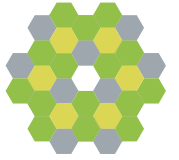


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www.landregistry.gov.uk

Defining the service - Electronic Funds Transfer

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Contents

Your notes

Defining the service – Electronic Funds Transfer

1	Definitions	3
2	Executive summary	7
3	EFT within e-conveyancing	11
4	Outline business requirement	13
5	Agent Bank approach	17
6	Agent Bank: flow diagram	19
7	Agent Bank: account structure	25
8	Mixed chains	29
9	Funding	31
10	Commercial and other transactions	33
11	Issues	35

1

Your notes

Definitions

Inevitably, in a document of this kind which is intended for a diverse readership, we have used some terms with which not all readers will be familiar. The following definitions are included as a guide.

Agent Bank

A clearing bank, acting on behalf of Land Registry, whose role is to effect all the payments required on exchange of contracts and completion of a property transaction.

APACS

APACS is the UK payments association, a trade association of institutions delivering payment services to end customers. It provides the forum to address co-operative aspects of the payment services and other payment-related developments.

Book transfers

Fast, efficient funds transfers made between accounts within a single bank.

BACS

BACS provides electronic funds transfer. It is owned by the major UK clearing banks and building societies, processes over four billion financial transactions a year, and handles over 60 million payments on a peak day. These include direct debits, direct credits, standing orders and other inter-bank payments.

Case management software

Software used by solicitors to control and manage the progress of cases. Typical features include legal calendar control, file and document control, time/billing and accounting, email, to-do lists, court rules and timelines, address books, and reporting features.

Central e-conveyancing Service (or Central Service)

The core of e-conveyancing, which provides the services and functions. The Central Service includes the channels interface and the EFT component.

Chain

A string of property transactions that are mutually dependent, and usually must be completed on the same day.

Chain matrix

The chain matrix is a proposed feature of e-conveyancing that will show details of all transactions within a chain and the stage they have reached. It will also provide an element of control and co-ordination at key stages in the process and allow each party to indicate willingness to proceed to exchange, or otherwise, by turning their lights 'green' or 'red'. Users will be duty bound to complete the chain matrix under the terms of their Network Access Agreement, thus guaranteeing transparency in a chain.

Channels Access

The vehicles for communications and interactions between the users

Your notes

and the Central Service. Channels may be online or direct (system-to-system).

CHAPS

CHAPS is one of the largest real-time gross settlement (RTGS) systems in the world. It offers members and around 400 financial institutions utilising agency arrangements an efficient, risk-free and reliable same-day payments mechanism for both sterling and euro RTGS payment requirements. The primary objective of the CHAPS clearing is to process and settle systemically important and time-dependent payments.

Client account

An account administered by solicitors/conveyancers to hold clients' funds prior to the payment of completion monies and associated disbursements connected with property sale and purchase.

Completion

The point in time when the act of completing a property transaction takes place, when the seller delivers the property to the buyer and the buyer pays the balance of the purchase monies to the seller.

Conveyancers

Solicitors engaged in conveyancing or licensed conveyancers. The term may also include DIY conveyancers.

DIY conveyancer

An individual who opts to carry out their own conveyancing rather than employing a solicitor or licensed conveyancer.

Disbursements

The additional expenses incurred when buying or selling a property.

Direct credit

A simple, secure and reliable service that enables large and small organisations to make payments by electronic transfer directly into bank or building society accounts. Direct credit is mainly used for paying wages and salaries; over 70 per cent of the UK workforce is paid via direct credit.

Direct debit

An instruction from a customer to their bank or building society authorising an organisation to collect varying amounts from their account, as long as the customer has been given advance notice of the collection amounts and dates.

Electronic Funds Transfer (EFT)

A system whereby funds are transferred automatically from one account to another by electronic means.

EFT component

The part of the Central Service that provides electronic funds transfer functionality, and interfaces to the Agent Bank.

EFT service

The whole of the EFT functionality comprising the EFT component and the services provided by the Agent Bank.

Exchange of contracts

The stage in a conveyancing transaction when vendor and

Your notes

purchaser enter into a binding agreement to buy and sell a property.

Gross payment

The full amount required in a financial transaction (see net funding below).

Know Your Customer

Practices and procedures to ensure due diligence in the financial industry to combat fraud and money laundering.

Land Registry

A government department whose purpose is to maintain and develop a register of title to freehold and leasehold in England and Wales (the Land Register).

Legal title

A person's legal right to land or property, or the evidence of that right.

Mixed chains

A chain of linked property transactions where some users are using e-conveyancing, and therefore EFT, and some are using traditional payment methods.

Net funding

The balance required to meet all payments at exchange or completion. This is calculated by subtracting the sum paid by the purchaser from the sum required by the seller.

Non-chain transaction

A transaction that is not dependent on the completion of another.

Pre-positioning/pre-funding

The submission of the net amount required to complete the financial aspect of a property transaction, made a specified period prior to exchange of contracts or completion.

Real-Time Gross Settlement (RTGS)

A payment system in which processing and settlement take place continuously in real time (that is, without deferral) and gross (ie transaction by transaction). An RTGS eliminates interbank credit risk in the settlement process by providing immediate finality for payments between direct participants. Payments are processed on a transaction-by-transaction basis and involve a simultaneous debit of the paying bank and credit of the receiving bank in the books of the settlement agent, typically the central bank (Bank of England). If a bank sends a payment order but does not have sufficient funds to complete the transaction, it will not proceed.

Reconciliation

In the context of the proposed EFT requirements, the process of ensuring that actual payments into the Agent Bank correspond with the anticipated payments notified by users.

Revocation

The act of withdrawing authority to proceed with a property transaction, either permanently or temporarily, subject to the satisfaction of certain conditions.

Your notes

Simultaneity

All transactions within a conveyancing chain, that are deemed to be mutually dependent, must be completed on an 'all or none' basis. When the last party in the chain has given their approval to proceed to completion, provided there is no subsequent revocation, all transactions in the chain will complete simultaneously at the agreed time.

Stamp Duty Land Tax (SDLT)

Stamp Duty Land Tax, introduced by the Finance Bill 2003, replaces the previous stamp duty regime on UK property transactions.

Users

Everyone who uses the e-conveyancing service. Typically, users will be conveyancers but others (eg lenders) may also be included.

XML

XML (eXtensible Mark-up Language) can be used to define any kind of structured information, and to enclose or encapsulate information in order to pass it between different computing systems which would otherwise be unable to communicate.

Executive summary

Introduction

This document presents the intended approach to Electronic Funds Transfer (EFT) within the e-conveyancing programme and seeks comments from readers.

Land Registry welcomes comments on any aspect of this document. We have provided an online system to help you to respond. Please visit www.econsultations.e-conveyancing.gov.uk where you will be able to respond using an online questionnaire covering some of the specific points raised in this discussion document. To save you time, we have split these questions between different parts of the audience.

For questions about the technical content of this document, please contact Jon Elsby.
Telephone: 020 7166 4943
Email: jon.elsby@landregistry.gsi.gov.uk
Address: Land Registry, Lincoln's Inn Fields, London WC2A 3PH.

For further details see 'How to respond' overleaf.

Overview

One of the problems with the existing conveyancing system is that delays often occur in making payments or confirming that they have been made. EFT is intended to solve this problem. Briefly, Land Registry will act as the trusted intermediary of all parties in conveyancing chains. To facilitate this role, it will open a bank account with an Agent Bank, into which parties to a conveyancing chain will pre-deposit the net funding requirements to complete their respective transactions within the chain. Via the central e-conveyancing service Land Registry will instruct the Agent Bank to make the necessary payments out.

Purpose

Land Registry intends to procure Agent Banking services from one or more major payment banks active in the UK to underpin the EFT functionality. This document describes how the EFT service might work.

The target audiences for this document are:

- **Banks** This document gives banks an opportunity to review and help define the services required.
- **Conveyancers** This document gives conveyancers an opportunity to review the proposed approach and how they might interface with the service.
- **Mortgage Lenders** Referred to as 'lenders'. This document gives lenders an opportunity to review the proposed approach and how they might interface with the service. A bank may review this document both as a potential Agent Bank and as a lender.

Your notes

How to respond

Land Registry has provided several routes for you to respond to this discussion document.

Our consultation website allows you to respond using our online questionnaire, which is split by audience (general, banks, conveyancers, lenders) to save you time on questions that may not be relevant to you. Questionnaire answers may be saved as draft as you go along – you don't have to answer all the questions at once.

We would encourage recipients to respond using the online questionnaire, as this feeds directly into our analysis systems, saving inefficient retyping or manual analysis, particularly as we expect a large number of responses. The questionnaire allows you to express specific points of view in your own words, but help us by assigning those views to key issues and proposals within this discussion document.

You can also download an MS Word document of the questionnaires which you can complete off-line, and then upload to the website as your response. Land Registry would encourage respondents to use the pro-forma document where possible, as it helps to assign views to the appropriate points of the discussion during analysis. If you experience problems with our consultation website, responses may be emailed to **electronicfundstransfer-manager@econsultations.e-conveyancing.gov.uk**

Finally, you may download a printable questionnaire and send this, or your own response, by post or DX to Land Registry, Lincoln's Inn Fields, London WC2A 3PH (DX 1098 London/Chancery Lane WC2A).

Responses, including names and addresses of respondents, may be made public unless confidentiality is specifically requested. The option to mark your response as 'public' or 'confidential' will be presented as you submit your answers online. Public responses will be made visible at the end of the consultation so that interested parties can see the responses on which we based our analysis. If a respondent asks for either the whole or part of a response to remain confidential, Land Registry will consider that request in accordance with the Freedom of Information Act 2000 and having regard to the exemptions contained in it.

Background

The e-conveyancing programme is one of the major electronic initiatives promoted by the UK Government. It aims to make buying and selling houses easier for the public, conveyancing professionals, and other parties involved in the process. EFT will underpin e-conveyancing by improving the efficiency and reliability of funds transfers related to property transactions.

EFT will help address the difficulties of settling property *chains* (where two or more property purchases/sales are intended to be completed at the same time). This practice is prevalent in the residential housing market. The Agent Bank solution has been devised for this market, and we expect it to become standard practice in relation to *residential* housing chains.

Your notes

The *commercial* market does not have the same drivers as the residential market, and demands a different approach. It is likely that *commercial* and other transactions will require a different use of the Agent Bank.

Chapter 9 of this document provides more details about commercial requirements. Comments from practitioners active in the commercial market will be especially welcome.

Chains

When private property sales complete it can often take all day for all of the funds transfers to be confirmed, leading to delay and much stress for the house buyer or seller. Land Registry plans to introduce a method whereby completion will be effected within a defined period, say, 30 minutes. To achieve this, all of the funds transfers should be made as quickly as possible: that is, the interval between the time the Central Service advises the Agent Bank to make the payments, and the time they are confirmed back to the Central Service as having been made, must be as brief as practicable. Once confirmation is received, the Central Service will instruct that the property transfers should be made on the Land Register. We think it likely that a bank will have to be able to process payments within one to two minutes to qualify as a candidate for Agent Bank, but this is an indicative time which may be revised according to cost or feasibility.

Land Registry proposes to enter into a contract with an Agent Bank, or Banks, whereby the Bank(s) will receive all funds related to property transfers and effect the payments required when instructed to do so by the Central Service. Where all parties in the chain are using EFT, all of the key money transfers will take place over the Agent Bank's own books. The Agent Bank will have to prove its ability to ensure the finality of such transfers, both legally and operationally.

In a property chain where all parties are using EFT, as long as the net funding is achieved during normal banking hours, it may be possible to complete outside these hours, for example at the weekend.

However, if some parties in a chain are not using EFT this may not be possible, because some transaction(s) in the EFT-enabled chain will have to wait for mutually dependent non-EFT transactions. The latter transactions will have to settle during traditional banking hours.

It follows that the payment of the funds from the Agent Bank over the external payment systems will need to be undertaken on a timely basis, with clear and verifiable service levels. These payments could be effected using CHAPS.

The principles of this approach have been derived from research of the various options, which involved discussion with APACS (the UK payments association), individual banks, practitioners and other stakeholders.

Caveat

Discussions about this document are held without commitment

Your notes

by Land Registry on the scope of any future procurement. These discussions will contribute to reviews within Land Registry of the structure and sourcing of e-conveyancing services, the business model for e-conveyancing and the procurement options. Land Registry may use information gathered in this stage to inform any future procurement. If potential Agent Bank respondents wish any aspect of their response to remain confidential, they must advise Land Registry accordingly.

Under the Freedom of Information Act 2000, anyone can ask to see any individual response to a consultation exercise. If we receive a request for information that has been provided by an individual or organisation ‘in confidence’, we will consider the request in accordance with our obligations under the Freedom of Information Act. Most of the exemptions contained in the Act require us to consider the public interest in disclosure of information. Where the release of information might harm or prejudice the commercial interest of anyone and the application of the public interest test comes out in favour of maintaining the exemption, the information can be properly withheld under the Act. Similarly, if any requested information contains personal data as defined in the Data Protection Act 1998, that personal data will not be released.

Comments invited

This document is intended to inform interested parties of current plans and to elicit comments from each of the target audiences. The subjects on which we particularly need comments are listed in detail in Chapter 11.

3

EFT within e-conveyancing

Your notes

A key objective of e-conveyancing is to put in place a payment mechanism that is faster, more efficient, more effective, more dependable and more transparent than traditional methods, and that will enable the processes of exchange, and particularly completion, to be performed simultaneously¹ for all parties in a property chain.

EFT will enable all the essential payments, for all transactions in a property chain, to be made simultaneously and irrevocably. It will enable the whole nexus of payments associated with each property transaction to be agreed in advance, and processed with near immediate effect when all the funding is available, and participants have confirmed their willingness to proceed by completing the chain matrix. At the exchange of contracts, deposit payments will move irrevocably from buyer to seller (or to the seller's nominated representative), and similarly at completion, as funds move irrevocably from buyer to seller, legal title will pass to the buyer as registration takes place.

Overview

Figure 1 provides a simple model of the key components and interfaces of e-conveyancing.

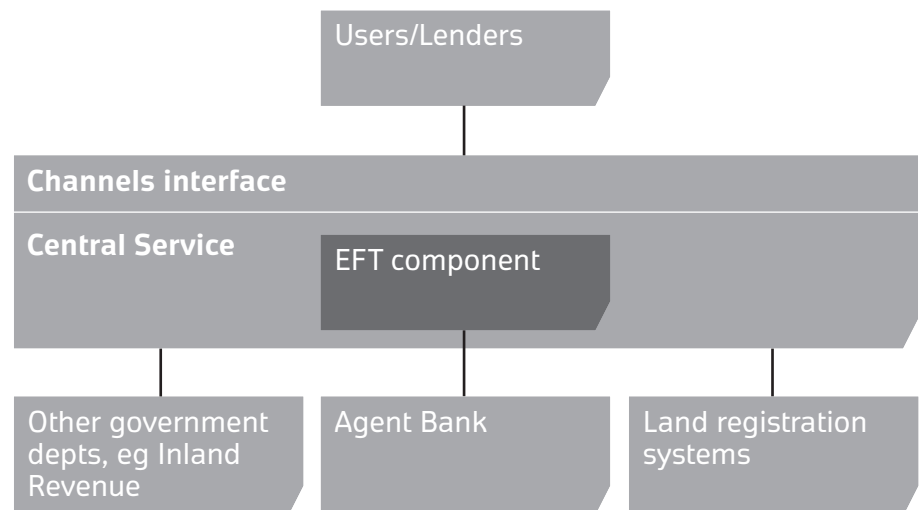


Figure 1 A simple view of e-conveyancing

There are three main components to e-conveyancing:

- **Central Service** This is the core of e-conveyancing, which provides the services and functions. The Central Service includes the channels interface and EFT capability.
- **Channels Access** The route between the users and the e-conveyancing service. Channels may be online or direct (system-to-system). The users include conveyancers and lenders.
- **Agent Bank** This provides funds transfer services to facilitate EFT.

¹ They will be performed quickly enough to appear simultaneous.

Your notes

Key points

The Central Service will be owned by Land Registry. Governance arrangements for Land Registry's relationship with the Agent Bank will be determined during the procurement.

There is no direct access to the Agent Bank other than through the Central Service.

Participants in conveyancing chains required to inject net funds will instruct their own banks to make payment to accounts at the Agent Bank. The Central Service will instruct the Agent Bank to make the payments out.

The Agent Bank must provide a range of mechanisms whereby payments may be made or received.

The Agent Bank will hold pre-checked payments for processing, make payments when instructed, and confirm that they have been made.

It must be possible to replace an Agent Bank or run multiple Agent Banks in parallel.

Communication between the Central Service and the Agent Bank(s) will need to be immediate, secure, robust and auditable.

Conveyancers will interface with the Central Service which will build up a statement of accounts for all of their property sale/purchase transactions in the chain. Conveyancers will need to specify the payments and arrange for the funds to be paid to the Agent Bank before exchange and completion.

At present, only a single Agent Bank is proposed, but the selected bank may be replaced, for example if service levels are not met. Additional Agent Banks could be introduced to deal with demand, and to provide greater reliability and resilience, but the Agent Bank approach only works with one Agent Bank per chain.

4

Your notes

Outline business requirement

This chapter outlines the provisional business requirements for the EFT service.

EFT must:

- support property chains in private sales in England and Wales
- allow buyers and sellers to set a specific time during the day for completion of a chain.

Currently, completion may be delayed owing to:

- the difficulty of making payments at a particular time
- difficulty in obtaining confirmation of receipt of payments
- the need for conveyancers to confirm payments by telephoning banks.

The following sections describe the business requirements in greater detail.

Business requirements in detail

Payments

EFT must be capable of effecting the key dependent payments (eg purchase deposits, the balances of completion monies, mortgage redemptions and new mortgage advances) on the purchase of property with simultaneity, as described in the following section.

It must also be capable of making other payments relating to the house purchase/sale process, eg Stamp Duty Land Tax (SDLT), Land Registry fees. Land Registry will consult conveyancers about the desirability of including some of these payments in the completion process. However, in order to effect completion with registration, Inland Revenue require the Central Service to collect SDLT notification data and the payment.

Simultaneity

All house purchases or sale transactions in a conveyancing chain that are mutually dependent must be processed so as to appear to the users to have been made simultaneously. There can be no possibility that some transactions in a chain are not processed: it must be 'all or none'. Furthermore, the time of processing must be predictable and controllable, so that the participants in a chain can confidently set a time for completion. The Agent Bank must be able to cope with different completion times and peak loads at popular completion times.

Transactions have to be processed sequentially so that the proceeds from one sale, together with any other pre-positioned funds, generate the funds to cover the next purchase. The objective is for EFT processing to take place in as short a period as possible.

NB The capacity to recognise and identify chains of transactions and to generate the associated statements of account will reside in the Central Service, which, after verifying the statements with

Your notes

the relevant practitioners, will instruct the Agent Bank to pay the appropriate sum to each party involved in the chain. The Agent Bank itself will need only to execute those payment instructions.

Accounts at the Agent Bank(s)

Conveyancers not using e-conveyancing, lenders, or Inland Revenue (in relation to SDLT) may want to maintain an account of their own at the Agent Bank(s). Users of such accounts will be able to rely on their funds being paid into their account more quickly than those paid over CHAPS or BACS.

Agent Bank(s) must offer such accounts but no-one will be compelled to use them. Any saving on payments processing would accrue to the owner of the funds rather than the payee.

Each participant in a conveyancing transaction will have an individual account at the Agent Bank. It may be advantageous for the Central Service to identify the individual accounts as being involved (a) in a particular transaction, and (b) in a particular chain, and arrange for them to be linked within a single identifiable grouping. Each such account will have a finite lifetime and a unique account number which will not be re-used. The Agent Bank will need to know who made payments and when, and will need to notify the EFT component of the Central Service accordingly. The EFT component will then determine which payments are outstanding and issue reminders. When all monies are in place and completion is imminent, the EFT component will construct the statements of account and, acting on the instructions of the users, instruct the Agent Bank to make the necessary payments.

Payment certainty

Currently, all key dependent payments between buyer and seller are made irrevocably and finally via CHAPS, the UK Real Time Gross Settlement (RTGS) system, which is commonly used for making high value payments. A problem with this approach is that a payment made by the payer's bank, must be confirmed as received by the recipient's bank, before a transaction can be completed. Often this process has to have taken place for one transaction in a chain in order to provide the funds to initiate the next, and so on.

Land Registry proposes that, where all parties in the chain are using the EFT system, all of the key funds transfers will take place over the Agent Bank's books.

Key payments out of the chain will need to be made using CHAPS with the payments effected within the shortest practicable time. In this instance, being *instructed and effected over the books of the Bank of England* provides sufficient payment certainty without confirmation of payment *receipt*. As mentioned previously, the 'all or none' rule applies.

Resilience and reliability

EFT must be reliable and secure, and must command the confidence of users. Specific requirements include:

- ability to cope with the high volumes of traffic likely at peak times, and the broad range of transactions and situations that arise in practice. (There is a tendency to select 'round' hours

Your notes

near the middle of the day for completion, and there are peaks of completions near the end of months and just before holiday weekends. EFT must be capable of sustaining the peak load.)

- robust back-up and disaster recovery
- high levels of security to control and monitor all accesses, including abortive attempts
- irrefutable audit trails, with data retained for 10 years and a facility for funds tracking
- operational and security standards for all participants embodied in the e-conveyancing rules of use.

Revocations

Revocation, in this context, means the revoking of a payment. This might occur for a variety of reasons, eg non-receipt of payments and consequent insufficiency of funds; defects in the title to a property; or problems relating to the property itself, such as vermin infestation or sitting tenants. The market practice and service capabilities in relation to revocations will need to be addressed in more detail as e-conveyancing progresses. Revocation will be required not just for EFT but also for property transfers. Although not restricted to mixed chains, revocations are thought to be more likely in them.

There are several possibilities for implementing revocations:

- If a user revokes a payment, the chain will not complete.
- The chain will complete if the revoking user subsequently agrees to proceed, without the need to re-input or re-confirm the transactions with each user in the chain.
- A new date and time are required for completion. This may be suggested by the revoking user, and agreed by the other participants in the chain.
- The chain may split to allow the parts that can proceed to complete, and a new date and time set for the rest. In these circumstances, a buyer may unexpectedly find himself at the beginning of a chain and therefore needing to pre-fund the entire purchase price.
- If the entire chain disintegrated, so that no one wished to proceed, the Agent Bank would have to return all of the funds to the original payers.

Accessibility and availability

The service must be available to all those who need to initiate payments.

The Central Service must be available near 24 x 7 for the provision of information. EFT must be available over extended working hours, and ideally the same as the Central Service. EFT will operate on evenings and Saturdays; the exact times are to be determined.

Interfaces

EFT must interface effectively with all associated services so that:

- payments are effected promptly, and practitioners and lenders are notified automatically (via the Central Service) of transmission and receipt of funds. The need for advice of receipt of funds will be relaxed, since the Agent Bank will be a trusted third party, and users may therefore rely on its advice of payment *initiation* rather than receipt. In some circumstances,

Your notes

for example mixed chains (see Chapter 8), payments will have to be made over the books of the Bank of England within as short a period as practicable.

- instructions to pay are capable of change or revocation until just before completion, but not afterwards. For example, where completion time for a chain is set at 13:00 hrs, no revocation can be made after 13:00 hrs. Land Registry envisages that the Central Service will check for changes or revocations and, if none are detected, instruct the Agent Bank to make the relevant payments.
- its operation satisfies professional standards and rules, for example solicitors account rules
- there are quick and simple mechanisms for obtaining compensation for late payments.

Additional currencies

To facilitate commercial transactions, the Agent Bank should be able to handle currencies beyond GBP and EUR. However, it will not need to handle chains with GBP and/or EUR payments as well as additional currencies, although this may be useful.

5

Your notes

Agent Bank approach

Introduction

The use of an Agent Bank has been discussed with representatives of APACS, and their comments are reflected in this chapter.

The approach caters chiefly for chains of residential house sales. We have focused on this because it is the part of the buying and selling process where the current payment systems are perceived by the conveyancing industry to be least effective.

Description

Buyers currently pay sellers by a variety of methods, CHAPS being the most common. Once the seller's bank confirms receipt of funds, the transaction can be completed and the keys handed to the purchaser. This process is subject to delay as the money moves along the chain, and, if a transaction within the chain does not complete, a buyer may be unable to move in as planned.

Under the Agent Bank approach, Land Registry proposes to have all parties pre-pay the balance required to the relevant account held with an Agent Bank acting on behalf of Land Registry. At the same time they will also provide (via the Central Service) details of the gross payments to be made on completion. This will enable the Agent Bank to confirm that all funds are pre-positioned by, say, midday the day before completion. Then, at the agreed completion time, the Central Service will instruct the Agent Bank to make the payments. The accounting system will record gross (effective) payments.

All parties will be able to rely on the confirmation of the Agent Bank, as a trusted third party which will use robust payment methods, that it has *instructed* the payments out.

It is reasonable to agree the last possible time for any party in a chain to be able to revoke the execution of the transaction, and therefore revoke the whole chain on the 'all or none' principle. Feedback to date suggests that this time should be immediately before completion, to allow for the situation where a buyer only finds out about an issue, for example a sitting tenant, at the last moment. Under the proposed approach, a revocation notice will need to be received by Central Service before completion time. On receipt of such a notice, the central service will instruct the Agent Bank to reverse all the payments. In the absence of such a notice, completion will proceed at the pre-agreed time. This gives a reasonable and predictable period in which to organise the physical process of moving house. The participants in the chain will know by midday on the business day before completion that completion will go ahead, unless there is a deliberate revocation of a payment before completion time. By that time, it will be clear that all the money is (or is not) moving as required. This will make the process of moving altogether less stressful.

Your notes

Advantages

Participants and lenders can use their existing payment methods to pay or receive funds, via Land Registry's Agent Bank.

The costs of set-up should be minimal, since users and lenders will pay to the Agent Bank by methods of their choice, and the Agent Bank will be playing a traditional payment agent role, and paying to the users' existing bank accounts (other than intra-chain book entries).

The delivery risks of the Agent Bank approach should be low.

It may be possible to have one or more banks running services in parallel, though each chain will have to settle via a single Agent Bank. Moving the service in the event of disputes or cost increases should also be straightforward.

The timeliness of payments by Land Registry's Agent Bank will be assured by Service Level Agreements.

Banks have pre-existing knowledge, capabilities and regulations regarding payments control, for example Know Your Customer (KYC), which a new purpose-built payment organisation would have to incorporate and apply.

Disadvantages

Where they pre-position funds, buyers could be out of funds for an additional business day (this will be more significant over a weekend). On a mortgage of £100,000 this will lead to an additional cost of approximately £13.70 per day at five per cent interest.

However, this disadvantage could be negated by paying the interest earned back to the buyer, depending on their contractual arrangements with their practitioner. In most cases, both buyers and lenders already pay funds into the practitioner's client money account by the day before completion, but do not receive any interest earned thereon. This change of practice would benefit buyers and might help to market the service. Practitioners may wish to debate this proposal using the discussion forum provided as part of the consultation website.

6

Your notes

Agent Bank: flow diagram

Introduction

The flow diagram, Figure 2 on the following page, has been used in discussions with a number of parties. As part of the process of defining the service, more detailed diagrams will be produced.

This diagram only covers the flows related to completion. It is assumed that the funding is net, and any additional lending is routed to the account at the Agent Bank as per the conveyancer's instructions. The only direct communication between users and the Agent Bank relates to those payments.

The flow diagram assumes that payments are made to the Agent Bank the business day before completion. This assumption may not apply to all cases or for all time.

Following the flow diagram is a basic explanation of the process, and a list of the key issues.

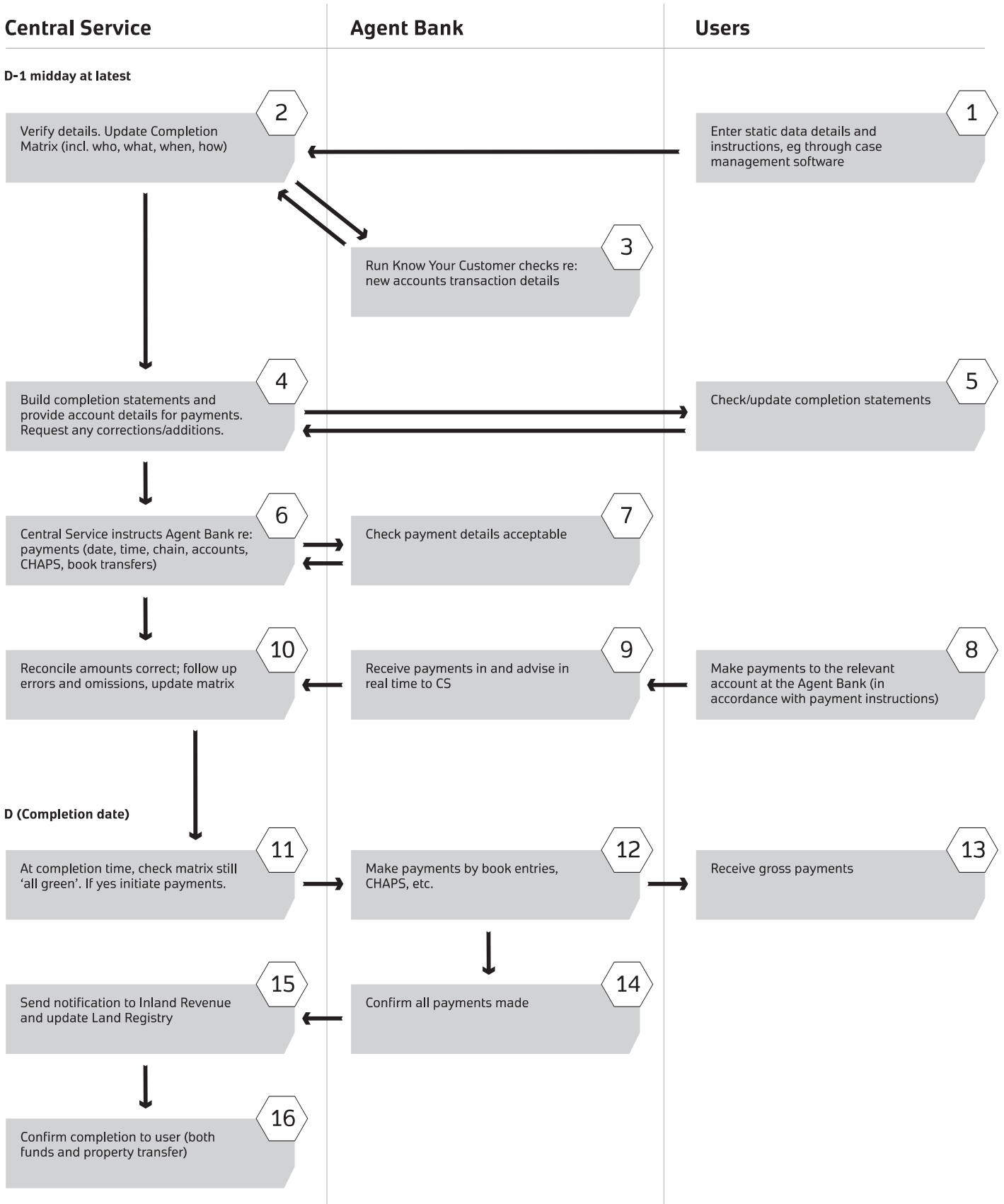


Figure 2 E-conveyancing flow diagram

Your notes

Explanation

- 1 **Enter static data** Users should enter static data details (ie their bank account(s) and other details required to allow the Agent Bank to act in their name, in compliance with all relevant rules) and transaction details, for example via case management software.
- 2 **Verify details** The Central Service verifies the details and updates the Completion Matrix (the central summary of the status of all of the transactions within a chain) for payments information:
 - The Central Service will verify as much as is possible at this stage to reduce the number of errors that might arise in subsequent checking at stages 7 or 12.
 - Some checks need to include ‘modulus’ checking (ie that the account and sort code are correctly *formatted*, but not whether the account is correct).
 - As the e-conveyancing service is used more, it may be possible to assemble a database of conveyancers’ Standard Settlement Instructions (SSIs). This is not an initial requirement.
 - The Central Service will check that the payments due in and the payments out are consistent.
 - The Central Service will have to handle any rectification, for example at stage 4.
- 3 **Run Know Your Customer (KYC)** The Agent Bank runs KYC checks on new accounts and alerts the Central Service to any errors.
- 4 **Build completion statements and supply payment instructions** The Central Service will build completion statements and allow users to update and amend them. Again, checks and corrections will be needed.
- 5 **Confirm completion statements and payment details** The user will verify and confirm the completion statements to the Central Service.
- 6 **Payment instruction details** The Central Service will need to instruct the Agent Bank how, when, to whom and by whom payments should be made.
- 7 **Check payment details** The Agent Bank checks payment details and, if they are in order, accepts them.
- 8 **Make payments** The users arrange for payments of the net funding requirement to be made to the relevant account at the Agent Bank by any of the currently available payment methods.
- 9 **Receive payments** The Agent Bank receives payments in and advises the Central Service of receipt.
- 10 **Reconcile amounts** The Central Service checks that the payments are correct.

Adjustments are time-critical, and will require the Central Service to contact the appropriate user(s) requesting correction. The user(s) may need to consult with their client(s).

Your notes

- 11 **Completion** At completion, the Central Service will instruct the Agent Bank to effect the payments. The Central Service will need to know when each chain is due to complete, check that no revocations have occurred, and send the initiation message to the Agent Bank.
- 12 **Make payments** This process should be completed as quickly as practicable. The key payments within a chain may be made by book transfer over the Agent Bank's own books, or by any other payment option requested by the Central Service on behalf of the user.
- 13 **Receive payments** The Agent Bank will ensure that the payments have been instructed irrevocably and, where appropriate, paid over the Bank of England's books, but it cannot control how quickly the user's own bank notifies the user of receipt.
- 14 **Confirm payments made** The Agent Bank must confirm to the Central Service as quickly as practicable that all book entries have been made and all payments initiated.
- 15 **Notification of Inland Revenue and registration** The Central Service transmits the SDLT data to Inland Revenue, which will match it with payment (if any) made by the Agent Bank. Where there are no outstanding registration issues, registration is effected.
- 16 **Confirm completion** The Central Service confirms completion (both funds and property transfer) to the users.

Issues

The following issues have been identified. The numbers refer to the previous diagram and explanation.

- 1 Users should enter static data details as soon as possible to allow processing. The information will be validated on input, and the user prompted to specify payment instructions. Land Registry needs to determine how the inputting, checking and correction will operate in practice. This issue also relates to items 4 and 10. Different approaches are possible, for example:
 - **Machine-to-machine** Users may want to integrate their systems with the Central Service, so that the payment instructions could be sent using XML-based messages.
 - **One-off loading** Some users may want to populate a proforma template off line and then go on line to upload it to the Central Service. This approach will need a method to alert the users to errors.
 - **Batch loading** Some users may want to populate a proforma template offline, and then go online to upload a batch of such templates to the Central Service. This approach will need a method to alert the user to errors in any particular transaction.
- 2 The same chain could give rise to different payment requirements, depending on whether the other parties are using

Your notes

EFT or not. For example, if B is buying a property within a chain and B's buyer (A) is using EFT, it is only the net which has to be paid by B to the Agent Bank. However, if the buyer were not using EFT, B would have to pay the gross to the Agent Bank, unless a method can be found for A to inject the required funds.

This raises the question whether the Central Service should inform users how the rest of the payments will be made within their chain. If a break occurs on completion day, and part of the chain could complete, the process of determining and reconciling the changed payments is time-critical. One solution might be that buyers who are not using EFT maintain an account with the Agent Bank, thereby permitting book transfers to be made. Land Registry wishes to know the views of prospective users on this proposal.

- 3 Land Registry needs to understand what information is required and how it can be provided, to ensure that the service is efficient and effective.
- 4 Land Registry needs to determine how (message format etc) the Central Service will advise the Agent Bank of the payments. If the payments relating to a transaction require correction, this should not require re-inputting of all the payments related to that transaction.

There will also be a need to handle re-arrangements of chains, for example where new payments are added to an existing chain, where a chain splits, or where chains link up.

- 5 Land Registry needs to understand the capabilities of the potential Agent Banks. Some banks have indicated that they cannot check payments before they are submitted to their payment queues. The need for 'all or none' processing means that it will be useful to know *in advance* whether the payments in a chain will be capable of being processed.
- 6 Key issues are (a) how most effectively to indicate that completion can proceed, and (b) how to indicate the contrary in the event of an impediment to completion.
- 7 It seems appropriate that the time should start from when the instruction is 'received' by the Agent Bank. However, the communications link between the Central Service and the Agent Bank must be subject to agreed service levels to ensure that receipt time does not differ markedly from the Central Service's 'sending' time.
- 8 For mixed chains, payments over CHAPS must be made within tight and reliable timeframes. However, Land Registry accepts that the best an Agent Bank could guarantee is the time until the payment is effected over the books of the Bank of England.

7

Your notes

Agent Bank: account structure

Introduction

This chapter discusses some of the legal and accounting issues related to the account structure, and provides an illustration of how the accounts might operate in a typical conveyancing chain. Further work is required to finalise the structure, and deal with legal and compliance issues.

Legal and accounting

The Agent Bank(s) will contract with Land Registry.

Practitioners will contract with Land Registry for the e-conveyancing service, which will include EFT.

Land Registry needs to negotiate service levels with the Agent Bank(s).

Subject to agreed governance arrangements, Land Registry will administer the EFT accounts. The funds will be held on behalf of practitioners and their clients. The intent is to replicate the approach of practitioners' client accounts. Until completion, the funds will be held on behalf of the payer; at completion, they will be transferred to the recipient's account, before either being paid on to the next party in the chain, or paid out, say, to the recipient's bank account, as appropriate.

Land Registry needs to discuss whether (a) a single account should be opened in respect of all the dependent transactions in a chain; or (b) the accounts holding funds paid in should be in the name of the buyer, the conveyancer, or the lender; or (c) a choice should be allowed.

The single account proposition seems the simplest approach with regard to funds collection, transfer and payment. Land Registry would welcome the views of users and the banking profession on this proposition.

Whichever approach is adopted, the Central Service must be able to establish that the funds paid in relate to a specific transaction within a specific chain, so that the required funds can be paid at completion time.

It follows that Land Registry will control these accounts, probably maintaining memorandum accounts (control accounts), which will not be reflected on the accounts of Land Registry, but rather should be reflected on the books of practitioners and their clients, exactly as balances on practitioners' client accounts are reflected today.

The interest on the funds placed by practitioners and lenders with the Agent Bank will be paid to the persons entitled to receive it. Charges on transactions (book transfers, CHAPS transfers, BAC transfers etc) will be passed on to the persons on whose behalf they were incurred.

Your notes

Charging/crediting to practitioners and lenders will probably be effected by retrospective direct credit or direct debit using BACS to/from the practitioner's operating account (ie *not* from a client money account). It may be difficult to pre-calculate these charges, especially the interest on the balance required from users if they pre-pay a number of days before completion day, as the interest rate may change daily. The Agent Bank should perform this calculation and put it into effect.

Land Registry envisages that recharges to practitioners will not incur additional costs (eg administration), but this will need to be discussed.

A complexity arises if more than one Agent Bank operates for Land Registry, since interest rates and charges may be different. Land Registry is likely to require that the same charges and interest rates be applied, irrespective of the Agent Bank used. Land Registry needs to consider how parity of interest and charges can or should be achieved where there is more than one Agent Bank. The views of the banking profession on this would be welcome.

Additional cash flows

We expect that other payments (eg Stamp Duty Land Tax (SDLT), professional fees, Land Registry fees) will be made out of the Agent Bank accounts. Potential approaches include:

- payment via CHAPS
- payment via BACS
- book transfers
- a combination of the above. For example, for payment of Land Registry fees, the funds for each day could be transferred by book transfer to a 'pool' account and the resulting balance paid by CHAPS. This will give rise to transaction cost savings *for the payer*. A similar principle could be applied to other fees and disbursements, eg Stamp Duty Land Tax.

An illustration of a conveyancing chain

The figures below illustrate the payments on completion for a typical conveyancing chain. For the sake of clarity and simplicity, assume that all parties are using EFT. The chain is defined as A→B→C→D→E where:

- A, as the first party in the chain, is only buying; and E, as the last, is only selling
- C1, C2, C3 and C4 are the conveyancers acting for A, B and D, C, and E respectively
- B and C are changing their mortgage providers
- L1, L2, L3 and L4 are the lenders.

Your notes

Overview

Gross funding	A	B	C	D	E
Buying	150	200	180	250	–
Selling	–	150	200	180	250
Cash-in	25				
Cash-out		25		10	200
Old mortgage	–	50	100	20	50
New mortgage	125	125	80	100	–

Figure 3 Amounts in £K payable in example chain.

Current system

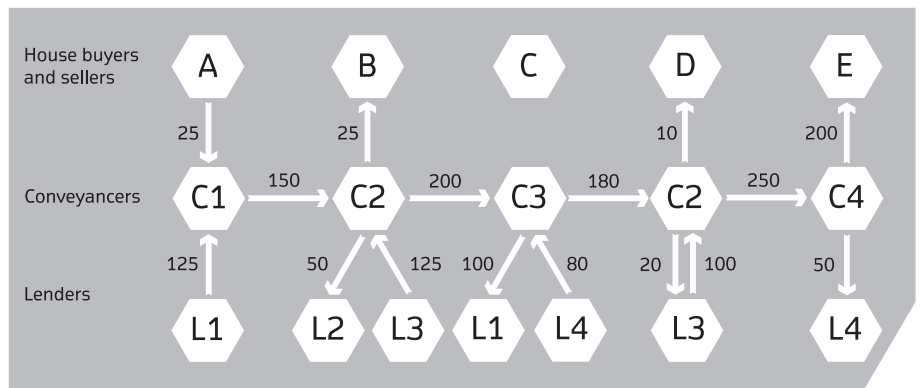


Figure 4 Financial transactions under the current system. The arrows indicate the direction of the transfer of funds.

Agent Bank, all EFT

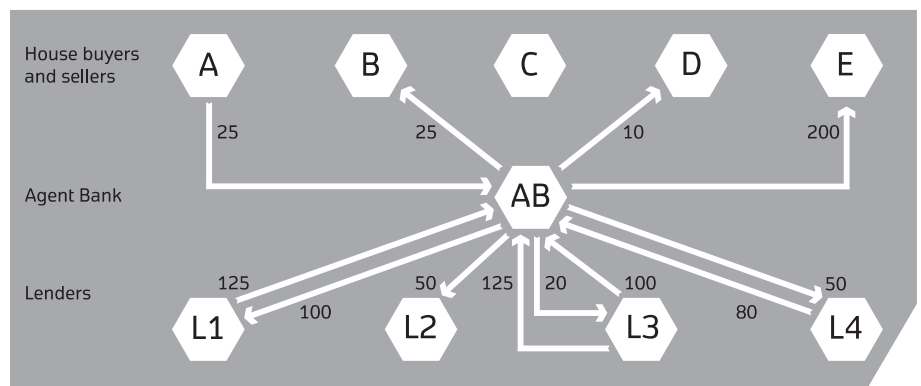


Figure 5 Financial transactions using an Agent Bank.

8

Your notes

Mixed chains

Introduction

The full benefits of EFT can only be realised if all parties in a chain are using it. However, in the early stages of e-conveyancing adoption some parties may be using traditional methods.

Chains may also break or merge to include participants who are not using EFT. A chain with some participants who are, and some who are not, using EFT is called a 'mixed chain'. This chapter seeks to explore the issues and how they might be handled.

It should be noted that, when a chain includes parties who are not using EFT, the e-conveyancing system will not know how many further chains are involved, or how long they are, unless the conveyancers acting on dependent transactions where the parties are using EFT relay that information to the Central Service.

Conveyancer not using EFT

Until e-conveyancing, including EFT, is the norm, mechanisms will be needed to allow conveyancers who are not using EFT to interact with the EFT service. An 'all-or-nothing' approach would prevent early adopters of e-conveyancing from enjoying the benefits. It follows that a way must be found to permit a conveyancer who is not using EFT to inject funds into the chain.

One way of achieving this would be for conveyancers who are not using EFT to open accounts at the Agent Bank, thus permitting book transfers to be made.

Another option might be to stagger the completion times for the transactions in the chain, so that the non-EFT transaction could complete before the subsequent dependent transactions. However, this solution forfeits simultaneity throughout the chain, which is one of the principal benefits of e-conveyancing. It also leaves unresolved the question of the mechanism for injecting funds back into the chain so that the subsequent transactions can complete.

It is also possible that conveyancers who are not using EFT might be allowed limited access to the Central Service in order to link their transactions to prior and subsequent transactions which are using EFT. This limited access would not, however, confer on them the full benefits of e-conveyancing. For example, they would not be able to achieve simultaneity of completion with all dependent transactions in the chain.

Land Registry would welcome comments on these suggestions and any other ideas that conveyancers or the banking and lending professions might have.

Your notes

Users without electronic capability

These will be increasingly rare but might include, for example, DIY conveyancers or private individuals who are lending money to relatives. Any such customers who are without a PC or web access could be encouraged to take-up e-conveyancing by allowing an agent to act for them and facilitate electronic completion. Land Registry is interested in receiving feedback from users who might be contemplating providing or using such a service.

Issues

Transactions where the parties are not using EFT will lack the transparency afforded by the chain matrix.

They will also lack the immediacy and certainty of payments afforded by the use of EFT. Payments will be slower.

Chains which begin with all parties using EFT may break or merge to become mixed.

9

Your notes

Funding

Introduction

The Agent Bank solution was devised mainly to avoid the uncertainty and inefficiency in completing residential house transactions.

To achieve this, buyers must pre-position funds so that all the users in a chain can be confident, say, on the day before completion that, unless a user revokes his payment, they will move on completion day at a pre-determined time. This solution will allow buyers to prepare the day before, and be ready to move at an agreed time on completion day. Equally, if someone in the chain cannot pre-position their funds, they will not be able to move.

Admittedly, this is not the current market practice and there will inevitably be some resistance to the concept, and issues to resolve.

This chapter aims at eliciting reaction to this proposal, and advising potential Agent Banks of possible qualifications to the approach laid out in previous chapters.

Benefits of the approach

The proposal set out above would make absolutely clear that each party has the intention *and ability* to pay the funds to complete. Currently, even people who intend to pay may end up failing to pay on completion day for technical reasons. Our proposal allows each user in a chain to make clear to the others that the funds will be paid on completion date at the pre-assigned completion time.

Requiring funds to be paid by midday the day before completion leaves the whole morning to make the payments, and the afternoon to reconcile and rectify them.

In short, the proposal set out above appears to be the most appropriate general solution, but there may be exceptional cases that need a different approach. Other approaches which have been suggested to permit same day funding include:

- **Earmarking** This is the process whereby the funds in the account are set aside for the house purchase, so they cannot be used for any other purpose. This approach requires major changes in the banking systems of the UK. Even then, it does not guarantee that the funds will be paid to the Agent Bank. There is also the question how it could be applied when the funds might be in the client's own bank account, in the user's client money account, due from a lender, due as the proceeds from a previous sale, or a combination thereof.
- **Special procedures** Special procedures may be adopted, like the Protected Payments System (PPS). For example, the bankers of participants in London Clearing House guarantee that they will pay any margin call before about 9:00 hrs. However, this procedure is more complex and expensive

Your notes

than our proposals, especially since a lender could not be its own PPS bank.

Mortgage arrangements

Borrowers often change their mortgage lender at the time of a house purchase. If a new lender is providing funds for the purchase and redemption of the old mortgage, alternative solutions suggest themselves:

- The new lender could pre-fund the Land Registry account with the Agent Bank. The redemption payment to the old lender will be made via the Agent Bank.
- The new lender could fund on the day into the Agent Bank using a procedure like CHAPS. A guarantee of payment would be necessary in order to give reassurance to other parties.

Issues

In some circumstances, there may be a need to pay to the Agent Bank on the day, for example:

- A buyer who is not using EFT in a chain where other parties are doing so.
- A change in lenders (see under *Mortgage arrangements* above).

Commercial and other transactions. Where transactions are not part of a chain, there is no reason to impose the restrictions which apply to residential chains. This is discussed in more detail in Chapter 10.

10

Your notes

Commercial and other transactions

Introduction

So far, this document has concentrated on residential house sales in chains. During discussions of the Agent Bank approach, the question was raised whether the approach might work for other types of transactions.

These include:

- **Commercial transactions** These transactions can involve non-GBP or EUR proceeds and may be part of larger transactions, for example selling a whole business. Most do not overlap with residential chains. Some users, however, may elect to use EFT to transfer the funds and pay any disbursements, thereby effecting completion with registration. Where EFT is an inappropriate or unnecessary vehicle for the transaction itself, users may prefer to pre-position the disbursements, so that on completion registration can still take place.
- **Non-chain transactions** For non-chain transactions, users may still prefer to use EFT to effect completion with registration.
- **Not on sale transactions** There are a variety of property transactions (both residential and commercial) where money does not change hands (eg a divorce settlement or an intra-group transfer between companies) but registration is required. These transactions invariably require notification to the Inland Revenue and some will attract SDLT. Some of these transactions will form part of chains; others will stand alone. In either case, funds may be pre-positioned in order to effect completion with registration.

Business requirements for commercial conveyancing

Commercial parties may require a range of features, including:

- pre-funding at different times, eg early on completion day
- completion as soon as funding is made to the Agent Bank
- funding in currencies other than GBP and EUR
- 24 x 7 availability, or at least extended working outside of normal banking hours
- completions outside banking hours (extended or otherwise). Final settlement of the cash will be able to take place over the books of the Agent Bank out of hours, even at the weekend, as desired, although the disbursement of those funds to a bank account outside the Agent Bank will not occur until the next banking day for the relevant currency.

11

Your notes

Issues

There are a number of areas where Land Registry needs to establish what potential Agent Banks can provide, and the costs and benefits of various approaches.

The issue of multiple Agent Banks is of particular interest. The resilience of the solution could be improved by having more than one Agent Bank, though this would require the ability to switch services between the Agent Banks in the event of failure. Land Registry welcomes the views of prospective Agent Banks on this issue and the feasibility of any proposed solutions.

The key areas include:

- **Business continuity and disaster recovery** EFT is critical for e-conveyancing, and Land Registry needs to understand what levels of continuity and disaster recovery Agent Banks can commit to.
- **Security** All communications with the Agent Bank must be completely secure.
- **Accuracy** The system must ensure that only the right funds are moved and all movements must be auditable.
- **Standards** Land Registry must be able to replace the Agent Bank or to run more than one Agent Bank in parallel. Where bespoke solutions are devised, Land Registry will need to have the legal right and technical capability to use them with replacement or parallel Agent Banks.
- **Service Levels, including compliance systems and contracts** Land Registry must understand how potential Agent Banks will support the service levels by providing reliable and auditable data regarding compliance.
- **Reliability** The system must be highly reliable.
- **Capacity** The system must be able to cope with the volume of traffic at all times, particularly at peak completion times.
- **Availability** The system should be available outside current banking hours, and allow for completions outside any agreed extended working hours.

