



October 20, 2021

The Honorable Rohit Chopra  
Director  
Consumer Financial Protection Bureau (CFPB)  
1700 G St. NW  
Washington, DC 20552

Dear Director Chopra:

Congratulations on your confirmation as Director of the Consumer Financial Protection Bureau. As you know, title and settlement professionals serve as third-party settlement agents in real estate and mortgage transactions assisting buyers, sellers, and lenders. In this role, we help consumers understand the biggest financial transaction of their lives. This gives us a unique insight into the types of questions and concerns Americans have when buying a home. The American Land Title Association<sup>1</sup> and its members look forward to working with you to protect consumers and competition through thoughtful rulemaking and fair, reasonable, and understandable enforcement of consumer protection laws.

As you start to lay out your agenda for the Bureau, we would like to work with you and your team to ensure consumers have understandable and timely information to protect themselves in financial transactions. From helping consumers learn how to prevent real estate wire transfer fraud, to ensuring they are not misled about the costs of their transactions, the Bureau can lead the way on developing good disclosures and education materials. In this vein, we look forward to discussing how the CFPB can update its TILA-RESPA Integrated Disclosures (TRID) rule to allow title companies to provide consumers with the most accurate cost for title insurance.

Ensuring consumers are aware of, and educated on, remote online notarization (RON) is important to increase access to digital transactions. We continue to dedicate extensive time and resources to advocate for RON and help our members utilize this modernized service to mitigate in-person challenges from the COVID-19 pandemic and excel in a more technology-dependent future. ALTA strongly supports the Securing and Enabling Commerce Using Remote and Electronic Notarization Act (SECURE Notarization Act), which would permit the nationwide

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<sup>1</sup> Founded in 1907, ALTA is the national trade association representing nearly 6,400 title insurance companies, title and settlement agents, independent abstracters, title searchers, and real estate attorneys. The title insurance industry employs over 120,000 professionals across the country, located in every county nationwide. This includes thousands of extremely small, family-owned businesses, which employ three workers each, on average.

use of RON, create minimum standards for its use, and provide certainty for interstate recognition of this tool. ALTA also appreciates the recent communications by the department to build consumer awareness of RON.

### **About the Title & Settlement Industry**

Title professionals protect property rights.

Protecting property rights starts by examining public records discovered in a title search. Using our professional expertise, title professionals read through deeds, mortgages, tax liens, easements, and other documents to determine what property rights the seller is able to provide the buyer. We then back our work up through a policy of title insurance, which provides that we will go to court or pay a claim if someone challenges the buyer's ownership. Along with providing title insurance, ALTA members prepare and process the closing of the real estate transaction as settlement agents. Title insurance and real estate settlement professionals provide the peace of mind and confidence that every property owner deserves.

There are two primary types of title insurance policies that are issued, an owner's policy, which insures the buyer against property loss due to a title defect, and a loan policy, which insures the priority (and security) of the lender's mortgage lien. Common risks covered by title insurance are: (1) fraud or forgery in the execution of documents in the chain of title; (2) mistakes in wills, divorce decrees, bankruptcy court directives, and other legal documents; (3) the existence of undisclosed heirs who did not consent to a prior transfer; (4) documents executed under an expired power of attorney; and (5) mistakes in public records. The title policy is issued for a one-time fee, paid at the closing (with no renewal premiums), with coverage lasting as long as the consumer still owns the home or the lender's mortgage remains outstanding.

### **The Pandemic and Housing**

The COVID-19 pandemic has impacted all of us – from devastating loss of life to damage that has drastically undermined people's economic circumstances. As an "essential" industry, title and settlement companies worked to help American families reduce their mortgage costs by thousands of dollars through refinancing. We did this as we transformed our operations to safely serve consumers through practices like sterilized closing rooms, drive-up or curbside signings and digital closing options.

The pandemic accelerated the digital revolution in the real estate industry. According to ALTA research, title companies that offered digital closing options spiked 228% in the last two years with roughly 46% of companies offering the option. Just over five percent of transactions were closed with some variation of RON. Meanwhile 85% of closings occurred entirely on paper. Given the limited volume of lenders prepared to do RON, the main usage was for sellers' transactions (40%) or cash deals (23%). Using RON helped decrease closing times as consumers could sign documents ahead of time.<sup>2</sup>

Along with leading the way on digital innovation, title professionals across the U.S. continued to step up during the pandemic to help their neighbors, customers, and local communities. From volunteering at local food banks and shelters, to investing their time and talent, these professionals also aimed to help financially. To bolster those efforts, we created the ALTA

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<sup>2</sup> Glaze, T. (2021, July 8). *Digital closings have Spiked 228% Since 2019*. HousingWire. <https://www.housingwire.com/articles/digital-closings-have-spiked-228-since-2019/>.

Good Deeds Foundation, which provides charitable grants to nonprofit organizations supported by ALTA members in their local communities. We are proud that ALTA has now raised over \$700,000 and are eager to build on this effort. To date, we have awarded \$273,000 to 46 nonprofit organizations that our members support.

### **TILA-RESPA Integrated Disclosures Rule (TRID)**

As mentioned, ALTA believes the single most important thing the CFPB can do to help consumers better understand their mortgage transaction is to allow title companies to accurately disclose the cost of title insurance on the Closing Disclosure.

Homebuyers deserve to know the true and accurate cost of buying a home. With respect to title insurance costs, TRID fails to meet this obligation. For the overwhelming majority of real estate transactions, the rule requires a complicated formula that discloses to consumers an inaccurate price for title insurance.

We have worked with all of your predecessors on this issue and were disappointed that the previous administration did not test the impact of the current rule's misleading requirements on consumers when it did its assessment of the TRID rule last year. Our research showed that nearly twice as many consumers were confused by TRID's title premium disclosure formulation and requirements than found the rule to be helpful. The TRID rule cannot be deemed a success until it allows consumers to receive full and accurate information about all their mortgage and closings costs. To view ALTA's comment on the Request for Information (RFI) about the Consumer Financial Protection Bureau's plan for assessing the TRID rule, click [here](#).

### **Protecting Consumers From Wire Transfer Fraud**

Wire transfer fraud or "mortgage closings scams" are the number one threat to homebuyers each year and it is, unfortunately, on the rise. Criminals target Americans by convincing them to send their down payment to the wrong account when buying a home. This crime is even more devastating because it hits consumers at a time when they should be the most excited during the homebuying process.

In 2020, the FBI's Internet Crime Complaint Center (IC3) issued its Internet Crime Report - which showed 13,648 victims reported losing \$213 million through real estate wire fraud in 2020.<sup>3</sup> According to a recent ALTA survey, 1/3 of all closings were targeted by these criminals in 2020. Despite these efforts by fraudsters, training and education seem to be working, as funds were only wired to a fraudulent account in a little over 8% of these attempts.<sup>4</sup>

ALTA members work hard every day to prevent these devastating situations from happening, and ALTA continues to lead the charge in educating both homebuyers and policymakers about the dangers of real estate fraud. Settlement agents work with homebuyers from day one and educate them about the closing process and the risk of wire fraud. They inform consumers on what to look out for when communicating by email and what steps to take if they suspect they are being scammed. ALTA members also constantly retrain employees on the latest schemes

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<sup>3</sup> Federal Bureau of Investigation Internet Crime Complaint Center. *Internet Crime Report 2020*. [https://www.ic3.gov/Media/PDF/AnnualReport/2020\\_IC3Report.pdf](https://www.ic3.gov/Media/PDF/AnnualReport/2020_IC3Report.pdf).

<sup>4</sup> Survey: *Title professionals targeted for wire fraud in a third of all transactions*. ALTA Blog. (2021, April 20). <https://blog.alt.org/2021/04/survey-title-professionals-targeted-for-wire-fraud-in-a-third-of-all-transactions.html>.

and how to implement advanced technologies, including firewalls, phishing detection, and anti-malware software to protect homebuyers during the closing process.

We will continue to drive awareness of this type of fraud among our members and homebuyers, but we need more help. ALTA encourages the CFPB to build on the warning it put out on wire fraud in 2019 and convene all the stakeholders inside and outside of government to develop a coordinated consumer awareness campaign.

### **Importance of Effective, Balanced Regulation**

Effective and balanced oversight is important for our industry. ALTA has long focused on improvements to the CFPB to enhance how the agency operates and regulates the real estate settlement process. We support robust efforts by the CFPB to give the industry an opportunity to comment on policy statements, guidance, and bulletins, and seek advisory opinions to provide more specific guidance so businesses can meet Bureau expectations in their daily business practices. Additionally, ALTA believes a Small Business Advisory Board, similar to other advisory boards created for community banks and credit unions, would help foster a relationship with regulated entities with whom the Bureau may not engage directly as often, including many of our members.

### **Support for Consumer Privacy**

As ALTA members continue to innovate and utilize new technology and data to improve the customer experience, we need opportunities to collaborate with regulators about the intersection of these new technologies and existing regulations. The CFPB should look at what other regulators are doing with office hours, hackathons, and symposia to host conversations with industry about how technology implicates the current patchwork of state and federal data privacy and security laws, along with other consumer laws. To view ALTA's comment letter on the CFPB's Request for Information to assist the Taskforce on Federal Consumer Financial Law, click [here](#). To view ALTA's comment letter on the development of regulations to implement Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, click [here](#).

Again, we look forward to working with the agency on issues that affect mortgage finance and the broader real estate industry. ALTA welcomes the opportunity to develop thoughtful policy solutions that provide even more housing opportunities for all Americans, while ensuring the property rights of every consumer remains protected.

We look forward to discussing these matters in greater detail with you and your team as you get settled in your new role. In the meantime, should you have further questions, please feel free to reach out to Steve Gottheim, General Counsel, at [sgottheim@alta.org](mailto:sgottheim@alta.org), or Chris Morton, SVP of Public Affairs, at [cmorton@alta.org](mailto:cmorton@alta.org).

Sincerely,



Diane Tomb  
Chief Executive Officer