

ALTA BEST PRACTICES FOR TITLE AGENCIES

Ethical Considerations for the Title Agent and Closing Attorneys Best Practices From a Regulatory Standpoint; Oversight from CFPB/Dodd-Frank

I. Regulatory and Legislative Concerns

- A. Lender Requirements Imposed and Enforced
 - 1. Supervised Bank Requirements & Appending Liabilities
 - 2. Forty-Nine State Attorneys General Consent Orders
 - 3. Ethical Implications of Enforcement Actions
- B. Consumer Financial Protection Bureau (CFPB) Mortgage Disclosure Act - Proper Protection of the Borrower
- C. Ethics and Government Sponsored Enterprise (GSE) - Fannie Mae & Freddie Mac Reform

II. Lender Scorecards for Title Agencies and Escrow Companies

III. Closing/Settlement Best Practices

- A. Licensing
 - 1. Business Licensing
 - 2. Professional Licensing
 - 3. Notary Licensing
 - 4. Renewal Process
 - 5. Responsible for Reminders
 - 6. ALTA Policy License
- B. Escrow Procedures for Title Agents
 - 1. Separation of Accounts - Proper Segregation of Funds
 - 2. Trial Balances
 - 3. Three-Way Reconciliations
 - 4. Segregation of Duties
 - 5. Proper Account Identifications
 - 6. Authorities for Access and Transfer
 - 7. Background Checks Performed at Hire and Periodic Renewal
 - 8. Secondary Wire Confirmations
 - 9. Positive Pay Where Available
 - 10. International Wire Block
 - 11. ACH Block on Escrow Account

- C. Non-Public Information (NPI) - It's Ethical Security
 - 1. Physical Plant - Keeping Your Building Safe and Secure
 - 2. Network - Protection for Privacy of Electronic Data
 - 3. Disposal - Proper Handling of Obsolete Data
 - 4. Disaster Recovery - Dealing With Emergencies
 - 5. Security Breach Plan
 - 6. Back-up System
 - 7. Security of Files, Portable Media with NPI

- D. Federal and State Consumer Law Compliance
 - 1. Recording Procedures - Proper Procedures for Getting Docs Filed
 - 2. Pricing Audits

- E. Policy and Remittances
 - 1. Policy Delivery - Preparing and Transmitting Policies
 - 2. Remittance - Proper Handling and Transmitting of Insurance Company Funds

- F. Insurance Coverage - Properly Complying with Applicable Requirements
 - 1. Professional Liability Insurance
 - 2. Error and Omission Insurance - Compliance Issues
 - 3. Fidelity Bond
 - 4. Surety Bond

- G. Proper Handling of Consumer Complaints
 - 1. Complaint Log
 - 2. Written Complaint Procedure
 - 3. Employee Training
 - 4. Management Oversight
 - 5. Resolution and Follow-up

IV. CONCLUSION

- A. Self Certifications
- B. Third Party Certifications
- C. Wrap-Up Questions and Answers

Current Forces at Work

Expectations of Lenders

- Consent Orders 2011-2012
- CFPB Bulletin – April 2012

Lender Expectations

- Lenders seeking business partners to help them manage risk
- Financial
- Reputational

Member Survey – ALTA

2012

ALTA Best Practices Survey

- Conducted in October 2012
- Nearly 775 responses
- Results show many of these practices are already an integral part of ALTA members' day-to-day business

Does your company maintain separate operating and escrow accounts?

<u>ALTA</u>	
Yes	99.5%
No	0.1%
Not sure	0.4%

Does your company perform monthly three-way reconciliation (checkbook, bank statement & file) of its accounts?

	<u>ALTA</u>
Yes	94.1%
No	2.1%
Not sure	3.7%

Does your company have a “clean desk” policy requiring employees to close files containing Non-public Personal Information when not at their desk?

	<u>ALTA</u>
Yes	72.5%
No	21.5%
Not sure	6.0%

Does your company lock all documents, portable devices and electronic media containing Non-public Personal Information in a desk, file cabinet or secure room overnight?

	<u>ALTA</u>
Yes	60.8%
No	34.3%
Not sure	4.9%

Does your company use strong passwords (8+ characters including numbers, symbols, upper & lower case) for its computers and require frequent password updates?

	<u>ALTA</u>
Yes	80.7%
No	17.7%
Not sure	1.6%

When emailing documents, does your company transmit Non-public Personal Information via password protected attachments or other secure connections?

	<u>ALTA</u>
Yes	37.1%
No	51.1%
Not sure	11.8%

On average, how long after closing a transaction does it take your company to record documents?

	<u>ALTA</u>
1-3 days	90.0%
4-6 days	7.8%
Up to two weeks	1.9%
More than two weeks	0.3%

Does your company have procedures to ensure that customers are charged the appropriate rates?

	<u>ALTA</u>
Yes	96.6%
No	1.6%
Not sure	1.9%

On average, how long after closing a transaction does it take your company to deliver title policies to customers?

ALTA

Up to two weeks	26.1%
Two weeks to a month	53.2%
More than a month	20.6%

Does your company remit title premiums to your underwriter by the last day of the month following the month in which the insured transaction was consummated?

	<u>ALTA</u>
Yes	77.9%
No	12.1%
Not sure	10.0%

Hidden Exclusions

- Escrow services
- Subprime loans
- RESPA violations
- Oil/gas related title work and/or outstanding oil, gas and mineral interests
- Breach or disregard of oral or written closing instructions
- Disbursement of closing funds
- Errors by an independent contractor, aka “independent contractor exclusion”, also known as the “subcontractor exclusion”
 - Title search
 - Closing

PLEASE NOTE THE FOLLOWING

*****We will not receive the complete course material for ALTA Best Practices for Title Agencies until a few days before the first seminar. Please check on the website a couple of days prior to April 22, 2014, to download this material.*****