

PRONTOSign™ Compliance to the ESIGN and UETA Act (USA)

Product Brief





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About AlphaTrust

We pioneered electronic signature solutions in 1998, and since then our solutions have processed hundreds of millions of critical business transactions each year for satisfied users in banking, insurance, financial services, and other industries. We are trusted by some of the largest enterprise and service provider companies globally.

Our solutions easily integrate with existing applications enabling high volume, document process automation to reduce costs and dramatically improve the overall customer experience while adhering to strict regulatory and compliance requirements.

Through continuous innovation we are delivering the most advanced and cost effective esignature process automation solutions on the market.

To learn more, visit www.alphatrust.com and follow us on Twitter, LinkedIn and Facebook.

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Introduction

AlphaTrust offers eSignature solutions that are fully compliant with North American, European and various Asia Pacific laws and regulations, making it the vendor of choice for businesses with global operations. We also provide compliance with specific industry standards and regulations, including those for insurance, financial services, banking and more. Our products and services are based on open standards, providing our clients compliance with today's technical, legal and regulatory requirements. This flexible approach has made AlphaTrust the eSignature vendor of choice for global businesses in diverse, highly regulated industries.

This document is written specifically to discuss electronic signature document solutions intended to comply with the Electronic Signatures in Global and National Commerce Act (ESIGN) as well as the Uniform Electronic Transactions Act (UETA) currently adopted in forty-seven states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The implications for additional compliance with other legislative initiatives such as ESIGN, UETA (US), and Electronic Signature Directive (EU) are also discussed.

Electronic records and signatures have the legal and commercial equivalence of paper records and handwritten signatures and promise to decrease the cost of business, increase the speed at which business is done, and add needed security to electronic business transactions. Due to the unique business requirements placed on legal records and signatures, business managers find that technology addresses only about 30% of the business issues. In order for organizations to experience a complete solution allowing for the replacement of today's signed paper based documents and records, the organization is left to deal with 70% of the complexities the technology does not provide for.

An effective electronic record and signature solution must address these business questions:

1. Does the technology deliver the needed technical security requirements (authentication, data integrity and technical non-repudiation)?
2. Does the solution address the business requirements for:
 - a. Compliance with laws and regulations?
 - b. Enforceability of transactions (legal recourse)?
 - c. Acceptance by users of the solution?
3. Does the solution provide a mechanism for managing business risk?
4. Does the solution provide for growth / easy scalability as my organization identifies future potential for electronic documents?

These requirements have been the cornerstone of most successful electronic transactions systems such as ATM and credit card systems.

In the case of applications seeking compliance with ESIGN and UETA, many of these requirements can't be met by technology provided out of the box. IT vendors can provide you

with the technology tools to build your own solution, but leave you to develop the application, identify and understand the legal implications, and manage the on-going system requirements.

This document will discuss key parts of the E-SIGN requirements, section by section, and demonstrate how AlphaTrust's PRONTOSign™ offers the superior solution, by addressing the technical, business process, and risk management needs of an E-SIGN compliant application.

In addition to the E-SIGN and UETA requirements, it is also important to look at the bigger picture. While you want a solution that meets the requirements of E-SIGN, the introduction of electronic records and signatures provides a major shift in business processes that affect many business applications. Business organizations are consistently creating legal electronic records and use their own electronic signatures on a daily basis. Your electronic signature solution should not merely address the needs of one E-SIGN application, but be capable of easily extending to other applications and areas to meet the growing needs of your enterprise, supply chain, industry, and governmental requirements. PRONTOSign™ these requirements today and is architected with the flexibility to meet even larger global requirements in the near future.

Compliance Analysis

The following table details important requirements outlined out in ESIGN Commerce Act, section by section, and details PRONTOSign™ compliance to these requirements. At the end of the table, UETA comments are also provided.

Requirement	AlphaTrust PRONTOSign™
<p>101(a) In General. --Notwithstanding any statute, regulation, or other rule of law (other than this title and title II), with respect to any transaction in or affecting interstate or foreign commerce--</p> <p>(1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and</p> <p>(2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.</p>	<p>The law states that an electronic signature means "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". PRONTOSign™ captures this human intent which is so critical to ESIGN, and our custom of signatures, by presenting the user with the exact form of the document to be signed, displaying a signature line on the document, asking the user to "click to sign" after having given consent to conduct the transaction electronically, and by inserting a graphic signature block that evidences the user's intent. Audit trail and other detailed information is also captured for evidentiary support.</p>
<p>101(c) Consumer Disclosures. -- (1) Consent to electronic records. --Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that such information be in writing if--</p> <p>(A) the consumer has affirmatively consented to such use and has not withdrawn such consent;</p> <p>(B) the consumer, prior to consenting, is provided with a clear and conspicuous statement--</p> <p>(i) informing the consumer of (I) any right or option of the consumer to have the record provided or made available on paper or in non-electronic form, and (II) the right of the consumer to withdraw the consent to have the record provided or made available in an electronic form and of any conditions, consequences (which may include termination of the parties' relationship), or fees in the event of such withdrawal; (ii) informing the consumer of whether the consent applies (I) only to the particular transaction which gave rise to the obligation to provide the record, or (II) to identified categories of records that may be provided or made available during the course of the parties' relationship;</p> <p>(iii) describing the procedures the consumer must use to withdraw consent as provided in clause (i) and to update information needed to contact the</p>	<p>The consumer consent provisions can be confusing at first reading. Basically, they only apply if a law or regulation requires you to provide consumer information or records in writing. These are generally consumer disclosure laws. If your document or information is subject to such laws (consult your attorney) then the consumer notice provisions apply.</p> <p>Importantly, note that the validity of an electronically signed document cannot be denied because of consent failures, but it may run you afoul of consumer protection laws.</p> <p>PRONTOSign™ transactions can be flagged with the option of requiring ESIGN consumer disclosures or not. AlphaTrust works with your organization during the application setup and integration process to provide the correct disclosure information prior to a transaction. During a transaction the consumer will see a notice containing the required information and will need to click agree in order to continue.</p> <p>PRONTOSign™ really shines with the hardware and software disclosure and demonstration requirements. Since only a Web browser is required, the very act of consenting to the disclosure demonstrates consumer ability. The fact that the document is in HTML (the universal open Web page language) guarantees compatibility into the future and covers the re-disclosure requirements.</p>

consumer electronically; and (iv) informing the consumer (I) how, after the consent, the consumer may, upon request, obtain a paper copy of an electronic record, and (II) whether any fee will be charged for such copy;

(C) the consumer--

(i) prior to consenting, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and

(ii) consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent; and

(D) after the consent of a consumer in accordance with subparagraph (A), if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record--

(i) provides the consumer with a statement of (I) the revised hardware and software requirements for access to and retention of the electronic records, and (II) the right to withdraw consent without the imposition of any fees for such withdrawal and without the imposition of any condition or consequence that was not disclosed under subparagraph (B)(i); and (ii) again complies with subparagraph (C).

(2) Other rights. --

(A) Preservation of consumer protections.--

Nothing in this title affects the content or timing of any disclosure or other record required to be provided or made available to any consumer under any statute, regulation, or other rule of law.

(B) Verification or acknowledgement.--If a law that was enacted prior to this Act expressly requires a record to be provided or made available by a specified method that requires verification or acknowledgment of receipt, the record may be provided or made available electronically only if the method used provides verification or acknowledgment of receipt (whichever is required).

(3) Effect of failure to obtain electronic consent or confirmation of consent.--The legal effectiveness, validity, or enforceability of any contract executed by a consumer shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent by that consumer in accordance with paragraph (1)(C)(ii).

(4) Prospective effect.--Withdrawal of consent by a consumer shall not affect the legal effectiveness, validity, or enforceability of electronic records provided or made available to that consumer in accordance with paragraph (1) prior to implementation of the consumer's withdrawal of consent. A consumer's withdrawal of consent shall be effective within a reasonable period of time after receipt of the withdrawal by the provider of the record. Failure to comply with paragraph (1)(D) may, at the election of the consumer, be treated as a withdrawal of consent for purposes of this paragraph.

(5) Prior consent.--This subsection does not apply to any records that are provided or made available to a consumer who has consented prior to the effective date of this title to receive such records in electronic form as permitted by any statute, regulation, or other rule of law.

(6) Oral communications.--An oral communication or a recording of an oral communication shall not qualify as an electronic record for purposes of this subsection except as otherwise provided under applicable law.

(d) Retention of Contracts and Records.--

(1) Accuracy and accessibility.--If a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be retained, that requirement is met by retaining an electronic record of the information in the contract or other record that--

(A) accurately reflects the information set forth in the contract or other record; and

(B) remains accessible to all persons who are entitled to access by statute, regulation, or rule of law, for the period required by such statute, regulation, or rule of law, in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise.

(2) Exception.--A requirement to retain a contract or other record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract or other record to be sent, communicated, or received.

(3) Originals.--If a statute, regulation, or other rule of law requires a contract or other record relating to a transaction in or affecting interstate or foreign commerce to be provided, available, or retained in its original form, or provides consequences if the contract or other record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

PRONTOSign™ meets accuracy and accessibility requirements by placing a seal (digital signature) over an electronic signature of each signer as well as sealing the entire document, once all parties have signed. This seal protects the document and detects any tampering or changes made to the document, even years later.

Accessibility is provided by using the open HTML document standard, which can be readable decades into the future, as it is a plain text document standard. If a document needs to be printed, PRONTOSign™ documents can be printed with all information visible.

PRONTOSign™ documents satisfy the "original document" requirement through the use of a digital seal, providing document integrity (accuracy).

UETA comments

UETA is a uniform state law adopted in forty-seven states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Its requirements generally parallel those of E-SIGN. AlphaTrust's PRONTOSign™ has been designed with state and international law variances in mind. A policy module can be included (with updates) which tracks special state and international requirements for electronic transactions. PRONTOSign™ transactions, documents and signers have 'jurisdiction' properties capable of being assigned so that the full superset of all legal requirements may be met for a complete transaction. It is similar to keeping up with tax tables and determining which jurisdiction applies to specific transactions. AlphaTrust is dedicated to tracking these complexities for your organization.

Summary

AlphaTrust is the clear solution for meeting the challenge of the E-SIGN Commerce Act, UETA and other electronic record and electronic signature requirements throughout the globe. AlphaTrust offers eSignature solutions that are fully compliant with North American, European and various Asia Pacific laws and regulations, making it the vendor of choice for businesses with global operations. We also provide compliance with specific industry standards and regulations, including those for insurance, financial services, banking and more. Our products and services are based on open standards, providing our clients compliance with today's technical, legal and regulatory requirements. This flexible approach has made AlphaTrust the eSignature vendor of choice for global businesses in diverse, highly regulated industries.

Further Information

Thank you for your interest in AlphaTrust products and services. For further information, visit www.alphatrust.com, call us at +1.214.234.9200, option 1, or send us an email at info@alphatrust.com. AlphaTrust looks forward to helping you evolve your product portfolio with the most cost effective and highest performance electronic signature process automation solutions available.

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