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The MERS project

Mortgage Banking, June, 1995 by Phyllis K. Slesinger

Progress is being made on an ambitious plan to strip more paper out of the mortgage business. Under the MERS plan, an electronic registry would be created to track changes in ownership interests for mortgages and servicing.

MERS STANDS FOR THE MORTGAGE ELECTRONIC REGISTRATIONS SYSTEM, but what it may eventually stand for is relief from cumbersome and expensive paper processing. The MERS concept calls for developing an electronic registry to be used for transferring and releasing ownership and security interests in mortgages. Such a system would virtually eliminate the need for paper mortgage assignments. The MERS registry would identify the interests of originators, servicers, mortgage investors and warehouse lenders essentially on a real-time basis. * The MERS concept was formally introduced in October 1993 at the annual convention of the Mortgage Bankers Association of America (MBA) when MBA's InterAgency Technology Task Force published the Whole Loan Book Entry White Paper. The task force consists of representatives from Fannie Mae, Freddie Mac, GNMA, and MBA. Since late 1993, although the name of the project has changed from Whole Loan Book Entry to MERS, development work has been ongoing. * By working within the existing legal framework, the project seeks to reduce the costs and inefficiencies created by the current need to execute, process and track mortgage assignments to establish transfers of ownership, pledges of security interests in mortgages, sales of mortgages to investors and transfers of servicing rights. Assignments are creatures of 17th-century real property law; they do not coexist easily with high-volume, late 20th-century secondary mortgage market transactions.

* Improves the lien-release process. The MERS clearinghouse can be used to facilitate the lien-release process, which takes on average 10 to 12 weeks and can take as long as a year or more. Under MERS, servicers can perform the necessary due diligence and notify the clearinghouse (as mortgagee of record) to generate a release document; communications between settlement agents and lenders can be handled via e-mail.

* Assists in fraud reduction. Using the Mortgage Identification Number and certain other information, such as property address, will provide a cross-referencing capability that will attempt to avoid multiple loan fundings.

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records. Presently, the public land records do not necessarily identify the current mortgage servicer, thus complicating the delivery of legal notices required to be sent to the mortgagee of record, (e.g., notice of Junior lien foreclosure actions). MERS as the mortgagee of record will receive the requisite legal notices and be able to provide an orderly mechanism to assure that servicers and subservicers are informed of pending legal actions.

* Reduces cost through voluntary note immobilization. Note immobilization will reduce shipping and probably recertification costs. However, note immobilization will not be mandated. The MERS concept, as initially described in the White Paper, envisioned active incentives for immobilization through developing standardized document custodian eligibility requirements or ratings to increase confidence in any particular custodian. It soon became apparent that the approach was raising barriers to acceptance of MERS because of servicer reservations about interference with existing relationships. Accordingly, the MERS project team decided to delete formal note immobilization incentives from the initial phase of the MERS project.

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An opportunity to hear industry reactions to the concept was presented at a meeting sponsored in July 1994 by Fannie Mae, Freddie Mac and MBA. This meeting, known as the Westfields Conference, brought together the various segments of the mortgage

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banking industry. These included secondary-market investors; warehouse lenders; document custodians; mortgage originators and servicers; trade groups, and the federal financial institution regulators, who met to discuss the concept and its implementation. The interested trade groups included America's Community Bankers, the American Bankers Association, the American Bar Association, the American Escrow Association, and the National Association of County Clerks and Recordors.

The meeting had three primary purposes: to make clear that the MERS project was proceeding in an open fashion; to identify operational problems with the concept; and to determine whether these problems could be resolved. To facilitate debate, attendance was limited to representatives of the various sectors of the mortgage banking industry. Selections were made from among the parties who had commented on the White Paper or otherwise demonstrated a real interest in the project. Specific outreach efforts were made to related trade associations and the financial institution regulators.

Since the Westfields Conference, MERS has been discussed at other MBA conferences. Other trade associations, the American Land Title Association, the California and Louisiana Land Title Associations, the National Association of County Clerks and Recordors and the Public Securities Association, have had sessions on the subject at their conventions.

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Ernst & Young did not identify any major obstacle to implementing the MERS concept. It did recommend, however, that MERS be operated as a not-for-profit, member-owned company, with a tiered-fee structure to accommodate low- and high-volume users and those who require inquiry-only access to the data. Ernst & Young project that full implementation could cost approximately \$12 million. This amount would encompass further legal work and other startup costs, as well as the cost of building and staffing the MERS entity.

Management of the project has been vested in a steering committee consisting of William Kelvie, executive vice president and chief information officer of Fannie Mae; Paul Peterson, senior vice president--servicing of Freddie Mac; Kenneth Tucker, a deputy director of the FHA and the representative of FHA Commissioner Nic Retsinas; Michael Daly, a GNMA special assistant; and Warren Lasko, MBA's executive vice president. Day-to-day responsibilities have been delegated to the staff of the named parties.

The three chairs of the work teams that were generated out of the Westfields Conference--Business Process, Legal Issues and Technology Initiatives--also serve on the steering committee in an advisory role. Faith Arnold Schwartz, executive vice president of Dover Mortgage Company, L.P., chairs the Business Process Work Team. The chair of the Technology Initiatives Work Team has been Paul Rhormann from Bear, Stearns & Company, and the chair of the Legal Issues Work Team is Edmond Browne, general counsel of the American Land Title Association. A specific effort was made to involve disparate parts of the mortgage banking industry on these work teams. In January, the steering committee approved Ernst & Young's high-level business plan.

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