

# CFPB Regulations and ALTA Best Practices Demand End-to-End Review of All Production Partners

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**WHITE PAPER**

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The emergence, and importance, of Consumer Financial Protection Bureau (CFPB) regulations coupled with the title industry's American Land Title Association (ALTA) efforts to drive a common understanding of best practices enforces all participants in the settlement chain for loan origination or foreclosure/REO transactions to be specifically responsible and accountable, now more than ever. Whether in executing foreclosure/REO activity or in support of a loan origination settlement, every firm that provides an aspect of the process must be vigilant in supporting the new standards of care. In a very real sense, the "weakest link" in every transaction represents risk to the entire team associated with the experience, quality and integrity of the end client or consumer experience.

As these rules are directly applicable to the lender or servicer as the prime party, it is natural that demands are growing for audit reviews and compliance assessments from downstream vendors of all types. From these reviews, there is an obvious realization that the quality and capability of supply chain partners to respond with substantive policies and procedures is dependent on the scale, structure and experience of the enterprise. Whereas in the past, it may have been acceptable to rely on individuals as suppliers, that approach is not sustainable when traditional risk assessment practices are applied for business continuity, quality assurance, and financial stability as thresholds for qualification. As presented below, ALTA's best practices can provide a roadmap for assessing the attributes of title data, search and commitment ready providers that match the compliance needs of agents supporting lenders and servicers for transactions.

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

The title search provider should be qualified with applicable business licenses and well-versed in the rules affecting title practices in each state for Practice of Law statutes. In addition, the firm should offer demonstrable knowledge of local business practices and industry standards forming the basis for unique title search practices that will be incorporated into the product delivery.

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

While the title search provider does not have a direct role in the escrow function, the quality and comprehensive nature of the data supplied in the reporting is critical to informing the agent's completion of the escrow function. The integrity of reported amounts due for outstanding voluntary liens, judgments, taxes and ancillary municipal liens is vital.

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

Given the complexity of our digital world ranging from eFax, to email and xml data transmissions, the risk of exposing Non-public Personal Information (NPI) unless well-protected and secure is significant. This risk demands an enterprise-wide business intelligence that can address physical security, restricted access, regular employee screening, network security and disposal of NPI. Other imperative policies should address a disaster management plan, compliance with the company's information security program as well as oversight and audit plans.

- 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.**

Training in the specific components of title production via well-documented learning management systems which can incorporate any applicable laws or regulations should be standard protocol. Ensuring that staff has timely access to geo-specific regulatory changes is critical to delivering the expected results for risk mitigation.

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

The well-organized and capable title information supplier should be able to demonstrate appropriate procedures for production, delivery, and quality to ensure title companies can meet their legal and contractual obligations to lenders and servicers. This is best accomplished by state-of-the-art workflow technology able to manage custom operational demands and to insert micro-task based routines which reflect unique expectations of the end user. The ability to conduct forensic audits on orders, implement track-able corrective action programs or offer custom reporting should be established capabilities.

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

An enterprise-level title information provider should offer at least \$1 Million in Errors and Omission coverage ensuring the financial capacity to stand behind their professional services. Beyond base level E&O coverage, the most progressive title data providers may offer supplemental liability programs which run with the search product for extended terms providing a unique indemnity program. Often, this extra coverage is evidence of a much higher level of diligence and quality assurance.

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

Addressing client or end-consumer complaints must be viewed as a “gift” enabling the title information enterprise to constantly assess superior delivery options and provide corrective action steps for improving the integrity of the finished product. Tracking the frequency, type and origin of any service gaps helps to inform the organization of emerging weaknesses and focus resolution efforts efficiently.

Applying these broad ALTA Best Practices standards to each component and supplier in the default or origination process is a vital process to assessing the end-to-end risks that might otherwise go undetected when applied only to the prime supplier. Partnering with downstream title data and report suppliers who align their compliance and risk procedures with the client has become far more critical in the new regulatory environment. These CFPB and ALTA guidelines will only become more definitive and established over the next few years. Embracing and clearly documenting these concepts today will serve as true differentiators for enterprise-level providers in the future.

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