

Session: “The New Escrow Norm”

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OUTLINE

- I. **Introduction** 5 min 3:45-3:50pm
 - Dodd Frank (Transparency of Financial Transactions)
 - Lender/ Consumer Confidence
 - Regulatory Reassurance

- II. **The meaning of ALTA Escrow Best Practices** 35 min 3:50-4:25pm
(How Do You Measure Up?)
 - a. Written Policies & Procedures (What it should cover)
 - i. Accounts Properly Designated
 - ii. Authorized Signers Trained and Designated: Signature Card Copies
 - 1. Copies of Bank Wire and Deposit Agreements
 - iii. Online Banking Access
 - iv. Pre Closing:
 - 1. File Balance Sheet at Closing Table...
 - 2. Compare to Closing Instructions and Approved HUD from Lender
 - 3. Funds Received and on Deposit (Wire Notification)
 - 4. HUD matches Balance Sheet
 - 5. Acceptable Funds for Closing
 - a. (Differentiation Good Funds Collected Funds)
 - b. How Large a Personal Check is acceptable
 - c. Cashier's Checks / Certified Checks?
 - v. Post-Closing Verification:
 - 1. Funds on deposit and available
 - 2. Ledger Card-Matches: HUD and File Balance Sheet (Each initialed)
 - vi. Check Signing (Verify against LC-HUD-FBS)
 - 1. Single or dual signature (Dual Does not prevent fraud---only errors)
 - 2. If check is reissued: New Ledger Card (and HUD signed?) before signing check (New Ledger Card and check copy in file)
 - vii. Online Banking Wire Policy
 - 1. Separate Dedicated computer not connected to the network
 - 2. Dual Controls
 - 3. Cyber Fraud Protection specifically designed for Banking (Not Tokens only)
 - viii. Stop Payment Policies
 - ix. **Deposits in Transit**
 - 1. **Each is a RESPA violation.**
 - 2. Funds must be replaced immediately...3-5 days is not acceptable
 - 3. Policies Must Address
 - x. Settlement Software Controls
 - 1. Authorization divided (Open File-Print Checks-Delete or Void Checks-Change Issued Check Details-Reconcile Files-Delete Files-Freeze File after Disbursement)
 - 2. Must use industry standard software with above controls
 - 3. Separate Logon
 - xi. Managing Unclaimed Property
 - 1. Follow-up on uncashed checks (Time lines vary)
 - 2. Undispersed Funds (Follow-up)
 - 3. Escrow Agreements (Reviewed and approved by Underwriter)
 - a. How Much/How Long/ What Purpose
 - b. Interplead...
 - 4. Escheatment Plan
 - 5. Document Held Funds/ File Balances

6. Follow-up Letters for uncashed checks, and held funds (Template?)

- b. The Change Imperative–
 - i. How accounts were managed
 - ii. Statistics on Defalcation, Fraud, Disbursing Losses (Loss leader)
 - iii. Underwriter Concerns
 - iv. Agent Concerns
 - v. Regulatory Concerns

III. Electronic Verification—What it is and is Not **5 min 4:25-4:30pm**

IV. The New Normal **5 min 4:30-4:35pm**

- a. Tighter Controls
- b. The Underwriter's Perspective / Role (Secondary?)
- c. Lender's Role in light of CFPB 2012-03 and OCC 2013-29
 - i. Dictate Standards
 - ii. Loss tolerance (intolerance)
 - iii. What should they expect/ accept!
 - iv. Direct operations v. Agents
 - v. Control of Funds
 - vi. Future of Small and Independent Agents

V. Internal Controls (How do you measure up today?) **10 min 4:35-4:45pm**

- i. Banking Essentials
 - 1. Positive Pay (payee vs non-payee match)
 - a. PP at the teller line
 - b. PP submission
 - 2. Remote Deposit Capture
 - a. **Collected Funds (Good Funds are not always Good!)**
 - i. Lengthy discussion
 - ii. Collected vs. Available funds
 - iii. Certified Checks – what are they
 - b. Time cut-off & impact on recordation
 - 3. On-line wiring and safeguards
 - a. Dual authentication
 - b. RSA Tokens
 - c. **Best Practices**
 - d. **Zeus Botnet (CYBER FRAUD CONCERNS)**
 - e. ZBA's
 - 4. Wires vice Certified Checks
 - a. GFE (an unexpected benefit)
 - 5. Check management / precautions
 - 6. Information and IT Security
- ii. Disbursing Procedures
 - 1. Stale Dated checks
 - 2. Retained funds
 - 3. Balanced files
 - a. Disbursement Verification
- iii. Title Software (SoftPro/ AIM/ TSS/ SMS, etal)
 - 1. Ability to Lock files after disbursement
 - 2. Secure receipt and disbursing capability
 - 3. Ability to print checks on blank check stock
 - 4. Admin / User rights

VI. PARADIGM SHIFT: Daily Account Reconciliation and Positive Pay **10 min 4:45-4:55pm**

- a. Advantages to Title Industry
- b. "Change will only occur when it cannot be avoided" –RMR

VII. CONCLUSION **5 min 4:55-4:50pm**