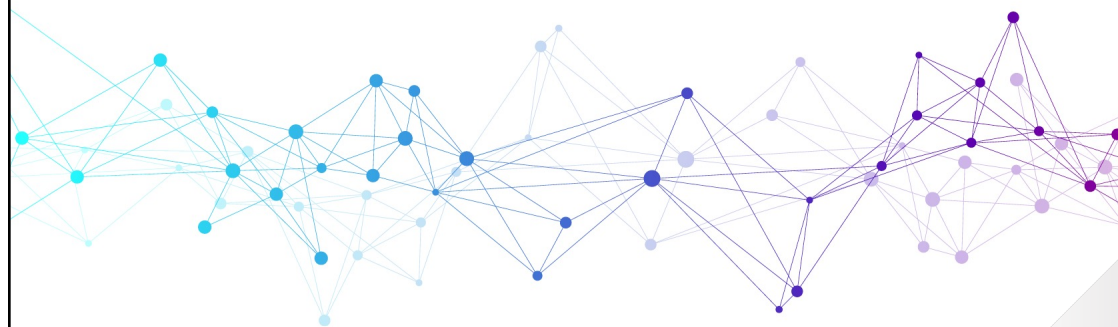
2

Overview

- The Electronic Signatures in Global and National Commerce Act of 2000 (ESign) mandates that electronic signatures and records have the same legal validity and enforceability as paper records and handwritten signatures.
- ESign does not require or recommend the use of any particular technology for electronic records or signatures.
- Under ESign, members must “affirmatively consent” or “opt in” to receive records in electronic form.

3

Definitions



4

Definitions

E-Signature

An “e-signature” is an electronic sound, symbol, or process, attached to or associated with a contract or other record that was executed by a person with the intent to sign the record.

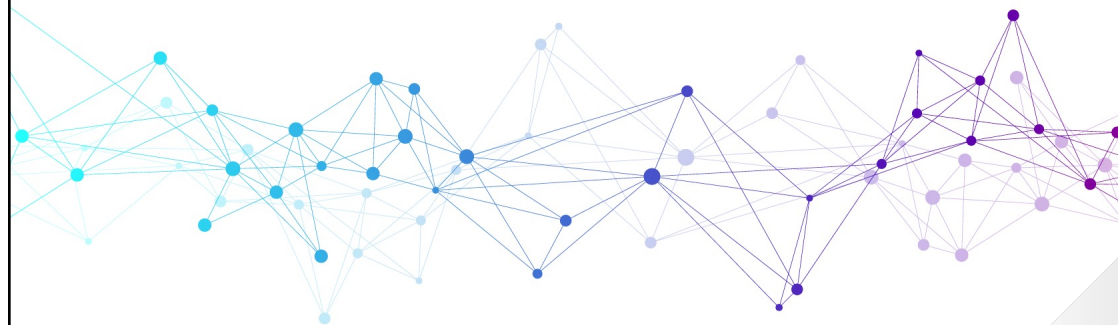
Electronic Record

An electronic record is a contract or other record created, generated, sent, communicated, received, or stored by electronic means.



5

Technical Requirements



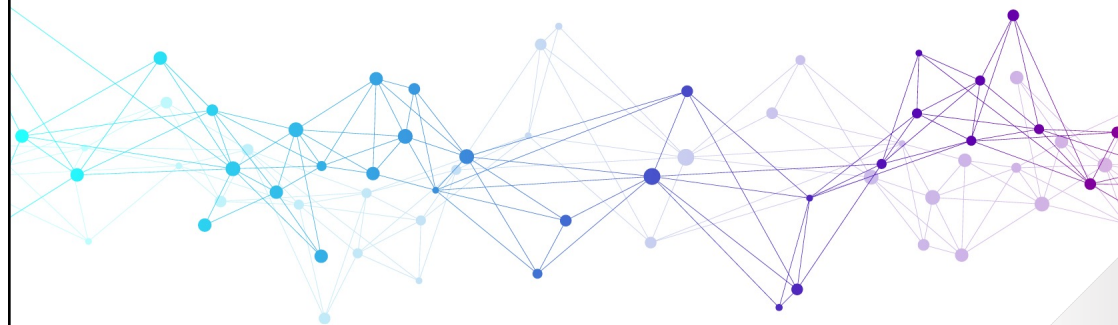
6

Technical Requirements

- ESIGN does not specify any technical requirements for e-signatures or records.
- Credit unions can use any number of different technologies to facilitate “e-contracts” with their members, including:
 - Digital signatures that link a person’s identity to an encrypted private key issued only to that individual (public key infrastructure or PKI)
 - Biometrics that use a person’s unique physical characteristics (such as face, voice and/or fingerprints) for authentication purposes
 - Smart cards – credit-card sized plastic cards with an embedded computer chip
- Oral communication or a recording of an oral communication does not qualify as an electronic record, except as otherwise provided under applicable law.

7

Consumer Disclosures



8

Consumer Disclosures

Three Part Consent Process

1. Before any electronic transaction takes place, the credit union member must first agree to conduct business electronically.



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Consumer Disclosures

Three Part Consent Process

2. The credit union must then provide members with a clear and conspicuous statement containing the following information:
 - Any right or option the member has to have the record provided or made available on paper or in a non-electronic form
 - The member's right to withdraw their consent
 - Any conditions, consequences, or fees that would result in the event the member withdrew their consent
 - Whether the consent applies only to a particular transaction or to identified categories of records during the lifetime of the member's account relationship
 - The procedures the member must follow to withdraw consent
 - The information the credit union needs in order to contact the member electronically
 - How the member may request a paper copy of an electronic record after consent to receive them electronically has been given
 - Whether a fee will be charged for receiving a paper copy of a record
 - Hardware and software requirements necessary to access and retain electronic records



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Consumer Disclosures

Three Part Consent Process

3. The member must either send the consent electronically, or confirm the consent electronically in a way that demonstrates that he or she can access information in the electronic form required to successfully conduct the transaction.



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Consumer Disclosures

Changes in Requirements

If at any time there is a change in the hardware or software requirements that creates a "material risk" the member will not be able to access or retain an electronic record of the transaction, the credit union must provide the member with a statement that includes:

- The revised hardware and software requirements for access to and retention of the electronic records
- The member's right to withdraw their consent without the imposition of any fees or conditions that were not originally disclosed.



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Record Retention

Record Retention

An electronic record satisfies the record keeping requirements if the record:

- Accurately reflects the information contained in the paper contract or other record.
- Can be accessed by all persons legally entitled to access in a form that can be accurately reproduced for later reference, whether by transmission, printing or otherwise.

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Disclosures NOT Subject to ESign

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Disclosures NOT Subject to Esign

REGULATION	SECTION	DESCRIPTION
Regulation B (only applies when the member is electronically applying for credit)	12 CFR § 1002.5(b)(1)	Self-test disclosure regarding information about race, color, religion, national origin or sex.
	12 CFR § 1002.5(b)(2)	Disclosure regarding sex (i.e., the designation of a title is optional).
	12 CFR § 1002.5(d)(1)	Disclosure regarding marital status information requests (i.e., "A creditor may explain that the category unmarried includes single, divorced, and widowed persons.").
	12 CFR § 1002.5(d)(2)	Disclosure regarding income from alimony, child support or separate maintenance.
	12 CFR § 1002.13	Government monitoring information disclosure.
	12 CFR § 1002.14(a)(2)	Notice of right to receive appraisal.



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Disclosures NOT Subject to Esign


REGULATION	SECTION	DESCRIPTION
Regulation E	12 CFR § 1005.20(c)(2)	Gift card/gift certificate disclosures.
	12 CFR § 1005.31(b)(1)	Remittance transfer pre-payment disclosure when request is received electronically.



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Disclosures NOT Subject to Esign


REGULATION	SECTION	DESCRIPTION
Regulation E	12 CFR § 1005.20(c)(2)	Gift card/gift certificate disclosures.
	12 CFR § 1005.31(b)(1)	Remittance transfer pre-payment disclosure when request is received electronically.



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Disclosures NOT Subject to Esign

REGULATION	SECTION	DESCRIPTION
Regulation Z	12 CFR § 1026.16	Open-end credit advertising disclosures for electronic advertisements.
	12 CFR § 1026.40	Home equity plan disclosures when accompanying an electronic application.
	12 CFR § 1026.60	Credit and charge card application and solicitation disclosures for electronic application and solicitation.
	12 CFR § 1026.17(g)	Disclosures to be provided for mail/telephone order that are required to delay closed-end credit disclosures until the due date of the first payment. Does not apply to transactions subject to sections 1026.19(a), (e) or (f) .
	12 CFR § 1026.19(b)	Early adjustable rate mortgage disclosures that must be provided at the time an electronic application is provided or before the member pays a non-refundable fee, whichever is earlier.
	12 CFR § 1026.24	Closed-end credit advertising disclosures for electronic advertisements.



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Disclosures NOT Subject to Esign

REGULATION	SECTION	DESCRIPTION
NCUA Truth In Savings	12 CFR § 707.4(a)(2)	Account disclosures requested by members or potential members.
	12 CFR § 707.8	Advertising disclosures for electronic advertisements.