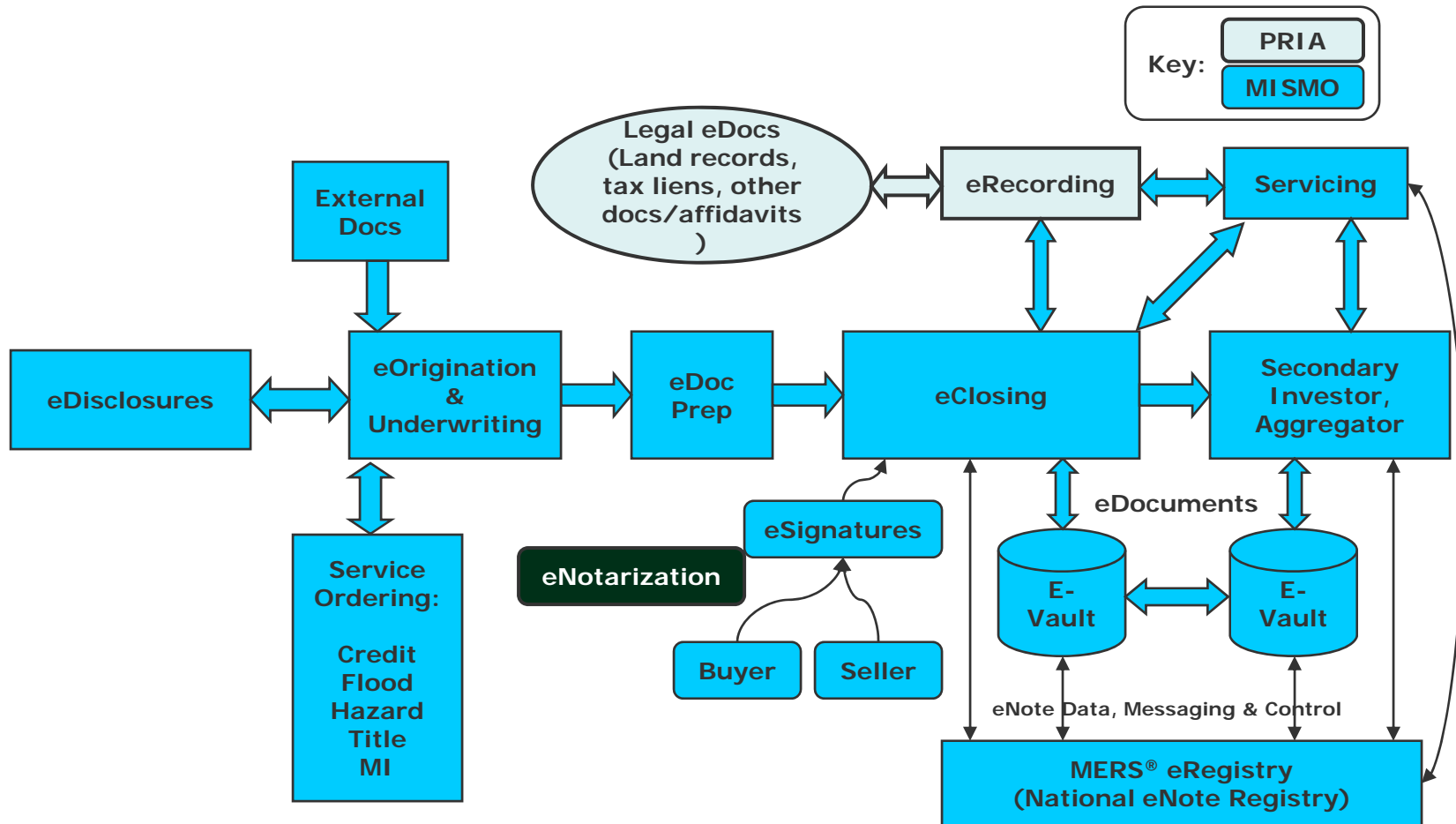


# **MERS<sup>®</sup> eRegistry**

*William Hultman*  
*MERS Senior Vice President*

**MERS<sup>®</sup>**  
**eRegistry**

# eMortgage Process Flow



MERS is the industry utility created by mortgage bankers to promote electronic commerce and eliminate paper-based processes.

- MERS eliminates the need to prepare and record paper assignments when selling loans between MERS® Ready members.
- MERS operates the MERS® eRegistry to provide liquidity for electronic notes.

- A “National eNote Registry”
- The industry’s response to the e-document requirements imposed by UETA and ESIGN
- The system of record to identify the current Controller (holder) and Location (custodian) of the Authoritative Copy of an eNote
- *Not* an e-Vault or eCustodian

- Create a uniform eNote
  - Electronic document standards
  - MERS<sup>®</sup> eRegistry language and MIN
- Execute eNote on eClosing platform
  - Electronic signatures
  - Tamper evident seal
- Register eNote on the MERS<sup>®</sup> eRegistry, to record life of loan events
  - MISMO XML standards
  - Digital signatures

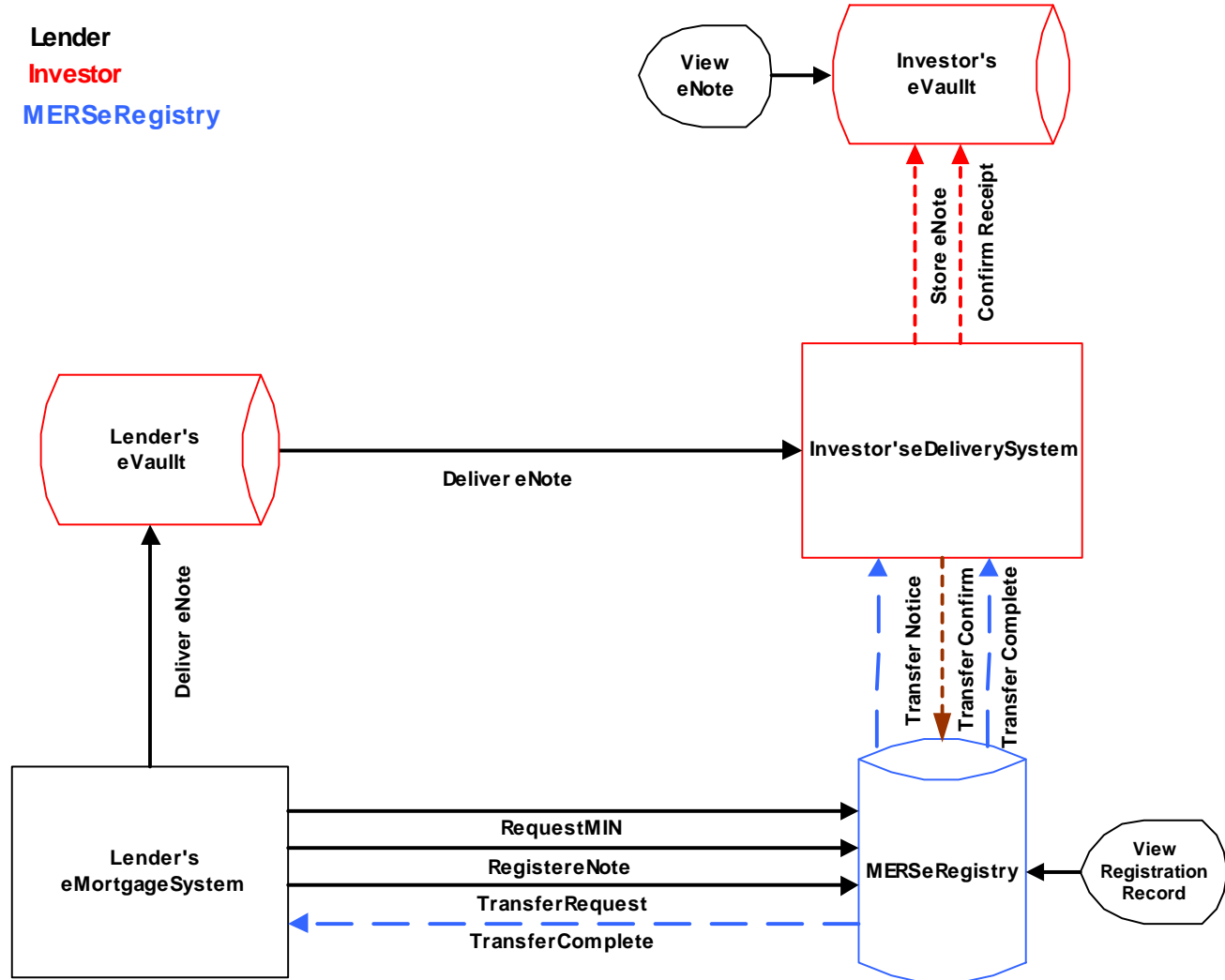
- Store eNote in electronic vault
  - Secure electronic environment
  - Regulatory compliance
- eNote transfers between electronic vaults
  - During investor delivery or custodial transfers
  - Investor requirements
  - Electronic delivery mechanism

- Industry investors must require eNote registration
  - In Fannie and Freddie's last eMortgage Guideline updates, both mandated the use of the MERS eRegistry when selling eNotes to them
- eNote must refer specifically to the MERS<sup>®</sup> eRegistry
- Participants must be members of MERS
- MERS<sup>®</sup> eRegistry does not store eNotes
- Multiple eVaults will be created to store eNotes
- Funding of loans occurs outside the MERS<sup>®</sup> eRegistry

- Online inquiry available 7X24 (except for scheduled maintenance)
- System-to-system processing available Monday through Saturday, 8:00 am to 4:00 am EST
- Frame Relay and VPN tunnels for interfaced third party systems
- Help Desk available Monday through Friday, 8:00 am to 10:00 pm EST
- High availability processing environment with 24 hr disaster recovery
- System integration support
- Will satisfy Interagency Guidelines Establishing Standards for Safeguarding Customer Information (Privacy laws) – SAS 70 report available
- Will maintain ISO 9000 compliance for midrange computing and web hosting

# eRegistry Process Flow

Legend:



- Live on MERS® eRegistry:

Fannie Mae

GMAC (as servicer and e-Vault)

Freddie Mac (Pilot)

Greenlight Mortgage (Pilot)

First Houston Mortgage, Ltd

Boeing Employee Credit Union

Century Bank

Over 600 brokers

AmTrust

1<sup>st</sup> Advantage Mortgage, LLC

Wells Fargo (Pilot)

First Collateral (Pilot)

American First Credit Union

Navy Federal Credit Union (Servicer)

Flagstar

# Vendor Status

- Live on MERS® eRegistry:

Fiserv

Encomia

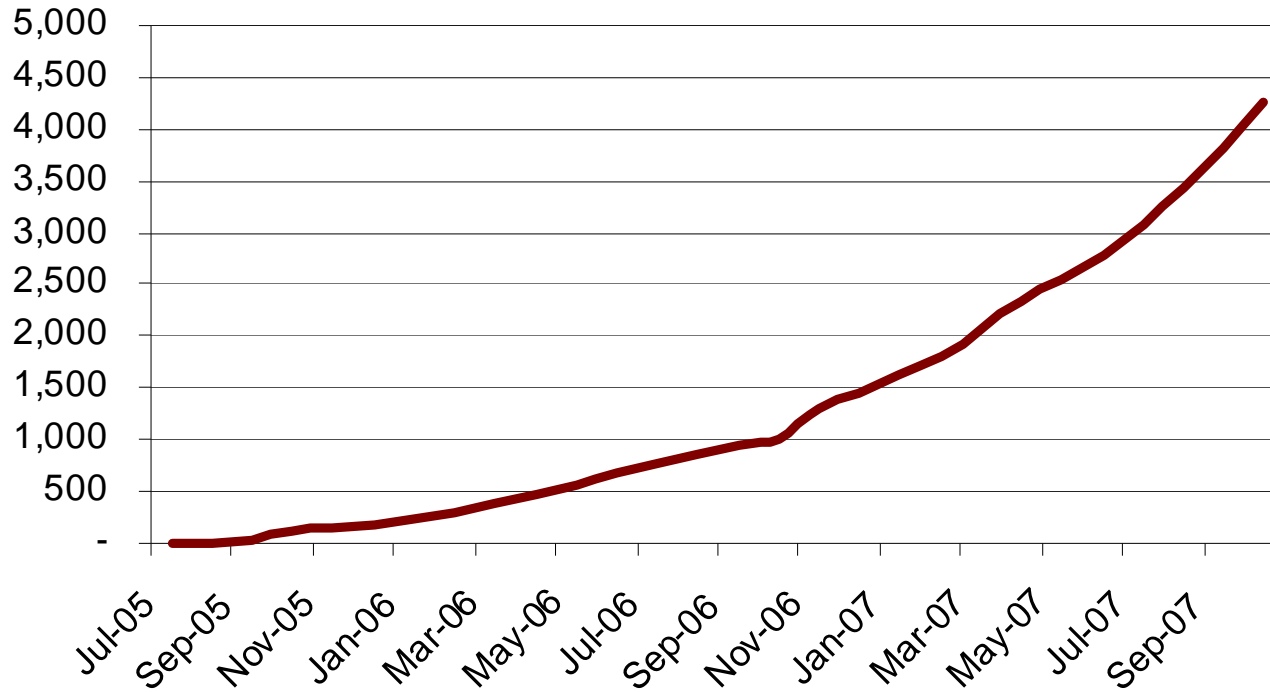
Settleware

Digital Docs

Document Processing Systems

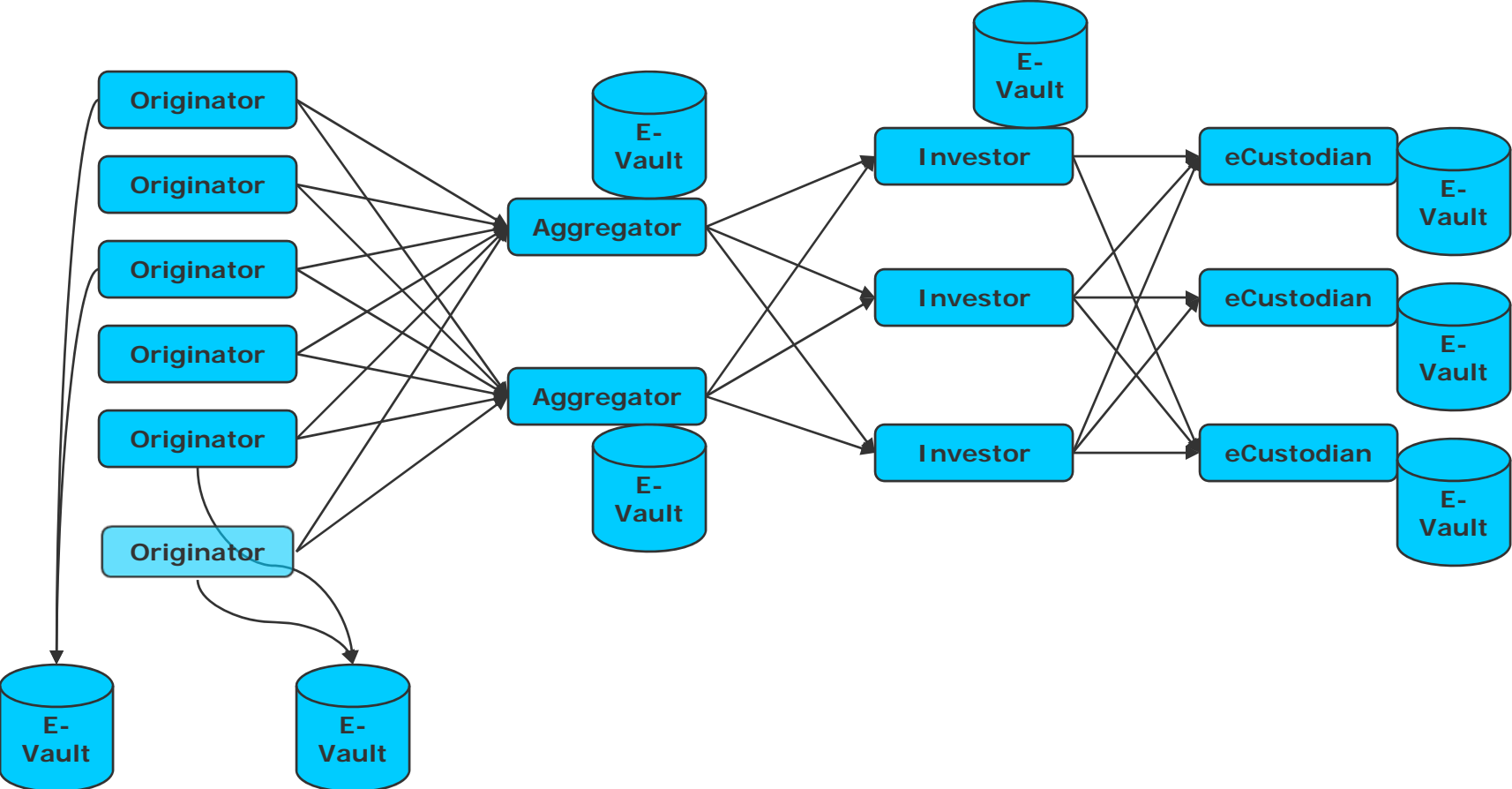
## The MERS® eRegistry Cumulative Registrations

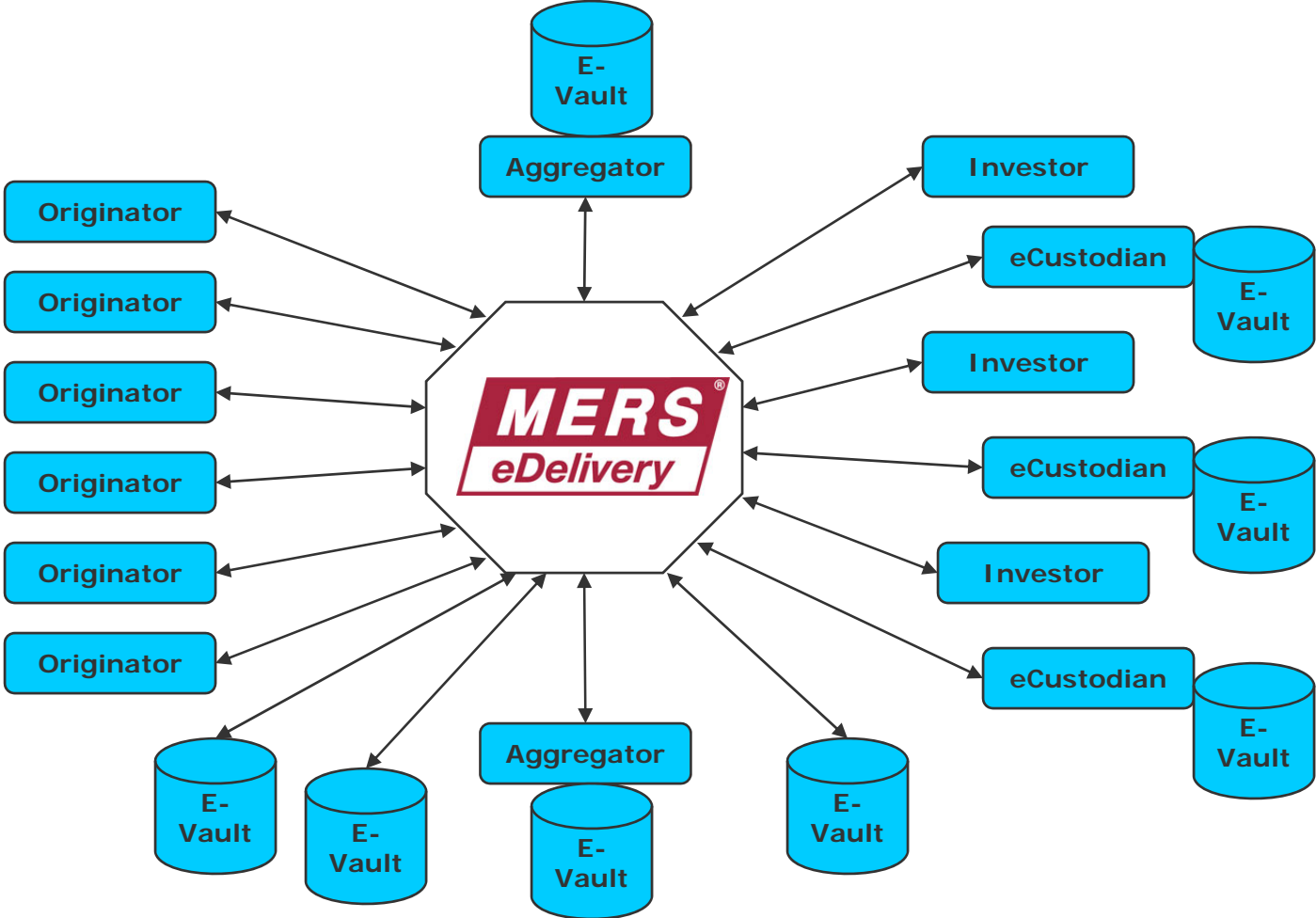
Total 4,263



- Standardized delivery of electronic documents from one member to another
- Members use existing interface to MERS – eliminate multiple B2B custom interfaces
- Reuses MERS and MISMO standards of the MERS® eRegistry
- Required by Fannie Mae for delivery of eNotes

# Without MERS® eDelivery





- Warehouse lenders must be members of MERS and be connected to the MERS<sup>®</sup> eRegistry.
- The “Line of Business” field on the MERS Member Profile identifies this type of member as “Warehouse lender” instead of “Investor”.
- Warehouse lenders must be “Controller” on the MERS<sup>®</sup> eRegistry to perfect their security interest in an eNote.
- A form of agreement among the lender, MERS and the warehouse lender has been created (similar to the Electronic Tracking Agreement used with the original MERS<sup>®</sup> System) that permits a warehouse lender to register eNotes on the MERS<sup>®</sup> eRegistry on behalf of the lender if the lender has failed to do so.
- White paper released by the MBA on creating security interests in eNotes, which is available on their web site.

- Issues arise because the MERS<sup>®</sup> eRegistry is not a “payment against delivery” process, which is not very different from the process used today with paper notes.
- Traditionally, warehouse lenders have protected their interest in negotiable promissory notes by transferring the original notes to investors under cover of a “bailee letter”, which acted to preserve certain of the warehouse lender’s rights in the promissory note against third party claims.
- The statutes sanctioning use of the bailee letter do not contemplate, or apply to, electronic negotiable instruments.
- It is possible, however, for a warehouse lender to achieve the same level of protection with respect to electronic promissory notes by agreement or system rule.

- MERS has proposed a solution to the problem of protecting warehouse lenders which may be implemented either by agreement among the parties, or perhaps more efficiently, by a system rule agreed to by all the participants in the MERS® eRegistry system.
- Under this proposal, in the event a purchaser is offered, and accepts, control of a transferable record on the MERS® eRegistry system from a warehouse lender without first giving value for the record, then until such time as value is given, the transferee will hold the transferable record as designated custodian for the warehouse lender unless otherwise agreed.
- Until such time as the appropriate value has been given, the transferee will not qualify for the rights of a holder in due course or a purchaser for value. Upon paying value the transferee will no longer control the transferable record as designated custodian of the warehouse lender, but shall hold control as the purchaser for value of the transferable record – entitling the transferee to the rights of a holder in due course to the extent it otherwise qualifies for such rights.

- Three major rating agencies consulted: Standard & Poor's, Moody's and Fitch.
- All three agencies have reviewed materials on eNotes and the eRegistry from both a credit and legal perspective and none has raised any objections.
- An open question is the length of time to complete a judicial foreclosure.
- MERS representatives have met with all three agencies, but the next step is to bring the major securitization conduits into the process.