Best Practices:
How to Document Your Escrow Trust Account Policies

American Land Title Association

Best Practices: Escrow Trust Accounts

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Speakers:

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Best Practices: Escrow Trust 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 ensure accuracy and minimize the exposure to loss of client funds. Settlement companies may engage outside contractors to conduct segregation of trust accounting duties.

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Best Practices: Escrow Trust Accounts

- **The New Normal**
  - **Tighter Controls**
  - **Lender Concerns**
    - Dodd-Frank implications
    - CPLs/ICLs
    - Loss of funds
  - **Transparency of financial transaction**

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- **Documenting Your Procedures and Controls**
  - **Create a checklist for controls**
    - Provide frequency for review in order to audit published controls (quarterly, monthly, when new software is acquired)
    - Successful internal audit signed and dated by management
    - If unsuccessful make adjustments until audit is successful
    - All documents imaged into **Controls and Procedures File**

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Best Practices: Escrow Trust Accounts

- **Create a written document for procedures**
  - On company letterhead with date of creation
  - Outline each procedure when dealing with or handling consumer funds
  - Create a signature line for employee's signature and acknowledgement
  - Image signed document into company **Controls and Procedures File and employee file**

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- **Controls**
  - Verify operating account and trust account(s) are separate
    - Include account numbers and type for each bank account on checklist
    - Provide information for control of interest bearing accounts FBO the consumer
    - Image into **Controls and Procedures File** for external audit
  - Verify trust/escrow accounts are identified as such on each bank statement, deposit ticket, check
    - Image into **Controls and Procedures File** for external audit

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- Verify escrow trust accounts are in a Federally Insured Financial Institution (Unless directed by the beneficial owner)
  - http://www2.fdic.gov/IDASP/main.asp
  - Coverage for accounts held at credit unions
    - » http://researchcu.ncua.gov/Views/FindCreditUnions.aspx
  - Print/email and image into **Controls and Procedures File**

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Best Practices: Escrow Trust Accounts

- Contact your bank
  - sign up for Positive Pay, electronic banking, set up blocks for ACH and International Wires
    - » Document conversation and image all written correspondence and authorizations into **Controls and Procedures File**
    - » Provide your institution with names of authorized personnel to initiate or approve all banking transactions
    - » Determine number of approvals and approval level required to initiate an outgoing wire
    - » Include this list in your electronic **Controls and Procedures File**
    - » Include in **employee file** and flag for removal upon termination

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- Any employee named as an authorized approver cannot prepare the reconciliation
- Background and Credit Checks for any employee with access to consumer funds
  - Conduct initial checks at time of hiring
  - Conduct checks every 3 years
  - Image results into protected employee file

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- **Procedures**
  - **Reconciliation of Escrow Trust Accounts**
    - Reconciliation cannot be performed by approver of bank transactions
    - **At Least** on a monthly basis perform a 3-way reconciliation
      - » Trial Balance (open escrow balances), Book, Bank
    - Daily: reconcile transactions
    - Approval of reconciliation by management
      - » Determine approval levels and frequency
      - » Provide approval document
      - » Approval cannot be performed by employee reconciling the accounts

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- Create complete reconciliation in electronic format for your records, underwriter or audit
  - » Complete reconciliation
  - » Daily 2-way/Daily and monthly 3-way
  - » Reconciliation Exception Summary with explanation
  - » Outstanding checklist
  - » Deposit in transit
  - » Bank Statement(s)
  - » Transaction Reports
  - » Trial Balance
  - » Approval document

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- Outstanding file balances and uncashed checks
  - » Segregation of duties - Unclaimed property process should not be performed by employee with disbursement rights
  - » Document explanation for each outstanding balance (over 180 days)
  - » Prepare, send, and image due diligence letter(s) for uncashed checks
  - » Document status of uncashed checks
  - » Track uncashed checks and outstanding balances for escheat
  - » Escheat process documented using state guidelines for compliance

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- **Training**
  - Prepare training documents for each process and schedule frequency of training
    - Creating receipts, disbursements, wires
    - Handling of check stock
    - Authorizing wires and approving bank transactions
    - Making deposits to the bank
    - Reconciling to the trial balance
    - Approving reconciliation and red flags
    - Preparing audit package
    - Document all training: who, what, when, where

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Questions?

Best Practices: Escrow Trust Accounts

- **Resources**
  - Contact info
    - Pam Sember, 714-250-1407, psember@firstam.com
    - Dick Reass, 757-333-3777, dick.reass@rynoh.com
  - www.alta.org/bestpractices
  - Webinar recording: www.alta.org/titletopics
- **Next webinar**
  - Privacy and information security program to protect non-public personal information
  - 2 p.m. ET, Thursday, March 7

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