ALTA Best Practices Framework:

Title Insurance and Settlement Company Best Practices

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ALTA Best Practices Framework

The ALTA Best Practices Framework has been developed to assist lenders in satisfying their responsibility to manage third party vendors. The ALTA Best Practices Framework is comprised of the following documentation needed by a company electing to implement such a program.

- ALTA Best Practices Framework: Title Insurance and Settlement Company Best Practices
- ALTA Best Practices Framework: Assessment Procedures
- ALTA Best Practices Framework: Certification Package (Package includes 3 Parts)

Version History and Notes

Date	Version	Notes
1/2/2013	None	Publication of the ALTA Title Insurance and Settlement Company Best Practices, approved by the ALTA Board of Governors on December 20, 2012.
7/19/2013	2.0	Publication of the revised ALTA Title Insurance and Settlement Company Best Practices, along with other documents in the ALTA Best Practices Framework, approved by the ALTA Board of Governors on July 19, 2013.

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Title Insurance and Settlement Company Best Practices

Mission Statement

- ALTA seeks to guide its membership on best practices to protect consumers, promote quality service, provide for ongoing employee training, and meet legal and market requirements. These practices are voluntary and designed to help members illustrate to consumers and clients the industry's professionalism and best practices to help ensure a positive and compliant real estate settlement experience. These best practices are not intended to encompass all aspects of title or settlement company activity.

- ALTA is publishing these best practices for the mortgage lending and real estate settlement industry. ALTA accepts comments from stakeholders as the Association seeks to continually improve these best practices. A formal committee of ALTA members regularly reviews and makes improvements to these best practices, seeking comment on each revision.

Definitions

Background Check: A background check is the process of compiling and reviewing both confidential and public employment, address, and criminal records of an individual or an organization. Background checks may be limited in geographic scope. This provision and use of these reports are subject to the limitations of federal and state law.

Company: The entity implementing these best practices.

Escrow: A transaction in which an impartial third party acts in a fiduciary capacity for the seller, buyer, borrower, or lender in performing the closing for a real estate transaction according to local practice and custom. The escrow holders have fiduciary responsibility for prudent processing, safeguarding and accounting for funds and documents entrusted to them.

Escrow Trust Account: An account to hold funds in trust for third parties, including parties to a real estate transaction. These funds are held subject to a fiduciary capacity as established by written instructions.

Federally Insured Financial Institutions: A financial institution that has its deposits insured by an instrumentality of the federal government, including the Federal Deposit Insurance Corporation (FDIC) and National Credit Union Administration (NCUA).

Licenses: Title Agent or Producer License or registration, or any other business licensing requirement as required by state law, or a license to practice law, where applicable.

Non-public Personal Information: Personally identifiable data such as information provided by a customer on a form or application, information about a customer's transactions, or any other information about a customer which is otherwise unavailable to the general public. NPI includes first name or first initial and last name coupled with any of the following: Social Security Number, driver's license number, state-issued ID number, credit card number, debit card number, or other financial account numbers.

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Positive Pay or Reverse Positive Pay: Any system by which the authenticity of a check is determined before payment is made by the financial institution against which the check is written.

Settlement: In some areas called a "closing." The process of completing a real estate transaction in accordance with written instructions during which deeds, mortgages, leases and other required instruments are executed and/or delivered, an accounting between the parties is made, the funds are disbursed and the appropriate documents are recorded.

Trial Balance: A list of all open individual escrow ledger record balances at the end of the reconciliation period.

Three-Way Reconciliation: A three-way reconciliation is a method for discovering shortages (intentional or otherwise), charges that must be reimbursed or any type of errors or omissions that must be corrected in relation to an Escrow Trust Account. This requires the escrow trial balance, the book balance and the reconciled bank balance to be compared. If all three parts do not agree, the difference shall be investigated and corrected.

Best Practices

1. **Best Practice: Establish and maintain current License(s) as required to conduct the business of title insurance and settlement services.**

Purpose: Maintaining state mandated insurance licenses and corporate registrations (as applicable) helps ensure the Company remains in good standing with the state.

Procedures to meet this best practice:

- Establish and maintain applicable business License(s).
- Establish and maintain compliance with Licensing, registration, or similar requirements with the applicable state regulatory department or agency.
- Establish and maintain appropriate compliance with ALTA's Policy Forms Licensing requirement.

2. **Best Practice**: **Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.**

Purpose: Appropriate and effective escrow controls and staff training help title and settlement companies meet client and legal requirements for the safeguarding of client funds. These procedures help ensure accuracy and minimize the exposure to loss of client funds. Settlement companies may engage outside contractors to conduct segregation of trust accounting duties.

Procedures to meet this best practice:

- Escrow funds and operating accounts are separately maintained.
    - Escrow funds or other funds the Company maintains under a fiduciary duty to another are not commingled with the Company's operating account or an employee or manager's personal account.
- Escrow Trust Accounts are prepared with Trial Balances.

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  - On at least a monthly basis, Escrow Trust Accounts are prepared with Trial Balances ("Three-Way Reconciliation"), listing all open escrow balances.
- Escrow Trust Accounts are reconciled.
  - On at least a daily basis, reconciliation of the receipts and disbursements of the Escrow Trust Account is performed
  - On at least a monthly basis, a Three-Way Reconciliation is performed reconciling the bank statement, check book and Trial Balances.
  - Segregation of duties is in place to help ensure the reliability of the reconciliation and reconciliations are conducted by someone other than those with signing authority.
  - Results of the reconciliation are reviewed by management and are accessible electronically by the Company's contracted underwriter(s).
- Escrow Trust Accounts are properly identified.
  - Accounts are identified as "escrow" or "trust" accounts. Appropriate identification appears on all account-related documentation including bank statements, bank agreements, disbursement checks and deposit tickets.
- Outstanding file balances are documented.
- Transactions are conducted by authorized employees only.
  - Only those employees whose authority has been defined to authorize bank transactions may do so. Appropriate authorization levels are set by the Company and reviewed for updates annually. Former employees are immediately deleted as listed signatories on all bank accounts.
- Unless directed by the beneficial owner, Escrow Trust Accounts are maintained in Federally Insured Financial Institutions.
- Utilize Positive Pay or Reverse Positive Pay, Automated Clearing House blocks and international wire blocks, if available.
  - Background Checks are completed in the hiring process. At least every three years, obtain Background Checks going back five years for all employees who have access to customer funds.
- Ongoing training is conducted for employees in management of escrow funds and escrow accounting.

3. Best Practice: Adopt and maintain a written privacy and information security program to protect Non-public Personal Information as required by local, state and federal law.

Purpose: Federal and state laws (including the Gramm-Leach-Bliley Act) require title companies to develop a written information security program that describes the procedures they employ to protect Non-public Personal Information. The program must be appropriate to the Company's size and complexity, the nature and scope of the Company's activities, and the sensitivity of the customer information the Company handles. A Company evaluates and adjusts its program in light of relevant circumstances, including changes in the Company's business or operations, or the results of security testing and monitoring.

Procedures to meet this best practice:

- Physical security of Non-public Personal Information.

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  - Restrict access to Non-public Personal Information to authorized employees who have undergone Background Checks at hiring.
  - Prohibit or control the use of removable media.
  - Use only secure delivery methods when transmitting Non-public Personal Information.
- Network security of Non-public Personal Information.
  - Maintain and secure access to Company information technology
  - Develop guidelines for the appropriate use of Company information technology.
  - Ensure secure collection and transmission of Non-public Personal Information.
- Disposal of Non-public Personal Information.
  - Federal law requires companies that possess Non-public Personal Information for a business purpose to dispose of such information properly in a manner that protects against unauthorized access to or use of the information.
- Establish a disaster management plan.
- Appropriate management and training of employees to help ensure compliance with Company's information security program.
- Oversight of service providers to help ensure compliance with a Company's information security program.
  - Companies should take reasonable steps to select and retain service providers that are capable of appropriately safeguarding Non-public Personal Information.
- Audit and oversight procedures to help ensure compliance with Company's information security program.
  - Companies should review their privacy and information security procedures to detect the potential for improper disclosure of confidential information.
- Notification of security breaches to customers and law enforcement.
  - Companies should post the privacy and information security program on their websites or provide program information directly to customers in another useable form. When a breach is detected, the Company should have a program to inform customers and law enforcement as required by law.

4. Best Practice: Adopt standard real estate settlement procedures and policies that help ensure compliance with Federal and State Consumer Financial Laws as applicable to the Settlement process.

Purpose: Adopting appropriate policies and conducting ongoing employee training helps ensure the Company can meet state, federal, and contractual obligations governing the Settlement.

Procedures to meet this best practice:

- Recording procedures.
  - Review legal and contractual requirements to determine Company obligations to record documents and incorporate such requirements in its written procedures.
    - Submit or ship documents for recording to the county recorder (or equivalent) or the person or entity responsible for recording within two (2) business days of the later of (i) the date of Settlement, or (ii) receipt by the Company if the Settlement is not performed by the Company.

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        - Track shipments of documents for recording.
        - Ensure timely responses to recording rejections.
        - Addressing rejected recordings to prevent unnecessary delay.
        - Verify that recordation actually occurred and maintain a record of the recording information for the document(s).
- Pricing procedures.
    - Maintain written procedures to help ensure that customers are charged the correct title insurance premium and other rates for services provided by the Company. These premiums and rates are determined by a mix of legal and contractual obligations.
        - Utilize rate manuals and online calculators, as appropriate, to help ensure correct fees are being charged for title insurance policy premiums, state-specific fees and endorsements.
        - Ensure discounted rates are calculated and charged when appropriate, including refinance or reissue rates.
        - Quality check files after Settlement to help ensure consumers were charged the company's established rates.
        - Provide timely refunds to consumers when an overpayment is detected.

5. Best Practice: Adopt and maintain written procedures related to title policy production, delivery, reporting and premium remittance.

Purpose: Adopting appropriate procedures for the production, delivery, and remittance of title insurance policies helps ensure title companies can meet their legal and contractual obligations.

Procedures to meet this best practice:

- Title policy production and delivery.
    - Title insurance policies are issued and delivered to customers in a timely manner to meet statutory, regulatory or contractual obligations.
        - Issue and deliver policies within thirty days of the later of (i) the date of Settlement, or (ii) the date that the terms and conditions of title insurance commitment are satisfied.
- Premium reporting and remittance.
    - Title insurance policies are reported and premiums are remitted to the underwriter in a timely manner to meet statutory, regulatory or contractual obligations.
        - Report policies (including a copy of the policy) to underwriter by the last day of the month following the month in which the insured transaction was settled.
        - Remit premiums to underwriter by the last day of the month following the month in which the insured transaction was settled.

6. Best Practice: Maintain appropriate professional liability insurance and fidelity coverage.

Purpose: Appropriate levels of professional liability insurance or errors and omissions insurance help ensure title agencies and settlement companies maintain the financial capacity to stand behind their

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professional services. In addition, state law and title insurance underwriting agreements may require a company to maintain professional liability insurance or errors and omissions insurance, fidelity coverage or surety bonds.

Procedures to meet this best practice:

- The Company maintains professional liability insurance or errors and omissions insurance.
- The Company complies with requirements for professional liability insurance, errors and omissions insurance, fidelity coverage or surety bonds, as provided by state law or title insurance underwriting agreements.

7. Best Practice: Adopt and maintain written procedures for resolving consumer complaints.

Purpose: A process for receiving and addressing consumer complaints helps ensure reported instances of poor service or non-compliance do not go undiscovered.

Procedures to meet this best practice:

- Consumer complaint intake, documentation and tracking.
    - Standard procedures for logging and resolving consumer complaints helps ensure consumers provide the company with sufficient information to understand the nature and scope of the complaint.
        - Develop a standard consumer complaint form that identifies information that connects the complaint to a specific transaction.
        - Set a single point of contact for consumer complaints.
        - Establish procedures for forwarding complaints to appropriate personnel.
        - Maintain a log of consumer complaints that includes whether and how the complaint was resolved.

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