



ESIGN...THINGS YOU SHOULD THINK ABOUT

John Beauchamp  
VP of CU\*Answers Management Services

**AuditLink**

# DIGITAL SIGNATURE VS. ELECTRONIC SIGNATURE

- *“Digital signatures are a subset of the larger category called “electronic signatures.” Where typical electronic signatures can use a variety of methods for authenticating signers — such as email, corporate IDs, or phone verification — digital signatures use one specific method. With digital signatures, signers authenticate their identity using a certificate-based digital ID, which is typically issued by a trusted third-party certificate authority.”*
- *<https://helpx.adobe.com/sign/faq.html>*

# ELECTRONIC SIGNATURES

- I get asked, “Is it legal”?
  - Well...It's not illegal!
- When do you think the first documented court case was contesting an electronic signature?



## 48 N.H. 487 (N.H. 1869), HOWLEY V. WHIPPLE

- “It makes no difference whether operator writes with a steel pen an inch long attached to an ordinary penholder, or whether his pen be a copper wire a thousand miles long. Nor does it make any difference that in one case common record ink is used, while in another case a more subtle fluid, known as electricity, performs the same office.”

SO, JOHN!...IS IT  
LEGAL?

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Depends... they can be if done correctly.

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eSIGN ACT / UETA

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United States Electronic Signatures in Global and National Commerce (ESIGN) Act

Uniform Electronic Transactions Act (UETA)

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*“The main difference between the E-Sign Act and UETA is the scope. Congress passed the UETA in 1999. It implies that circumstances and context define the legal validity of an e-signature. States could adopt the UETA as they saw fit. So far, 47 states have adopted UETA, while the remaining three passed their own e-signature laws.*

*The E-Sign Act was passed in 2000 as a federal regulation to resolve disputes between different state laws. It says that each state may accept or reject guidelines in the UETA, but it must have some laws that validate electronic signatures. **In other words, no state can outright deny the authenticity of e-signatures, but they don't necessarily have to use the UETA in its entirety.**<sup>1</sup>”*

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A contract relating to a transaction cannot be denied legal effect solely because an electronic signature or record was used in its formation.

<sup>1</sup><https://www.adobe.com/sign/hub/how-to/difference-between-esign-act-vs-ueta>

# REQUIREMENTS

<https://www.ncua.gov/regulation-supervision/manuals-guides/federal-consumer-financial-protection-guide/compliance-management/deposit-regulations/electronic-signatures-global-and-national-commerce-act-e-sign-act#Checklist>

## ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (E-SIGN ACT) CHECKLIST

### General Coverage

| Item | Description  | YES | NO | N/A |
|------|--|-----|----|-----|
| 1    | Does the credit union deliver consumer notices or disclosures in electronic format?          |     |    |     |
| 2    | Are the disclosures required by statute, regulation, or other rule of law to be in writing?  |     |    |     |
| 2(a) | If so, has the credit union established procedures to ensure compliance with the E-Sign Act? |     |    |     |

### Notice of Right to Receive Paper Record, Withdraw Consent, Consequences

| Item | Description  | YES | NO | N/A |
|------|--|-----|----|-----|
| 3    | Prior to giving his/her consent, is the consumer given a clear and conspicuous statement (notice) of his/her right or option to have the record in paper form?   |     |    |     |
| 4    | Does the notice give the consumer the right to withdraw the consent and include any conditions, consequences, or fees?   |     |    |     |
| 5    | Does the notice inform the consumer whether the consent applies only to the particular transaction that triggered the disclosure or to identified categories of records that may be provided during the course of the parties' relationship? |     |    |     |
| 6    | Does the notice describe the procedures the consumer must use to withdraw consent and to update information needed to contact the consumer electronically?   |     |    |     |
| 7    | Does the notice inform the consumer how the consumer may nonetheless request a paper copy of a record and whether any fee will be charged for that copy?   |     |    |     |

### Alternative Requirements Under Certain CFPB Regulations

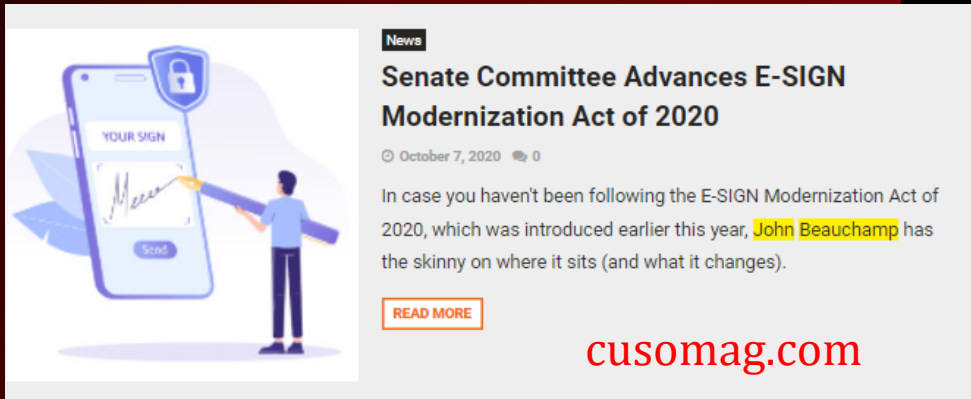
| Item | Description   | YES | NO | N/A |
|------|---|-----|----|-----|
| 8    | Is the electronic consumer notice or disclosure subject to alternative notice or consent requirements under certain CFPB regulations, e.g. disclosures required by § 1026.60, § 1026.40, and § 1026.16, which may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections? |     |    |     |
| 8(a) | If so, has the credit union complied with the specific regulatory requirements?   |     |    |     |

### Notice Regarding Hardware and Software Requirements and Consumer Access to Electronic Information

| Item | Description   | YES | NO | N/A |
|------|---|-----|----|-----|
| 9    | Prior to giving his/her affirmative consent, is the consumer provided with a statement of the hardware and software requirements for access to and retention of electronic records?   |     |    |     |
| 10   | Did the consumer provide his/her affirmative consent electronically, or confirm his/her consent electronically, in a manner that reasonably demonstrates the consumer can access information in the electronic form that was used to provide the information? |     |    |     |

### Change in Hardware or Software Requirements

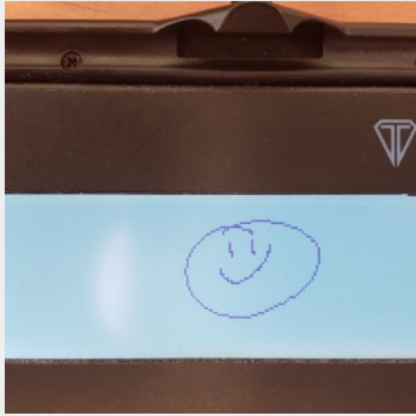




# REQUIREMENTS

<https://www.ncua.gov/regulation-supervision/manuals-guides/federal-consumer-financial-protection-guide/compliance-management/deposit-regulations/electronic-signatures-global-and-national-commerce-act-e-sign-act#Checklist>

- Consumer disclosures
  - Prior to consent
    - Right to paper (fees)
    - Scope of consent
    - Opt out
  - Hardware/Software Requirements /Proof of access
  - Retention of records (consumer)
- Retention of records Credit Union
  - Unalterable
- Exceptions wills, life sustaining services



Internet Retailing Technology

## Is a Smiley Face a Legal Electronic Signature?

April 5, 2019 0

Ever considered what you'd do if you opened up a loan file only to find that the member signed his mortgage with a smiley face? [John Beauchamp](#) takes a look at the question "is a smiley face a legal signature".

[READ MORE](#)



An e-signature refers to **any electronic symbol, sound, or process logically associated with or attached to a contract or other record**. This signature must be adopted or executed by a person intending to enter into an agreement.

## WHAT'S A SIGNATURE?

[Cusomag.com](#)



IN THE END, IT  
COMES DOWN TO  
THE TOTALITY OF  
THE SITUATION.



IN CASE YOUR  
HEAD ISN'T  
HURTING YET...

OTHER THINGS  
TO THINK  
ABOUT...



**"It's called 'reading'. It's how people  
install new software into their brains"**

# REMOTE /ENOTARIES

- <https://cusomag.com/2020/01/27/going-paperless-remote-notaries-enotaries-and-overcoming-the-final-10-percent/>
- <https://cusomag.com/2020/06/15/necessity-is-the-mother-of-cutting-through-red-tape/>



## Technology

### Going Paperless: Remote Notaries, eNotaries, and Overcoming the Final 10%

January 27, 2020 1

In a follow-up to his lessons on going paperless, John Beauchamp covers why that last 10% of the process is so difficult to overcome, even when the technology is there and ready to use. Notarization may be the next domino to fall.

READ MORE



## News Technology

### Necessity Is the Mother of...Cutting Through Red Tape?

June 15, 2020 0

In a follow-up to his previous article on eNotarization, John Beauchamp reveals what changes coronavirus has brought to the electronic document game, and if we can expect these changes to last beyond the pandemic.

READ MORE

# DIGITAL ASSETS

- Chattel paper
- Who own's it? What's a copy, what's the one and only asset?
- Where's it stored?

ARE YOU DOING  
YOUR IMAGING  
DUE DILIGENCE?



ARE YOU DOING  
YOUR IMAGING  
DUE DILIGENCE?

|                          | Image | Edit | Audit | Account | Form                      | Suffix |
|--------------------------|-------|------|-------|---------|---------------------------|--------|
| <input type="checkbox"/> |       |      |       |         | EAP1                      |        |
| <input type="checkbox"/> |       |      |       |         | EAP1                      |        |
| <input type="checkbox"/> |       |      |       |         | Disbursal Voucher         |        |
| <input type="checkbox"/> |       |      |       |         | Disbursal Voucher         |        |
| <input type="checkbox"/> |       |      |       | 0       | GAPP Generic Standard App | 000    |
| <input type="checkbox"/> |       |      |       | 0       | PCIC Credit Ins App Cert  | 720    |
| <input type="checkbox"/> |       |      |       | 0       | GAPP Generic Standard App | 620    |
| <input type="checkbox"/> |       |      |       | 00      | NOTE Fixed Var Rate Note  | 620    |





DID YOU GET IT  
RIGHT JUST TO  
GET IT WRONG?

## eDOCSignature Document Signing Audit Information

Doc ID: A2D4B924378543D08819834A27D099F5

Form Name: ProDOC - Test Document

Package Name: 52488 Membership Opening

Created On: 03/31/2022 10:35:32

Created By: KKARNES@CUA860

Locked On: 03/31/2022 10:39:33

Sign Set ID: A670AE4ACA38481E8CAE4507EDA9BDC1

Signer Name: Kyle Karnes

Signer Email: kkarnes@cuanswers.com

Auth Code Verified

Disclosure Version: DEFAULT

EULA Version: 10-14-2016

Agreement Completed: 2022-03-31 10:38:13

Typed Signature: "Mickey Mouse"

*Mickey Mouse*

Typed Initials: "KK"

*KK*

### Signature Elements Completed

| ID | Type      | Clicked From | Clicked On          | Value |
|----|-----------|--------------|---------------------|-------|
| 0  | Signature | 10.150.17.36 | 2022-03-31 10:39:21 |       |
| 1  | Date      | 10.150.17.36 | 2022-03-31 10:39:22 |       |

### Document History

03/31/2022 10:18:29 eSign Package 52488 Membership Opening created by KKARNES@CUA860  
03/31/2022 10:35:33 Signing Document ProDOC - Test Document created by KKARNES@CUA860  
03/31/2022 10:37:40 eDOCSignature ticket sent to Kyle Karnes  
03/31/2022 10:38:19 Signing Document ProDOC - Test Document viewed by Kyle Karnes  
03/31/2022 10:39:33 Signing Document ProDOC - Test Document signed by Kyle Karnes  
03/31/2022 10:39:33 Signing Document ProDOC - Test Document locked

# WE LIKE THE BIGGER RECEIPTS! CUSOMAG.COM



Strategy Technology

## “We like the bigger receipts!”

🕒 April 29, 2019 💬 0

What would happen at your credit union if you could suddenly no longer access your image vault? Would you shut everything down? Crawl under your desk? Or simply put into action the disaster recovery plan you've created and tested? One credit union found out in short order how valuable testing a plan can be when the real deal hits.

[READ MORE](#)

# QUESTIONS?

- John Beauchamp
- VP CMS CU\*Answers
- 616 285 5711 x 228
- [jbeauchamp@cuanswers.com](mailto:jbeauchamp@cuanswers.com)

