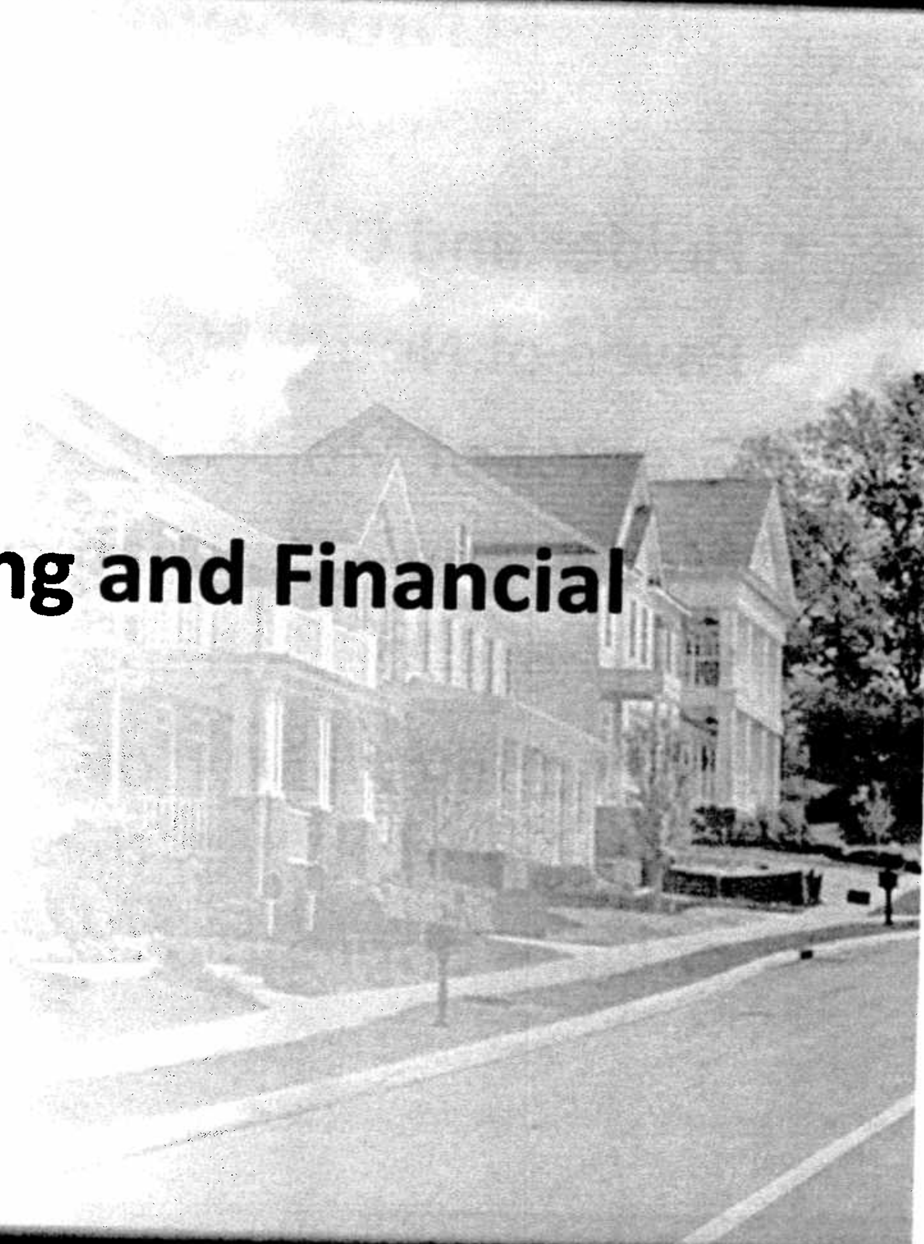
Submitted by
William Hultman

MERS®

Michigan House Banking and Financial Services Committee
May 25, 2011



Process Loans, Not Paperwork℠

Traditional Business Model
"Originate to hold"

- Holder and Owner of Note – Originating Lender
- Payee of Note – Homeowner/borrower
- Grantor of Mortgage – Homeowner/borrower
- Mortgagee – Originating Lender
- Servicer – Originating Lender

Parties don't change over life of the loan. Less than 10% of the market uses this business model; the other 90% of loans originated are sold in the secondary market.

Process Loans, Not Paperwork™

Secondary Market Business Model
"Originate to sell"

- Holder and Owner of Note – Originating Lender
- Transferee of Note (subsequent holder and owner of the note) – Aggregator or Investor
- Payee of Note – Homeowner/borrower
- Grantor of Mortgage – Homeowner/borrower
- Mortgagee – Originating Lender, then an Assignee of the Lender (MERS or the Servicer)
- Servicer – Originating Lender, then a national bank that acquires the right to service the loan

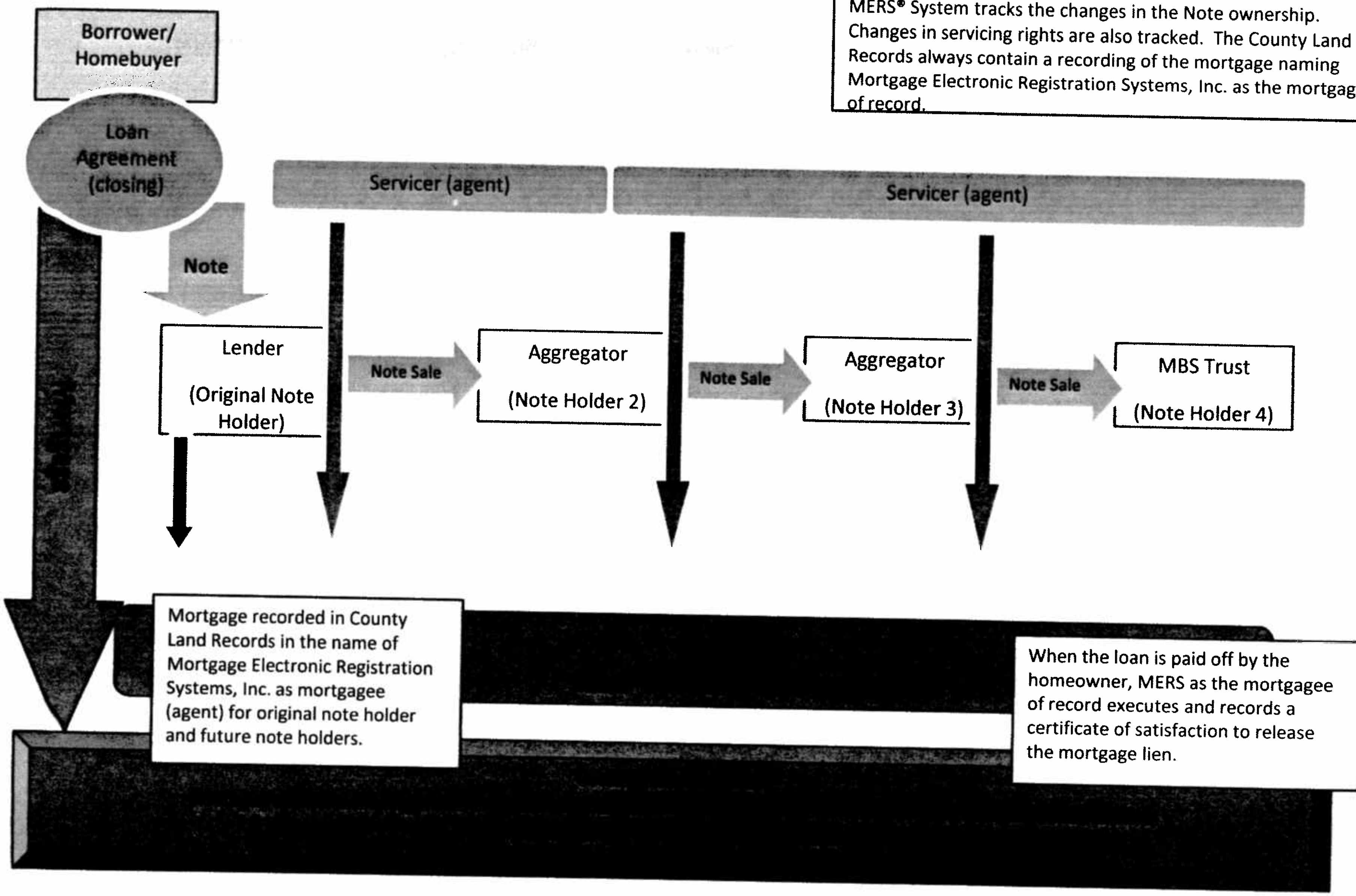
MERS®
Process Loans, Not Paperwork™

Secondary Market Business Model
"Originate to sell"

- Custodian of Note – Corporate trustee, generally a national bank
- Aggregator – a national bank that purchases loans from various originating lenders to pool for sale to investors
- Investors – Fannie Mae, Freddie Mac, Ginnie Mae or Wall Street Conduits/Trustees
- Pooling and Servicing Agreements – contract among aggregators, investors, trustees and servicers

MERS During the Life of the Loan

During the life of the loan, Mortgage Electronic Registration Systems, Inc. is the mortgagee of record as the agent of the original lender and all subsequent holders of the note. The MERS® System tracks the changes in the Note ownership. Changes in servicing rights are also tracked. The County Land Records always contain a recording of the mortgage naming Mortgage Electronic Registration Systems, Inc. as the mortgagee of record.



What is MERS?

- MERS is a member-based organization made up of about 3,000 lenders, and it maintains a national database that tracks changes in servicing rights and ownership interests in loans secured by residential real estate. Today, the MERS® System is keeping track of 68 million registered loans (of which 32 million are still active).
- MERS also performs another key function: it serves as the mortgagee of record in the mortgage on behalf of its members as their common agent. MERS is designated as the mortgagee of record in the mortgage by the borrower at closing and then the mortgage is recorded in the appropriate local land records. In other words, the borrower makes a conveyance of the security interest in the property to MERS, which conveyance is entitled to be recorded in the public land records. MERS is holding title to the secured interest as nominee (which is a form of agent) for the originating lender and the successors and assigns of that lender, who own the loan and are generally the holders of the promissory note.

What is MERS' Role?

- MERS does not eliminate, omit, or otherwise fail to report land ownership information from public records. When MERS is the mortgagee of record, this eliminates the need for assignments of the security interest between mortgage companies because MERS holds the security interest for the original lender and the subsequent owners of the loan. Parties are put on notice that MERS is the mortgagee of record and notifications by third parties can be sent to MERS. Mortgages are recorded in the land records and recording fees are paid.
- No legal interests are transferred on the MERS® System. Instead, the MERS® System tracks the transfers of servicing rights and changes in the ownership of the loan (represented by the promissory note executed by the borrower). The sale and transfer of the promissory note and the contract for servicing is done outside the public land records and are not required by law to be recorded in the public land records because they are not conveyance of interests in real property (i.e., they are transfers of personal property).

MERS ENHANCES TRANSPARENCY

- To ensure that homeowners readily have necessary information available to them, the MERS® System provides free access (through a toll free telephone number or the internet) to any member of the general public to identify the current servicer on loans registered on the MERS® System and in many cases, the note-owner, as they change over time. In fact, the MERS® System is the only publicly available comprehensive source for identifying note ownership.
- Federal legislation passed in 2009 (Section 404 of the Truth in Lending Act) requires that anyone who acquires ownership of a mortgage loan must provide the borrower with a notice that the acquirer is the new owner (and if they use a servicing agent to collect payments, the name of the servicer). Section 1463 of the Dodd-Frank legislation enacted last year also requires servicers to disclose the owner within ten days upon written request from the borrower. Together, this legislation enables the homeowner to determine the identity of owner and servicer of his or her loan without creating a new filing system for the transfer of the promissory notes.

MERS Benefits

- Without MERS, assignments are often not recorded for various reasons; resulting in a break in the homeowner's chain of title. If they can't find their original lender, then they would bear the cost of an action to clear title when they went to refinance their loan or sell their home and had to file a release when their loan was paid off. With MERS, there cannot be a break in the chain of title due to missing intervening assignments.
- Eliminating breaks in the chain of title was the prime driver for the creation of MERS in the first place. Lenders and servicers incur less costs for this reason.
- Without MERS, homeowners bear the cost of recording assignments directly as a part of the closing costs or indirectly through higher fees or interest rates. With MERS, these costs are eliminated.

MERS Benefits

The MERS database is important to:

- The mortgage industry because it is the only centralized registry in the industry that uniquely identifies each mortgage loan and is being used to detect fraud.
- Individual borrowers because it provides a free and accessible resource where borrowers can locate their servicers, and in many cases, learn who their note-owner is as they change over time.
- Communities because housing code enforcement officers can use it to identify who is responsible for maintaining vacant properties.
- Law enforcement because it aids in the detection of mortgage fraud by tracking liens taken out utilizing the same borrower name, social security number, or property.

MERS®
Process Loans, Not Paperwork™