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ALTA Best Practices: Title and closing professionals take action to demonstrate adherence to highest business standards

June 20, 2013 - Spotlights

With the issuance of the Consumer Financial Protection Bureau's (CFPB) Service Providers Bulletin in April 2012, the Bureau made clear that it expects those it supervises, including all residential mortgage lenders, to "oversee their business relationships with service providers in a manner that ensures compliance with federal consumer financial laws." This bulletin was of immediate interest to NELTA members because closing and settlement agents/attorneys and title agents are covered by the definition of "service providers."

Not surprisingly, various members of the settlement/closing/title industry responded to the bulletin in a variety of ways that they felt would allow lenders to exhibit their compliance with the CFPB's directive. Lenders are considering how to manage their vendors under the CFPB bulletin as well as directives from the OCC and other upcoming banking regulations. In order to provide clarity and uniformity to lenders about the title industry, the American Land Title Association (ALTA) created best practices to help members highlight policies and procedures the industry exercises to protect lenders and consumers, while ensuring a positive and compliant real estate settlement experience.

By creating seven Best Practice pillars and a forthcoming assessment procedure and certification package, the Association has taken the lead in creating what ALTA chief executive officer, Michelle Korsmo, describes as a way to "assist lenders' as they work to set up their risk management and vendor management programs." The complete list of the seven Best Practice pillars and helpful tools for implementation (no matter company size) can be found at www.alta.org/bestpractices.

The ALTA Best Practices include guidance on the following topics: licensing, escrow/trust fund accounts, protection of non-public personal information, compliance with state and federal laws, title policy remittance, maintenance of appropriate insurance and having a consumer complaint policy.

ALTA has been very active in reaching out to state Land Title Associations to keep them abreast of the work that is going on. NELTA was one of the first to participate with a webinar on February 6th that was free to all NELTA members.

Additionally, ALTA is aware that lenders must support the Best Practices for the standards to have the intended positive effect for the industry and consumers. To that end, there have been a number of meetings, both formal and informal, with different lender groups. Most recently, ALTA hosted a roundtable discussion with members of the Mortgage Bankers Association where Korsmo reports the lenders acknowledged that they were "overall, happy with the breadth and scope of the Best Practices" and the issues of assessment and certification were also discussed.

Finally, we remained concerned with the process of independent certification for the Best Practices. ALTA will soon announce an assessment program that allows for an independent evaluation of the settlement/closing agent or attorney and title agent to be measured against concrete benchmarks to

ensure that the assessment provides lenders with what Korsmo describes as "consistent results and sufficient detail so that they can trust the content of a certification and apply it appropriately. in their risk management."

The work ALTA has done is expected to become the industry standard for those lenders who are seeking oversight of settlement service providers. The Association has every title insurance underwriter involved in this initiative, and they are reaching out to numerous members for their assistance as well. NELTA will continue to provide updates on the ALTA Best Practices as well as any additional information from ALTA to its members throughout the summer as the Best Practices assessment and certification program are finalized and published for use.

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