

Congresswoman Maxine Waters
Chairwoman, Financial Services Committee
2221 Rayburn House Office Building
Washington, DC 20515

April 9, 2020

Dear Madame Chair:

Among the many changes that the Covid19 pandemic has wrought in our society in a very short period of time is the almost total reliance on electronic records to effectuate most business transactions. The trend in this direction was already well underway when the crisis struck, and it is fortunate that over time we have built the electronic records infrastructure to facilitate a rapid acceleration of digital commerce.

That said, the crisis will put a significant strain on the legal and regulatory foundations of our e-sign and e-records systems. The legal and regulatory infrastructure to facilitate electronic transactions, while making progress in recent years, has not been fully built out. For example, electronic notarization has been adopted in some states and is accepted in many jurisdictions, but there are still hurdles and barriers to full acceptance. Likewise, electronic recording of mortgages, while permitted in an increasing number of land records office, is not an option in others. And with recording offices closed in many jurisdictions, the fact is that when these offices are not physically open, there is no provision for remote operation of the electronic recording process, so real estate transactions, even if effectively executed electronically, are stymied by the inability to file electronic security documentation.

As Congress grapples with the response to this crisis, in addition to providing financial relief, it will be important to facilitate the delivery of such relief electronically since paper options are for now foreclosed.

In this regard, we would urge the Congress to consider the steps that must be taken to

- Leverage technology to enable customers to remotely open accounts in a secure manner consistent with the FATF's [Guidance on Digital Identity](#) and recommended by FATF's President in a April 1 [statement](#) regarding COVID-19 and measures to combat illicit financing. Remote account opening will maintain operations while helping to prevent customers and financial institution employees from contracting COVID-19 during a face-to-face account opening process.

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- Facilitate the use of electronic signature technology to enable small businesses to apply for lines of credit and small business loans to remain solvent during the pandemic and keep employees employed.
- Allow use of the laws that have been enacted in many states permitting remote online notarization to apply for federally supported loans whenever notarization is required. Notarial acts can be performed in a secure manner while not exposing parties to COVID-19.
- Authorize the use of approved electronic records vaults currently used by the Government Sponsored Entities (GSEs) to maintain secure records of loans made to finance funding of small businesses and others.

These and other initiatives designed to facilitate digital transactions are vital to getting the benefits of the CARES legislation to the intended beneficiaries.

We would be happy to discuss these issues in greater depth if you would like.

Sincerely,



Ken Moyle
Public Policy Director
The Electronic Signature & Records Association

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