

IV. Consent

E. Electronic Signature Requirements

The Permitted Entity or the Financial Institution(s) it services that obtains the Written Consent from the SSN holder, if any, will obtain from the SSN holder an Electronic Signature, consistent with section 106 of the E-SIGN Act (15 U.S.C. § 7006). Section 106 of the E-SIGN Act defines an electronic signature as “an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.”

Consistent with E-SIGN, SSA does not require the Permitted Entity to use specific technology to implement an electronic signature on a Written Consent, so long as the Electronic Signature meets the definition of and all applicable requirements set forth by section 106 of E-SIGN, as identified below.

1. The Permitted Entity must use a form of electronic signature consistent with E-SIGN.

Permitted Entities obtaining the Written Consent must use a form of electronic signature consistent with E-SIGN (i.e., an electronic sound, symbol, or process). The following are non-exclusive examples of forms of Electronic Signature that are consistent with E-SIGN. The Permitted Entity obtaining the Written Consent may incorporate other comparable forms of electronic signature so long as they are otherwise in compliance with section 106 of E-SIGN.

- i. A typed name (i.e., typed into a signature block on a website form)
- ii. A digitized image of a handwritten signature that is attached to an electronic record
- iii. A shared secret (i.e., password or PIN) used by a person to sign the electronic record
- iv. A sound recording of a person’s voice expressing consent
- v. Clicking or checking an on-screen button (i.e., clicking or checking an “I Agree” or “I Consent” button)

1. The Electronic Signature must be executed or adopted by a person with the intent to sign.

It must be clear to the SSN Holder, either in the Written Consent or elsewhere in the signing process, that he or she is signing SSA’s Written Consent. Examples of intent to sign methods deemed appropriate include, but are not limited to:

- i. Clicking a clearly labeled “Accept” button (e.g., “By [clicking the [SIGN/ I AGREE/I ACCEPT] button], you are signing the consent for SSA to disclose your SSN Verification to [Permitted Entity and/or Financial Institution]. You agree that your electronic signature has the same legal meaning, validity, and effect as your handwritten signature.”); or
- ii. Allowing the signer to opt out of electronically signing the record by providing an option to decline).

2. The Electronic Signature must be attached to or associated with the Written Consent being signed.

The Electronic Signature must be attached to or logically associated with the Written Consent being signed, and where applicable, have the capability for an accurate and unaltered version to be retained by the parties involved. Examples of acceptable forms of associating the electronic signature to the record include, but are not limited to:

- i. a process that permanently appends the signature data to the consent being signed; or
- ii. a database-type link between the signature data and the consent.

Regardless of the approach selected, the Permitted Entity obtaining the Written Consent must ensure that the Electronic Signature be associated with the Written Consent in a manner that allows for the establishment that a specific person applied a particular electronic signature to a specific electronic record, at a specific time, and with intent to sign the electronic record (signature data).

In addition to the requirements above set forth by section 106 of E-SIGN, the Permitted Entity obtaining or retaining the Written Consent must ensure there is a means to preserve the integrity of the electronic signature by retaining and implementing safeguards to prevent it from being modified or altered in accordance with the requirements set forth in section IV.B.

Regardless of the method the Permitted Entity uses to preserve the integrity of the Electronic Signature and Written Consent, there must be a means to retrieve and reproduce legible, accurate, and readable hard or electronic copies of the Written Consent reflecting all Electronic Signature requirements in this section for auditing and monitoring purposes under the Banking Bill and the Privacy Act of 1974, as amended. See section VIII for audit requirements.