



ALTA BEST PRACTICES

Vendor Due Diligence from Lenders

ALTA HAS A SOLUTION FOR YOUR ORGANIZATION



“Wells Fargo supports ALTA’s Best Practices, and considers them to be guidelines for sound business practices that should ideally already be in place for businesses providing title and closing services for our customers.”

— Wells Fargo announced in its Settlement Agent Communications

Introduction

For many years, the lending community has been subject to statutory and regulatory obligations to protect their customers’ nonpublic, personal information. Recently the Consumer Financial Protection Bureau (CFPB) released Bulletin 2012-03, which restated and further emphasized the importance of those obligations, especially in the context of banks’ relationships with third-party vendors—such as those providing title insurance and settlement services to a lender’s clients. Since the CFPB has developed a reputation for levying huge fines against those who fail to comply with their rules, and has already started auditing mortgage lenders for third-party vendor risk-management compliance, lenders have responded by increasing their efforts to perform due diligence on title companies. The type of due diligence performed has been inconsistent within the industry, with some lenders asking vendors to complete questionnaires,

others requesting vendors to submit their policies and procedures, and still others conducting interviews and on-site visits.

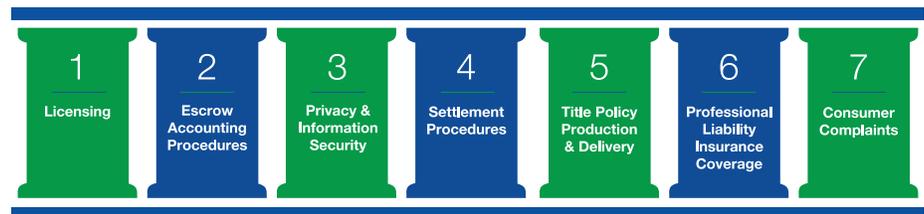
In response, the American Land Title Association (ALTA)—the title industry’s national trade association since 1907—stepped in to help its approximately 5,000 members (title insurance companies, title agents, independent abstracters, title searchers, and attorneys) and the title industry as a whole. ALTA’s solution was to establish a “best practices” framework to assist title companies with satisfying their responsibility to clients, underwriters, banks, and mortgage lenders. Beyond the establishment of these voluntary best practices, ALTA also has proposed that title companies obtain certification by an independent third party to demonstrate the title company’s compliance with ALTA Best Practices.

To assist title companies in their adoption of ALTA Best Practices Framework, PYA has prepared the following summary. This paper will provide information about ALTA’s designation of seven important areas of a title professional’s business practice, referred to as Best Practice “pillars”, and the procedures that must be followed in order for an organization to be in compliance with the Best Practices Framework. Also discussed will be the benefits of obtaining ALTA Best Practices certification, an outline of ALTA’s Certification Package, and the steps you can start taking now to work toward implementation and, if you choose, certification.

ALTA Best Practices Framework

The good news is that, while the development of the ALTA Best Practices Framework (ALTA Best Practices or Best Practices) is new to the industry, from an operational standpoint, many title insurance and settlement companies already have been applying similar

standards to satisfy their responsibility to underwriters. Best Practices initially requires an organization to prepare a written set of policies and procedures that address each of the seven pillars of Best Practices as outlined by ALTA:



1. Licensing

Establish and maintain current license(s) as required to conduct the business of title insurance and settlement services.

2. Escrow Accounting Procedures

Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.

3. Privacy and Information Security

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. Settlement Procedures

Adopt standard real estate settlement procedures and policies that ensure compliance with federal and state consumer financial laws as applicable.

5. Title Policy Production & Delivery

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

6. Professional Liability Insurance Coverage

Maintain appropriate professional liability insurance and fidelity coverage.

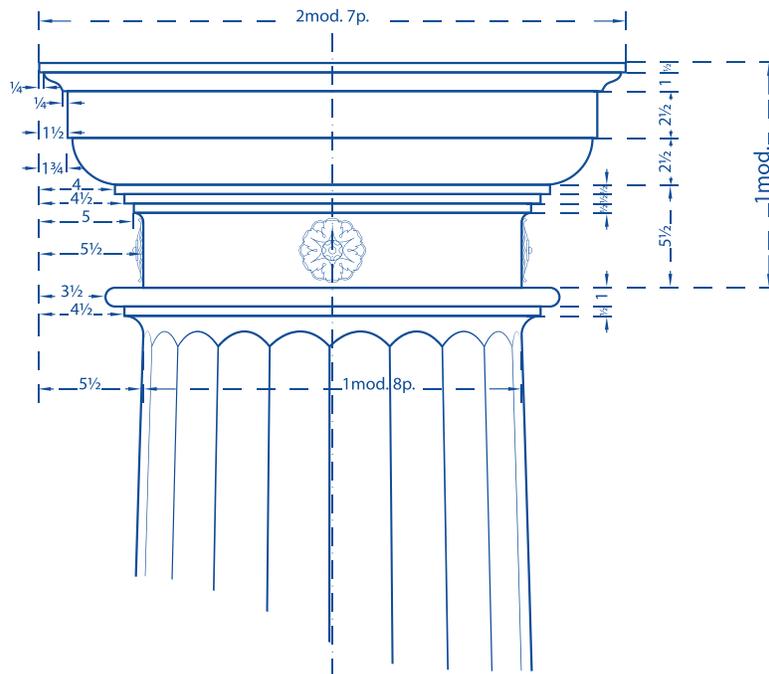
7. Consumer Complaints

Adopt and maintain procedures for resolving consumer complaints.

ALTA Best Practices Framework (cont.)

In helping title companies develop their own approach to Best Practices, PYA has observed that most organizations either fail to have sufficient written documentation within their policies and procedures that cover all seven pillars, or they do not maintain records of their compliance with these self-imposed requirements. Once an organization has developed, and is actually implementing, its policies and procedures in compliance with the Best Practices' framework, it can take advantage of the final step in ALTA Best Practices program, i.e., "Certification."

The certification process should be performed by an independent third party – someone whom the lender trusts and who has no conflict of interest that could bias his or her objective opinion of how an organization operates. Because of the relationship that exists between a title agent and its underwriter, most lenders do not accept assurances provided by a title insurance underwriter as being from a truly independent third party. On the other hand, CPA firms routinely provide independent financial and compliance assessments, on many different lines of business, and banks routinely accept their opinions.



The purpose of the certification is to provide lenders with objective evidence that the day-to-day operations of the organization have been reviewed independently and are found to be in compliance with ALTA Best Practices. This independent, third-party certification is intended to be a desirable benefit to the lending industry. Certification, from a trusted, independent third party, would allow the lender to avoid the necessity of conducting its own assessment of that organization, saving that lender's staff considerable time and effort. The following section describes the assessment procedures used to attain certification.

ALTA Best Practices Assessment Procedures

Although the CFPB and other government regulators are clear about the obligation of lenders to actively supervise all of their third-party service providers, neither the regulations nor issued guidance letters provide details about any standardized method for verifying an organization's compliance with handling the lender's activities. Therefore, the burden falls on mortgage lenders to ultimately determine what is deemed acceptable under a self-regulatory umbrella. Since the CFPB has made it clear that mortgage lenders have direct liability for all actions of the third parties they employ, it is critical that they seek a reasonable level of assurance that their service providers are compliant with all laws and regulations imposed on lenders. This "assurance of compliance" is what lenders have been seeking when they ask title companies to complete tedious vendor due-diligence processes. Unfortunately, this approach requires each lender to engage their internal staff in evaluating each of the responses provided by title agents who respond to the lender requests. This approach also subjects the title agent to the requirement to individually respond to multiple lender requests for "assurance of compliance."

As an alternative, ALTA has developed another approach designed to provide lenders with what they need, but at the same time, lessen the workload on both the lender and the title agent. ALTA's program provides title agents with straightforward guidance on what

steps they should be employing in their day-to-day operations. But to meet lender requirements, an integral part of the program involves a uniform set of standard assessment procedures, which are used by an independent third party engaged by the title company, to evaluate actual compliance with Best Practices by settlement servicing providers. The assessment procedures provide very detailed testing requirements for assessing compliance with each of the seven compliance areas, designated as "pillars."

While a portion of the assessment can be conducted remotely, in order to properly complete the assessment procedures, the third party must perform an on-site visit to physically review a sample of the title professional's files, verify physical security measures are in place, and conduct appropriate interviews with staff. This on-site verification of compliance with the title professional's written policies and procedures makes this program far superior to the lender's option of simply requesting a copy of the policies and procedures. At the completion of the testing, the third party may provide a "pass" or "fail" certificate to the title company based on the results of the assessment and determination of compliance. ALTA recommends that assessments be updated every two years.

Benefits to a Title Professional in Obtaining ALTA Best Practices Certification

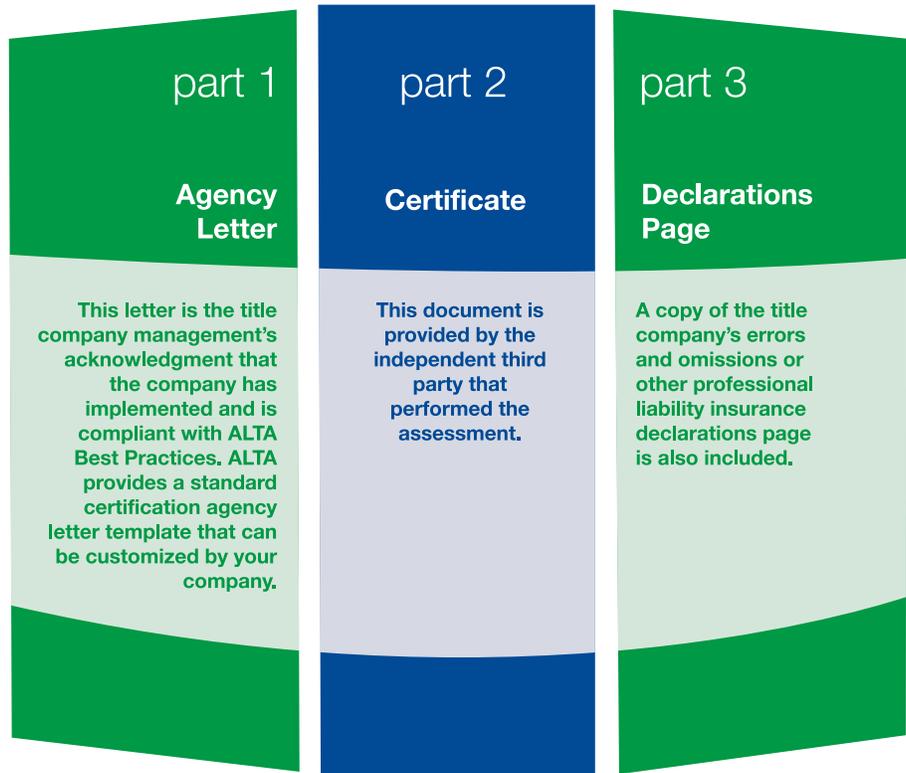
Lenders are becoming more focused on the risk they assume by conducting business with various title companies. This focus has the potential for increasing lenders' scrutiny of title companies, especially by those lenders who allow the closing professional to prepare loan disclosures. By obtaining a Best Practices Certification, a title company may recognize multiple benefits.

- Certification is performed by an independent third party. This approach provides a higher level of assurance to a lender in contrast to a self-assessment performed by the title company.
- By having this independent analysis of your company's operations, you can be assured that your procedures or processes do not have gaps that might have been overlooked in your internal self-assessment.
- By providing an ALTA Best Practices Certification Package to a lender, a title company may not be required to complete a vendor due-diligence process, thus saving time and expense associated with complying with the requirements of multiple lenders.
- Early adopters of Best Practices are using their certifications to market to lenders that they have demonstrated compliance with industry standards, according to an independent third party. This recognition has resulted, in some cases, in improved confidence by the lender in the title company's operations, and thus an increase in business for the title company.
- The certification provides a credible form of recognition that title companies can use to more effectively market to consumers who are concerned about the protection of their NPI.
- Possession of a Best Practices Certification, performed by a credible third party, distinguishes your company from your competitors who have not yet secured such validation. This may provide your company with an edge when title underwriters have to make difficult decisions about which underwriting relationships they wish to retain.
- An experienced independent third party can help you by identifying risks in other operational areas that are beyond the scope of the Best Practices Assessment.

By dealing with an independent third party that has active involvement in assessing many different title operations, you have access to their knowledge of processes and software solutions that you may not have discovered on your own.

ALTA Best Practices Certification Package

Title professionals can use ALTA's Certification Package to demonstrate to lenders they have obtained independent verification of compliance with Best Practices. The three-part package includes the following elements:



"There are a number of title and settlement services companies out there claiming to be 'certified' in ALTA's Best Practices, but a number of those certifications are either self-proclaimed or provided by third parties that lack the credentials of an established accounting firm. We chose PYA because they are one of the first qualified firms to offer a rigorous certification process and because of their experience working with settlement services companies, ALTA's Best Practices and CFPB regulations. Our mortgage lending clients have already provided an extremely favorable response to our work with PYA and the overall certification process."

— Angela Murin, President, Commonwealth USA Settlements, LLC

Next Steps for Your Organization

Implementing ALTA Best Practices requires an organizational commitment. Providing management resources and empowering those individuals to prepare and implement Best Practices policies and procedures must be a commitment from the executive leadership of your organization. The following provides a map outlining how an organization can follow a path to certification:

1. If you are confident you currently have a set of written policies and procedures that address all seven Best Practices pillars –and are capable of demonstrating that your day-to-day operations are in compliance with your written policies and procedures, skip to Step 5 below. Otherwise, you should first perform Steps 2-4.
2. Check your written policies and procedures to ensure they are up-to-date with your current operations and, at minimum, cover Best Practices. PYA provides an evaluation of your written policies and procedures free of charge for ALTA members.
3. Review the assessment procedures and perform a cursory review of your operations to verify that you maintain the documentation necessary to support adherence to Best Practices.
4. Engage a qualified third party that is experienced in the industry to perform a pre-assessment to determine if your company is ready to undergo the full assessment. This pre-assessment includes a review of the organization’s policies and procedures to determine if all Best Practice pillars are appropriately addressed. This step is not necessary, but it is helpful if you are not certain you are ready to pass an assessment.
5. Engage a qualified, industry-experienced third party to perform the assessment procedures in accordance with Best Practices in order to obtain a certificate of compliance. The ALTA assessment procedures require the third-party reviewer to conduct testing on-site. Factors that will determine the time frame and costs for conducting the assessment include the average number of transactions performed monthly by your firm, the number of locations you have in your organization, and whether you have a centralized or decentralized approach to operating your business

Why PYA is a Leading Provider for ALTA Best Practices Process Development, Evaluation, and Certification



For more information regarding how PYA is working with lending institutions to develop vendor risk-management processes that make sense for the banking and title industries, visit www.pyabestpractices.com or contact:

Matthew Rekers, CPA, CIA
mrekers@pyapc.com

Gene McCullough, Esq.
gmccullough@pyapc.com

Debra Gentry
dgentry@pyapc.com

Pete Pearson, MBA
ppearson@pyapc.com

Mike Shamblin, CPA
mshamblin@pyapc.com

All can be reached at (800) 270.9629.

"[PYA's] friendly and knowledgeable persistence led our small office in developing and applying procedures to accomplish our goal of implementing and receiving certification of ALTA Best Practices."

— Rick Beeson, co-founder Attorney, Brandt and Beeson, PC.

PYA assists title companies with the development of policies and procedures consistent with ALTA Best Practices, including evaluation of previously prepared policies and procedures for compliance with the seven pillars, as well as independent assessment of operational processes, written policies, and procedures for the purpose of certification.

PYA, a certified public accounting and consulting firm, has been accepted into ALTA's Elite Provider Program and is recognized as the first Elite Provider to offer ALTA Best Practices Certification. ALTA's Elite Provider Program provides settlement companies with a source for identifying reputable providers to deliver high-quality services. According to ALTA, the Elite Provider Program "is comprised of premier service providers committed to offering comprehensive benefits to the title insurance and settlement services industry...[promoting]thehighestindustry standards and [providing] effective solutions for ALTA members' critical needs." Acceptance into the program is

determined by several factors including, but not limited to, a commitment to the overall industry, national distribution capabilities, and reference checks with existing customers.

For more than three decades, PYA has been a trusted resource for our clients as we deliver comprehensive advisory, compliance, assurance, and tax services. PYA is also well-versed in the complex regulatory environment of the financial institutions industry. As such, we have a unique understanding of the issues surrounding third-party-vendor risk management.

As a public accounting firm, PYA is required to go through a peer review process to validate compliance with accounting industry standards and our policies and procedures related to quality assurance. Adherence to the accounting industry's rigorous standards and our responsiveness to our clients have resulted in our becoming a trusted business advisor for the title and banking industries.

