



**D**igital personal loans and paperless transactions are the future of banking, augmented further by the latest technologies and a relaxed regulatory environment provided by the Government of India. With digital loans and alternative lending platforms, borrowers can now apply for loans anywhere and at any time, irrespective of whether the bank that lends to them is present in their geography or not.

In addition, the absence of intermediaries in the process makes online, paperless loans a much more dynamic and convenient option for borrowers who may have urgent financial requirements, since they are spared the hassle of undergoing slow, and almost bureaucratic processes. At the same time, digitization of end-to-end processes eliminates the chances of human error, as the processing of applications as well as credit underwriting is overseen with the help of technology.

# DDE - DIGITAL FUTURE FOR LOAN DOCUMENTATION

*NeSL has, as part of the Core Services assigned to it under the IBC 2016, set up a secured Digital Documents Execution (DDE) Platform to aid MSMEs and individuals avail contactless loans on a remote basis*



## ABOUT NeSL

National E-Governance Services Ltd. is a Union Government Company, registered with the Insolvency and Bankruptcy Board of India, as Information Utility under Insolvency & Bankruptcy Code, 2016.

## DDE CONCEPT

As part of its mandate and to revive the economy and

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understand the market needs, NeSL has, as part of the Core Services assigned to it under the IBC, 2016, set up a secured Digital Documents Execution (DDE) Platform, which will facilitate MSMEs and individuals to avail contactless loans on a remote basis. DDE is a technology-based platform for automated completion of Digital Contracts to enable a single window concept from execution of a document, stamping and signing and automated transfer to the storage of the executed document with NeSL, as an IU.

Here, banks can push out several thousands of loan documents without any physical signature or paperwork and affixing only paperless e-stamping. This digital workflow has been endorsed by the Department of Financial Services (DFS) in the Finance Ministry in its letter to all Chief Secretaries. It says the states should issue orders that digital e-stamping will be permitted on the NeSL-SHCIL platform and be a valid mode of stamping of documents. The DFS also directed banks to join the platform to help citizens in this pandemic.

## DDE PROCESS FLOW:

The DDE Process broadly would be as under involving integration of the following modules:

### 1. Demat Contract Generation Module:

- The contract generation module supports generation of Contract Document in a paperless form;
- Lending institutions can generate the loan contract in their own format and on their terms by simply sharing the variable data associated with the transaction with NeSL's DDE Module. NeSL is data agnostic to any of the terms or content of such documents and does not decide any of the same.

### 2. Digital E-Stamping:

- Digital E-Stamping through the DDE platform facilitates instant payment of Stamp Duty in an automated and paperless manner, wherein NeSL merely provides the platform to connect the creditor / submitter with the appropriate authorized authority i.e., SHCIL (Stock Holding Corporation of India Ltd), which is an authorized agent of Government of India. In states where SHCIL is not currently in operation, NeSL has the arrangement with IGR (Inspector General of Registrations) of the state/s concerned. Upon obtaining the consent of the borrower, NeSL would arrange for e-stamping of the loan contract in applicable cases and embeds the same on the loan contracts



### 3. E-Signature Module:

- DDE platform is integrated with a robust and versatile e-Sign / digital signature module, which supports following modes of digital signature / e-Signature with OTP-based e-Sign / other variants. NeSL obtains digital signatures of the borrower/co-obligant/guarantors on the loan contracts.

### 4. Document Upload Module:

- Document upload module which facilitates automated uploading of executed document in the Loan Management System (“LMS”) / Document Management System (“DMS”) of the partner lending institution. NeSL offers storage facility also at no extra charges and this is optional to the Banks/FIs.



“ A great digital leap enabled by all the Governments to implement DDE, an end-to-end remote based contract signing facility

**LEGAL BACKING FOR SERVING AS EVIDENCE:**

- Section 5 of the IT Act gives electronic signatures their legal character.
- Section 10A of the IT Act expressly provides for validity of contracts formed through electronic means.
- Section 65B (1) of the Evidence Act provides that any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be also a document and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

- Sec 99 (3) of IBC states that - Where the debt for which an application has been filed by a Creditor is registered with the IU, the Debtor shall not be entitled to dispute the validity of the debt;
- Digital Documents / Loan Contracts executed using digital signatures, serve as evidence before the Adjudicating Authorities / any legal fora, for enforcement.
- NeSL-IU provides a Certificate under Sec 65 B of the Evidence Act, for enforcement of loan contracts, in case of need.
- In a recent Judgment delivered by a three-judge bench of the Hon’ble Supreme Court it was ruled that the requirement of a certificate under Section 65B(4) of the Indian Evidence Act, 1872 (“Evidence Act”), is a condition precedent to the admissibility of electronic record in evidence. This judgment arose from a reference by a Division Bench of the Supreme Court, which found that the Division Bench judgment in Shafhi Mohammad v. State of Himachal Pradesh required reconsideration in view of the three-judge bench judgment in Anvar P.V. v. P.K. Basheer.

The summary of the above Judgment is that -

Under Section 65B(1), notwithstanding anything contained in the Evidence Act, any information contained in an electronic record, which is printed on paper, stored, recorded or copied in optical or magnetic



media produced by a computer is deemed to be a document (under the Evidence Act), if the conditions mentioned in Section 65B(2) are satisfied. If the conditions under Section 65B(2) are satisfied, the paper on which the information contained in an electronic record is printed, or the optical or magnetic media produced by the computer in which such information is stored, recorded or copied, shall be admissible in any proceedings, without proof or production of the original, as evidence of any contents of the original or of any fact stated therein, of which direct evidence would be admissible.

Where a statement in evidence is sought to be given by virtue of Section 65B, Section 65B(4) requires a certificate to be produced that inter alia identifies the electronic record containing the statement and describes the manner in which it is produced, and gives particulars of the device involved in the production of the electronic record to show that the electronic record was produced by a computer, either by a person occupying a responsible official position in relation to the operation of the relevant device, or the management of the relevant activities, whichever is appropriate.

From the above legal provisions & jurisprudence, it is clear that Digital Loan Contracts and Digital Signatures

affixed thereon are valid and legally enforceable.

#### 1. Advantages of DDE:

There are several advantages in availing the DDE concept, which is totally paperless, to loans. Some of the key advantages can be summarized as follows:

- No paperwork: Since the process is completely digital, customers no longer have to visit the branch office to execute the loan contracts / Security Creation Agreements in hard copies. The tedious process associated with filling up multiple loan contract documents can be avoided in this process. All the other hassles of paperwork can be avoided when the paperless approach to loans is adopted.
- Quick disbursal: The digital approach to personal loans has speeded up the process significantly. Once the Lending Institution has verified the loan contract documents, the loan amount will be disbursed instantly.
- Fraud Prevention Measures: As the true identity of the borrower is established before obtaining his digital signatures with the help of contact details furnished by the Bank through OTP etc., the scope for impersonation is eliminated.

- **Eco-friendly approach:** This is one of the main reasons why many Banks are promoting the paperless approach. Since the process has gone completely digital, banks can save a lot of paper and follow an eco-friendly approach. In this way, Banks can reduce your carbon footprint and contribute to the environment.
- **Low costs:** Banks as Lenders can reduce their overall costs by following the digital approach. The costs of paper and printing can be completely eliminated in this process. The savings obtained in this process can be transferred to customers.
- **High security:** NeSL-IU is offering secured storage of digitally executed loan documents with no additional cost. Most industry experts believe that the paperless process is a lot more secure than maintaining paper files. There is always the risk of losing key paper documents in the old process.
- **Higher Revenue for States:** A digital system leads to a quantum jump in credit flows, resulting in additional stamp duty revenue for the states since the system is available for loan documentation, 24X7. It could be a huge source of additional revenue which is now slipping past them as parties often avoid the tedium of having to stamp their contracts.

So, once the states are on board, they can offer bulk processing of stamp certificates for documents just by transmitting those through the NeSL platform. It can also lead to a reduction in administrative costs for non-registrable instruments by adopting a digital system; also better MIS and control. They also get a real-time monitoring dashboard for transactions which NeSL will provide them.

- By implementing the DDE concept, Banks can save lot of costs associated with - (1) printing of forms of loan documents, (2) storage costs; (3) manpower costs. The Banks are also optimizing the financial and human resources on account of adoption of virtual, cashless eco-system & minimum manual intervention.

### CURRENT STATUS OF IMPLEMENTATION BY BANKS

Having understood all the above advantages of the DDE service offering of NeSL-IU, many Public and Private Sector Banks have evinced lot of interest on this service offering and integrated their LAPS / LMS platforms with the DDE module of NeSL and commenced pilot implementation for retail products. In course of time, they intend to adopt Digital Documents to all categories of loans.

## ABOUT THE AUTHOR

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Siva S. Ramann is from the civil service and is deputed to NeSL by the C&AG of India as the Managing Director & CEO of National E-Governance Services Limited (NeSL). Prior to joining NeSL, he was the Principal Accountant General of the State of Jharkhand and is also empaneled as Joint Secretary to the Government of India. Prior to that, he was Executive Director at SEBI, where he served as CGM and ED on deputation from the Government of India from 2006 to 2013. Shri Ramann has also been Secretary to the CAG of India and First Secretary at the Indian High Commission, London. His qualifications are BA (Economics) and MBA from Delhi University, L.L.B. from University of Mumbai, M.Sc Regulations from the London School of Economics, Certified Internal Auditor from IIA, Florida, and Post Graduate Diploma in Securities Law.



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