

ILTA Regional Meetings 2015

Best Practices Presentation

As an abstracter, you provide title search and abstract services. Did you know that...

- Title search services are defined as settlement services under RESPA 12 U.S. CODE § 2602
- Under the Bank Holding Company Act, settlement services are a financial activity.
- The Financial Privacy Rule was established in 1999 and is enforced by the Federal Trade Commission under the Bank Holding Company Act.
- The Privacy Rule applies to businesses that are significantly engaged in financial activities.

ALTA Best Practices Framework:

The ALTA Best Practices Framework has been developed to assist lenders in satisfying their responsibility to manage third party vendors.

SEVEN PILLARS:

1. Establish and maintain current License(s) as required to conduct the business of title insurance and settlement services.
2. Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.
3. Adopt and maintain a written privacy and information security program to protect Non-public Personal Information as required by local, state and federal law.
4. 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.
5. Adopt and maintain written procedures related to title policy production, delivery, reporting and premium remittance.
6. Maintain appropriate professional liability insurance and fidelity coverage.
7. Adopt and maintain written procedures for resolving consumer complaints.

Pillar 1. Licensing: 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.

As a Participating Abstracter, we need to get our Participating Abstracter Agreement (read "license") from ITG. We need to sign this Participating Abstracter Agreement agreeing to abstract to ITG's standard.

Pillar 1 applies to us.

Pillar 2. Safeguarding client funds-Escrow Accounts: 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.

This Pillar deals with closings. Even if you do not do closings in your office, embedded in this Pillar is the requirement of background checks. The requirement is to have a background check every three years for all employees. This Pillar supports Pillar 3, Pillar 4 and Pillar 5. The Pillar 2 Best Practice policy and procedure may be very short and direct. If it is not documented, it did not happen.

Pillar 2 applies to us.

Pillar 3. Non-Public Personal Information: 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.

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

The definition of non-public personal information (NPPI or NPI) is:
“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.”

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

- Some of the highlights of Pillar 3 that our policies and procedures must address:
- Physical security of Non-public Personal Information.
- Network security of Non-public Personal Information.
- Disposal of Non-public Personal 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.
- Audit and oversight procedures to help ensure compliance with Company’s information security program.
- Notification of security breaches to customers and law enforcement.

Pillar 3 applies to us.

Pillar 4. Settlement Process: 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.

The title of this Pillar 4 is misleading; it involves more than just the settlement process. This Pillar applies to the complete real estate/loan transaction. Specifically a best practice procedure needs to be developed for recordation and pricing. Pricing will be very important as the new loan estimate and closing disclosure forms are implemented. Your lenders will be contacting each of us to determine what the abstracting fees will be since they will be required to give the correct amount in the loan estimate and closing disclosure. Each of us needs to determine our procedure for determining our pricing and distributing said pricing to our lenders.

Pillar 4 applies to us.

Pillar 5. Policy Production and Remittance: 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.

This Pillar 5 applies to our final abstracting duties since the final title policy needs to be produced before 30 days from the funding date of the transaction or 30 days after the release or any following title clearing issue. If your office issues ITG certificates it applies to the issuance, payment and timing of the ITG certificate. If you are acting solely as an abstractor, you will need to provide whoever prepared the certificate a final search prior to 30 days so that they can meet the requirements.

Pillar 5 applies to us.

Pillar 6. Insurance Coverage: 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 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.

ITG requires professional liability, and proof thereof, on a yearly basis. This is included in our annual renewal of our Participating Abstracter Agreement.

Pillar 6 applies to us.

Pillar 7. Consumer Complaint: 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.

This Pillar 7 requires each party to define what a complaint is and the procedure to resolve the issue.

Pillar 7 applies to us.

I've Implemented Best Practices, Created My Written Policies, Trained My Employees and Done Background Checks – What is the Certification Process?

- *Why do I need it?*

To demonstrate to Lenders that I have implemented Best Practices. Lenders are responsible for their service providers to comply with the regulations of the Consumer Financial Protection Bureau (CFPB).

- *How do I obtain it?*

You may perform a **Self-Certification** or contact your CPA or another consultant to conduct a **Review** of your Policies and Procedures to receive a **Statement of Compliance** or an **Audit** of your Policies and Procedures to receive a **Letter of Certification**.

- *What is a good resource?*

The ALTA Assessment Procedures Workbook provides a 19 page guide for compliance and details on requirements to pass certification.

RESOURCES:

ALTA Members Receive Full Access to Best Practices Information

Non-Members may purchase 365 day subscriptions from ALTA:

- Practices Readiness Guide - \$100
- Best Practices Compliance Management Report - \$100
- Best Practices Full Access –
All of ALTA's Title Insurance and Settlement Company Best Practices Resources and Documents - \$275

Contact ALTA for more information on Membership, Best Practices and Elite Provider List at <http://www.alta.org>

ADDITIONAL RESOURCES:

- PowerPoint presentations from the 2014 & 2015 ILTA Annual Conventions and 2015 Spring Manager Meeting are available to members on the ILTA website www.iowalandtitle.org Resources Page
- PowerPoint presentations from the 2015 Regional Meetings will be available on the Resources Page of the ILTA website on October 1st – including templates on Data Security for your use.
- Stay Current and Stay Informed: Attend ILTA Member Meetings!

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