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With a nod to Chicken Little...
the world is shrinking!

The world is shrinking!!!



There was a time when sending escrow documents out of the country for signing was an anomaly but today's escrow officers are facing such global challenges on a regular basis as the World tries to cash in on our lucrative real estate market. Whether you are dealing with foreign investors or our own Armed Service personnel stationed in exotic lands, there are certain things you should be aware of when sending documents overseas. The EO-in-the-Know is advised to be cognizant of the country she's dealing with before reaching for that Federal Express envelope.

The first thing you'll need to do is communicate with the person who will be signing your documents. I realize this is not always easy especially if there are language differences and/or remote locations. However, in order to properly prepare your documents, you will need to know what steps the customer intends to take in getting those documents notarized in that foreign country. You will then need to determine whether or not those proposed steps will meet both the underwriting guidelines for your company and the legal requirements for your state, and communicate any needed revisions back to the customer.

On October 5, 1961, as part of the Conference on Private International Law, the Hague Convention drafted an international treaty to certify for legal purposes those documents prepared in one country which are to be signed in another. This certification is called an **apostille**; a French word meaning just that...certification. This document is comparable to "notarization of the notary" in that it basically affirms that the Notary is, indeed, an authentic Notary Public of that country. [CLICK HERE for a list of those countries which have ratified the Hague Convention](#). If the country to which you are sending your documents appears on this list, you should inform your customer that you will expect such a document to be returned with his signed and notarized documents. If the notarized document(s) return without the Apostille, your company may have a problem insuring the transaction in which the *unauthenticated*



document is to be used.



A Certification of Authentication (Apostille) is not an escrow document and not something you should prepare. There is a required format for the document and it must contain certain information or it can be deemed unacceptable and void. Apostilles may only be issued by the *Competent Authority* designated by the country/state in which the document is to be signed. For instance, you as an Arizona Notary Public are NOT authorized to issue an Apostille for a document notarized here that is to be used

in another Hague Convention country. In Arizona, only the Secretary of State, or his assistant, are authorized to issue Apostilles.

It will be the same in a foreign country so please make certain your customer understands the importance of seeking out the correct authority to make the necessary authentication.

If the country to which you are sending the documents is *not* a member of the Hague Convention, your customer should contact the American Consulate to see if they can get the documents notarized there; or go to a local Notary Public of that country, in which case **each notary acknowledgment certificate will need to be authenticated by a judge of a court** in that country.

US Military personnel and their dependents stationed abroad may have their signatures notarized by certain commissioned officers. While a notary seal is not normally required with a military notarization, the commissioned officer is required to include his rank and serial number as part of the notarial certificate.

Regardless of whether or not the country is a member of the Hague Convention, **the customer will need to pay all of the costs involved in getting the document(s) notarized and authenticated at the time the services are provided.** The whole process may require additional time, and even involve some travel, so early planning is essential if you are to meet the scheduled close of escrow.

In any event, documents that have been notarized in a foreign country or by a military acknowledgment **must be** approved by your Title Officer as soon as you receive them. Do not wait until you submit your recording package to find out that something was not done correctly.



The world may very well be shrinking but that doesn't mean you have to let it cause wrinkles in your escrow. By being proactive you can assure your customers of a smooth closing no matter how far away those customers may roam.

Shannon Ade
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