May 2011

TitleNews

Official Publication of the
American Land Title Association

GSE Reform:

A Moving Target With Short-Term and Long-Term Impact on the Title Insurance Industry

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Reforming the Mortgage Market One Battle, Predicting Human Behavior Another

There's no doubt the future landscape of the mortgage market is unclear. Reform of the GSEs has captured Congress' attention. We continue adjusting to new rules dictated by the Dodd-Frank mortgage reform bill, including the eventual definition of what loans qualify as a Qualified Residential Mortgage and the anticipated July 1 startup date for the Consumer Financial Protection Bureau.

But there's a separate wrinkle playing a significant role: human behavior. How the economy recovers will be greatly dependent on consumer decisions. Two recent surveys provide conflicting results about consumer attitudes toward paying their bills.

According to the fifth annual Financial Literacy Survey released by the National Foundation for Credit Counseling, 34 percent of homeowners find defaulting on their mortgage an acceptable option. This is up from 30 percent in last year's survey. Although many Americans had tightened their belts during the recession, 26 percent are now spending more than they did last year and shedding some of their cautious spending habits. A third of the 1,010 adults who took the NFCC's survey said they have no rainy-day savings. As an official for the NFCC said, many people are one flat tire away from financial disaster.

However, on the other end of what I might call "the financial responsibility spectrum," another survey shows a more responsible consumer attitude toward paying bills. While some homeowners are walking away from homes because values are below what's owed, a survey by *FindLaw.com* shows 60 percent of Americans say it is "never OK" for home owners to stop making payments on their mortgage. Only 3 percent of the 1,000 American adults surveyed said homeowners should be able to walk away from their mortgage anytime they want.

As Congress and the president square off in yet another budget battle over lifting the country's debt ceiling, I can't help but think that all of these issues are related. Which means we will either take responsibility for our finances – both personal and national – and prosper, or we will watch prosperity slip through our fingers, and with it our future.

– Kurt Pfotenhauer

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ALTA Urges Continued Support of International Real Property Foundation

ALTA sent a letter to the U.S. Agency for International Development urging for continued support of the International Real Property Foundation (IRPF) so it can continue its efforts to develop international real estate markets.

ALTA partnered with IRPF in 2006 because it supports its mission to create free, efficient, transparent and equitable real estate markets anchored to private property rights; to develop civil society by establishing an ethical and trained real estate profession committed to protection of the public and organized into representative real property associations; and to promote real property ownership as a key element of strong democracies and poverty alleviation.

ALTA Adds to Advocacy Team

ALTA announced that Nick Hacker has joined the association as manager, state government affairs.

Hacker will be responsible for enhancing advocacy of the title insurance industry at the state level by strengthening ALTA's partnership with state land title associations.

Before joining ALTA, Hacker served in the North Dakota State Senate and worked for a commercial real estate development firm as the business development manager and licensed Realtor.

"My background as a legislator and past experience in real estate provide great insight to how legislative and regulatory changes impact the industry," Hacker said. "With market volatility continuing, improved communication among industry partners is imperative as we strive to educate interested stakeholders on the value of title insurance."

Flood Insurance Bill Expected to Move Forward

A revised bill that would extend the National Flood Insurance Program (NFIP) program for five years was finalized by the Financial Services Subcommittee on Insurance, Housing and Community Opportunity.

Introduced by Rep. Judy Biggert (R-Ill.), chair of the subcommittee, HR 1309 would reauthorize the NFIP through Sept. 30, 2016, and attempt to reform the program's finances by moving rates toward actual costs, reducing the burden on taxpayers and increasing private sector participation in the flood insurance market. The NFIP is more than $17.75 billion in debt.

ALTA sent a letter April 4 to Biggert supporting the legislation.

"ALTA believes that a long-term, sustainable fix for the National Flood Insurance Program is necessary to protect taxpayers and ensure that buyers and sellers do not face the uncertainty and delays that accompany a lapse in the National Flood Insurance Program," ALTA said in its letter. "Last year's disruptions cost consumers and businesses valuable time, money and unnecessarily hindered our already fragile housing recovery."

The measure is cosponsored by subcommittee members Maxine Waters (D-Calif.), Scott Garrett (R-N.J.), Robert Dold (R-Ill.), Shelley Moore Capito (R–W.Va.) and Steve Stivers (R-Ohio).

Five and a half million taxpayers depend on the NFIP as their main source of protection against flooding. The program has been extended five times, with several lapses, since the original reauthorization of the current program that ended Sept. 30, 2008. More than 1,350 closings per day were affected by the lapses in the NFIP last year, according to the FEMA and the National Association of Realtors (NAR). Without flood insurance, no federally-related mortgage loans may be made in nearly 20,000 communities nationwide.

New FTC Rules Requiring Short Sale Disclosures has Limited Impact on Title Industry

The Federal Trade Commission (FTC) recently issued new rules that may impact real estate practitioners representing clients involved in short sale transactions. Depending on certain factors, the Mortgage Assistance Relief Services (MARS) rules could require disclosures to consumers when negotiating a short sale with a lender or advertising short sales experience.

The FTC issued the MARS Rule to protect distressed homeowners from mortgage relief scams that have sprung up during the mortgage crisis. These services are defined as offering a service or product that expressly or implicitly implies that the provider is helping the borrower stop, prevent or postpone a foreclosure or negotiate a short sale, deed in lieu or modification.

The most significant consumer protection under the FTC's new rule is the advance fee ban. Under this provision, mortgage relief companies may not collect any fees until they have provided consumers with a written offer from their lender or servicer that the consumer decides is acceptable and a written document from the lender or servicer describing the key changes to the mortgage that would result if the consumer accepts the offer. The companies also must remind consumers of their right to reject the offer without any charge.

ALTA's understanding is that this may affect a few members that offer short sale services, but the association believes this is limited.

"Under the plain meaning of this definition, the crux of the rule appears to be whether one is offering professional services to help a borrower obtain mortgage assistance," said Steve Gottheim, ALTA's legislative and regulatory counsel. "It would appear that providing title related services in conjunction with a short sale, deed in lieu, modification or foreclosure would not fall within the scope of the rule. However, if the agent or attorney agent is also offering their professional services to help a borrower obtain or negotiate mortgage assistance, they will have to comply with the rule's requirements."

Attorneys are generally exempt from the rule if they meet three conditions:

- they are engaged in the practice of law;
- they are licensed in the state where the consumer or the dwelling is located; and
- they are complying with state laws and regulations governing attorney conduct related to the rule.

To be exempt from the advance fee ban, attorneys must meet a fourth requirement – they must place any fees they collect in a client trust account and abide by state laws and regulations covering such accounts.

The rule requires mortgage relief companies to disclose key information to consumers to protect them from being misled and to help them make better informed purchasing decisions. In their advertising and in communications directed at individual consumers (such as telemarketing calls), the companies must disclose that:

- they are not associated with the government, and their services have not been approved by the government or the consumer's lender;
- the lender may not agree to change the consumer's loan; and
- if companies tell consumers to stop paying their mortgage, they must also tell them that they could lose their home and damage their credit rating.

Companies also must explain in their communications to consumers that they can stop doing business with the company at any time, can accept or reject any offer the company obtains from the lender or servicer, and, if they reject the offer, they don't have to pay the company's fee. The companies also must disclose the amount of the fee.

All provisions of the rule became effective Jan. 31, 2011.

FHFA Extends Home Affordable Refinance Program

The Federal Housing Finance Agency (FHFA) announced an additional extension of the Home Affordable Refinance Program (HARP), a refinancing program administered by Fannie Mae and Freddie Mac (GSEs). The program now expires June 30, 2012. It was set to expire this June.

The following adjustments also have been adopted:

- Freddie Mac will exempt HARP loans from their recently announced price-adjustments; and
- Fannie Mae will conform their eligibility date to May 2009 (currently, to be eligible the existing mortgage loan being refinanced had to be purchased by Fannie Mae prior to March 1, 2009 or be in an MBS pool with an issue date prior to March 1, 2009).

The changes will be reflected in an upcoming update of the Fannie Mae Selling Guide. Edits to Desktop Underwriter were expected in April. The program expands access to refinancing for qualified individuals and families whose homes have lost value.

President Signs Bill Repealing 1099 Reporting Requirements

President Obama signed legislation endorsed by ALTA and many other associations to repeal the 1099 reporting requirements in the health care reform act.

Section 9006 of the health care legislation would have required any taxpayer with business income to issue 1099 forms to all vendors from whom they purchased more than $600 of goods and services that year. Starting in 2012, these entities would have been required to keep track of all non-credit card purchases made from a business, by the business tax ID number.

Payments made by title companies at closing were never subject to the 1099 requirement. However, payments by title companies for goods like new office supplies, professional services and other operating costs would have been subject to the requirements.

ALTA Warns QRM Proposal Fails to Promote Sound Lending Practices

The federal government's attempt to promote high quality mortgage loans through its "qualified residential mortgages" will erode collateral underwriting standards and drastically affect access to affordable loans for creditworthy Americans, according to ALTA.

The Department of Housing and Urban Development, Federal Deposit Insurance Corp., Federal Housing Finance Agency, Federal Reserve, Office of the Comptroller of the Currency and the U.S. Securities and Exchange Commission, are putting the final touches on new risk retention regulation required under the 2010 financial regulatory reform law, the Dodd-Frank Wall Street Reform and Consumer Protection Act. The law requires the establishment of rules for lenders that securitize mortgage loans to retain 5 percent of the credit risk for loans sold to the secondary market unless the mortgage is a qualified residential mortgage (QRM).

The justification of qualified residential mortgages is to generate a finance structure that encourages responsible lending and borrowing. However, ALTA believes that the proposed regulation misses the mark because it does not require lenders to undertake common-sense underwriting steps to identify and establish who possesses the legal right to the property.

"Underwriting the real property that will serve as collateral for the mortgage loan is one of the most fundamental parts of the underwriting process and can be achieved by utilizing a title search backed by a title insurance policy to investigate, identify and analyze the state of title to the collateral, thus reducing risk of loss for investors," said Kurt Pfotenhauer, ALTA's chief executive officer. "We can't allow the integrity of collateral to be conceded by a race to the bottom. Instead of trying to pick winners and losers in the future mortgage market, we should work to identify and support the underwriting and product features that result in a lower risk of default and loss."

The QRM proposal is under a 60-day public comment period before the agencies make a final decision.

GSE Reform:
A Moving Target With Short-Term and Long-Term Impact on the Title Insurance Industry

While we are only in the beginning phase of GSE reform, companies may need to alter their business models in order to remain competitive.

The collapse of the housing bubble at the end of 2006 and eventual placement of mortgage giants Fannie Mae and Freddie Mac (GSEs) into federal conservatorship two years later focused the national spotlight on the role of the federal government in the housing finance system.

While months of hearings, legislation and rule-making will determine the final destinies of Fannie Mae and Freddie Mac, with the drama likely playing out over a period of months or years, changes are already being discussed within Congress and by the GSEs' regulator that will have near-term impacts on the industry. These near-term changes, combined with the unfolding of tens or hundreds of others, will not only change the secondary markets, but ultimately how business is done. >>

By Jeremy Yohe

As the housing finance system is reformed and restructured, including reducing the role of government in the mortgage market, it remains important to ensure that private property rights and the integrity of real estate transactions continue to be protected.

"Absent reasonable standards to underwrite legal title to the collateral used to secure mortgage loans, mortgage lending will become riskier and the quality of the information that is contained in documents that identify legal title to real estate will erode," said Kurt Pfotenhauer, chief executive officer of ALTA.

Passage of the Dodd–Frank Wall Street Reform and Consumer Protection Act last year put the ball in motion to reform the GSEs, requiring Treasury to conduct a study and make recommendations on ending the conservatorship of Fannie Mae and Freddie Mac.

The Fed Steps up to the Plate

In February, the Obama Administration published its plan to Fannie Mae and Freddie Mac. The administration's primary goals are to pave the way for private capital, address fundamental flaws in the mortgage market and more effectively place government support for affordable housing.

The plan offers three options for the GSEs. The first is a privatized system of housing finance with the government insurance role limited to FHA, USDA and Department of Veterans' Affairs' assistance for narrowly targeted groups of borrowers. Supporters of this approach believe it minimizes distortions in capital allocations across sectors and reduces risk because the lack of a government guarantee will discourage excessive risk-taking by investors. However, it is widely acknowledged that this option will result in an acute increase in the cost of mortgage credit for those not qualifying for an FHA loan; fewer Americans could afford the traditional 30-year fixed-rate mortgage and smaller lenders and community banks would have a harder time competing for business outside the FHA.

The second option creates a privatized system of housing finance with assistance from FHA, USDA and Department of Veterans' Affairs for narrowly targeted groups of borrowers and a guarantee mechanism to scale up during times of crisis. Supporters of this option say it gives the government the ability to soften a contraction of credit during a crisis without taking on all costs associated with a broad government guarantee at all times, and that the private market would bear most of the risk, not taxpayers. However, there's uncertainty of how well the government backstop during a crisis would work and access to credit, especially the 30-year fixed-rate mortgage, would likely be more expensive.

The government's third option provides for a privatized system of housing finance with FHA, USDA and Department of Veterans' Affairs assistance for low and moderate income borrowers and catastrophic reinsurance behind significant private capital. This scenario would provide the most effective scenario for the government to step in during a crisis and provides the lowest cost of access to mortgage credit among the three options. Also, reinsurance will likely attract a larger pool of investors to the mortgage market, increasing liquidity, while it would provide increased availability of the 30-year mortgage. On the other hand, this option could draw away capital from more productive sectors of the economy and artificially inflate the value of housing assets. It also exposes government to risk and moral hazard, and taxpayers again could bear the cost.

Keefe, Bruyette & Woods released a report indicating the research firm doesn't believe any of the proposed bills fundamentally change the GSEs' business models nor do they create conditions for the private sector to replace Fannie Mae and Freddie Mac.

"Our view continues to be that comprehensive GSE reform legislation is unlikely to pass before 2013," KBW said. "In our view, there is political risk for Republicans from high cost areas who worry about the impact of eliminating the GSEs will have on the housing markets in their districts and states and we think the gulf between Treasury's goals and House Republicans' goals is not easily bridged."

There are an additional 16 bills that could be introduced. At the end of the day, all of the separate bills could be merged into one major bill or amended into a comprehensive GSE reform bill. Either way, the process is just beginning.

ALTA Issues Response

While ALTA believes reform of Fannie Mae and Freddie Mac is needed, the legislative proposals to essentially eliminate the GSEs fail to recognize their important role in providing fair market competition and rational underwriting standards.

ALTA maintains that the GSEs' role should be restored to their

The House Takes its Swings

Republicans on the House Financial Services Committee took their turn offering reform plans by proposing eight bills aimed at ending taxpayer bailouts, adding transparency and reducing costs. Here's a glance at the bills, which were approved by the House Financial Services Committee in April:

Equity in Government Compensation Act (HR 1221)
Focus: Suspends the current compensation packages for all employees at Fannie Mae and Freddie Mac, and establishes a compensation system that is consistent with other senior executives in the federal government.
Sponsor: Rep. Spencer Bachus (R-Ala.), chairman of the House Financial Services Committee

GSE Mission Improvement Act (HR 1226)
Focus: Seeks to end all affordable housing goals set by Fannie Mae and Freddie Mac.
Sponsor: Rep. Ed Royce (R-Calif.)

Fannie Mae and Freddie Mac Accountability and Transparency for Taxpayers Act (HR 31)
Focus: Would further regulate Fannie and Freddie by requiring the GSE Inspector General to report to Congress on a regular basis.
Sponsor: Rep. Judy Biggert (R-Ill.), chair of a House Financial Services subcommittee

GSE Subsidy Elimination Act (HR 1222)
Focus: The guarantee fee or g-fee would steadily increase over the course of two years.
Sponsor: Rep. Randy Neugebauer (R-Texas)

GSE Portfolio Risk Reduction Act (HR 1224)
Focus: Cap the current portfolios of Fannie Mae and Freddie Mac and increase their annual attrition rate.
Sponsor: Rep. Jeb Hensarling (R-Texas), vice chairman of the House Financial Services Committee

GSE Risk and Activities Limitation Act (HR 1227)
Focus: Prohibit Fannie Mae and Freddie Mac from engaging in any new activities or businesses.
Sponsor: Rep. David Schweikert (R-Ariz.), vice chairman of a House Financial Services subcommittee,

GSE Debt Issuance Approval Act (HR 1225)
Focus: Requires formal approval by the Treasury for any new debt issuance by the GSEs.
Sponsor: Rep. Steve Pearce (R-N.M.)

GSE Credit Risk Equitable Treatment Act of 2011 (1223)
Focus: Prohibit the exemption of GSE securities from the risk-retention requirements of Dodd-Frank.
Sponsor: Rep. Scott Garrett (R-NJ), chairman of the House Financial Services Subcommittee on Capital Markets and Government-Sponsored Enterprises

original mission, which was one of providing affordability and liquidity to the U.S. housing and mortgage markets, and once included strict and sound guidelines.

"We must remember Fannie and Freddie are an effective counterbalance to the largest businesses pushing out smaller competitors and create standards that make it more efficient to provide credit to consumers," said Anne Anastasi, president of ALTA. "Privatization of Fannie and Freddie may seem like an alluring option, but the consequences of not having them are frightening."

Just the First Inning

Although it's early in the process, ALTA's advocacy efforts showed success in April as the U.S. House Financial Services Subcommittee on Capital Markets and Government Sponsored Enterprises passed an amendment requiring title insurance for all loans that would be defined as qualified residential mortgages (QRM).

The Dodd-Frank Wall Street Reform and Consumer Protection Act requires the establishment of rules for lenders that securitize mortgage loans to retain 5 percent of the credit risk for loans sold to the secondary market unless the mortgage is a QRM.

The amendment, which was introduced by U.S. Rep. Michael Fitzpatrick (R-Pa.) and had strong support from Reps. Ed Perlmutter (D-Colo.) and Brad Sherman (D-Calif.), would require the placement of a title insurance policy


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on all loans defined as a QRM. While the amendment's language does not apply broadly to all future mortgage loans, it is a great first step. The amendment is attached to HR 1223 (GSE Credit Risk Equitable Treatment Act of 2011), which was introduced by U.S. Rep. Scott Garrett (R-N.J.) and is one of eight GSE reform bills the committee is considering.

Passage of the amendment by the subcommittee is just the beginning of this process. The bill still has many steps before it becomes law. The full committee must now act on the bill before it goes to a vote before the U.S. House of Representatives and then the Senate.

ALTA has recommended that a title search, examination, curative work and the placement of a title insurance policy are best practices that allay collateral risk and protect both consumers and creditors.

"We congratulate the committee for supporting an amendment that maintains integrity of collateral by supporting underwriting and product features that result in a lower risk of default and loss," said Kurt Pfotenhauer, ALTA's chief executive officer.

Much of the success in getting this amendment was due to meetings ALTA members had with members of Congress during the Federal Conference and Lobby Day in March. The message on GSE reform helped tremendously in ALTA's advocacy. ALTA staff and members have met with Garrett, Royce, Sherman, Perlmutter, Subcommittee Vice Chair David Schweikert (R-Ariz.), Don Manzullo (R-Ill.), Judy Biggert (R-Ill.), Jeb Hensarling (R-Texas), Randy Neugebauer (R-Texas), Stevan Pearce (R-N.M.), Nan Hayworth (R-N.Y.), Robert Hurt (R-Va.), Ruben Hinojosa (D-Texas), Gwen Moore (D-Wis.), Joe Donnelly (D-Ind.), Jim Himes (D-Conn.), Gary Peters (D-Mich.). The Texas Land Title Association worked closely with ALTA and contributed to the lobbying success.

While the future of Fannie Mae and Freddie Mac remains unclear, this is an important step in the process to reform the mortgage market. Whatever model is eventually agreed upon for the GSEs, the common feature must require the inclusion of title insurance protection.

Loss of Standardization

The presence of Fannie and Freddie promote competition in the market and encourage uniform standards that help lower the costs of providing credit to consumers. These lending standards have made it easier and cheaper for Americans to buy and sell their homes.

The GSEs' seller servicing guidelines, coupled with the their computer underwriting platforms, are used by lenders to make quick, informed credit decisions on loans.

Standardized requirements for everything from title insurance to uniform mortgage documents keep the cost of loans down.

While the goal of the Dodd-Frank Wall Street Reform and Consumer Protection Act is to simplify the mortgage process and make it easier for consumers to understand, the loan process will become convoluted if each lender develops their own standards.

"One of the things for which the GSEs get little credit is the establishment of some semblance of national standards," said Joseph Drum, executive vice president for Williston Financial National Title Insurance Co. "If the GSEs are eliminated, title and settlement services firms will be faced with a dizzying array of standards for appraisals, title and mortgage insurance requirements, just to name a few. This will make it even more expensive to do business in terms of time, cost and accuracy. This is a development we do not need in any segment of the mortgage or title industry right now."

Shonna Cardello, president of Pennsylvania-based White Rose Settlement Services, Inc., recalls the frustration of dealing with various lender interpretations of last year's RESPA reform and how to fill out the GFE/HUD-1. She fears the loss of national lending standards set by the GSEs will have a similar negative impact.

"I cannot begin to imagine the difficulty a title agent would have, not to mention liability, in trying to

ALTA President Anne Anastasi's Op-Ed on GSE Reform

ALTA submitted the following op-ed article, which was written by President Anne Anastasi, to several newspapers. We wanted to share the article with membership.

It may not be popular or convenient to say it these days, but Fannie Mae and Freddie Mac are fundamental to the fair and safe extension of mortgage credit in the United States. Before moving forward with plans to significantly alter or eliminate these institutions, the Administration and Congress should pause to appreciate the GSEs' role in providing fair market competition and rational underwriting standards. As punishment for entering into subprime lending to chase market share, we should scale Fannie and Freddie back to their original mission, "to provide stability in the secondary market for residential mortgages."

Everyone from borrowers and lenders to appraisers and title insurance companies benefits from Fannie and Freddie's promotion of competition and efficiency through the promulgation of uniform underwriting standards that lenders and servicers are required to follow in order to sell loans to the two institutions. These seller servicing guidelines, coupled with the GSE's computer underwriting platforms, are used by lenders to make quick, informed credit decisions on loans. Such marketplace efficiencies lower borrowing costs for consumers.

Fannie and Freddie's seller servicing guidelines are equivalent to the Bill of Rights when it comes to mortgage underwriting. If we eliminate the GSEs, each lender will have to develop their own standards for everything from appraisals and title and mortgage insurance requirements to uniform mortgage documents and mortgage backed securities documents, which will increase the cost of providing loans and require consumers to choose between disparate and more complex products, even as Dodd-Frank directs regulators to make it easier and more understandable for consumers to shop for mortgages.

The real losers in a market without Fannie and Freddie are those consumers, who will also absorb dramatic increases in the costs of accessing mortgage credit. Mark Zandi of Moody's Analytics estimates that without Fannie and Freddie, mortgage rates will increase a full percentage point – while home values will decrease by 10 percent. Many working families will sink further underwater on their mortgages as housing prices are driven further downward by the reduced purchasing power of homebuyers.

Small, community-based lenders that originate 44 percent of all mortgages and the small businesses that provide necessary ancillary services to every mortgage transaction will also lose in this plan. Without Fannie and Freddie, everyone who does not have capital will work for someone that does. The cost of capital for community banks and credit unions and small banks will increase. Referrals between local businesses will be replaced by business-to-business relationships among the largest institutions.

Eliminating Fannie and Freddie will result in an even greater number of mortgage loans ending up in the portfolios of far fewer companies, consolidating risk in already too-big-to-fail institutions. It's a recipe for disaster that will keep taxpayers on the hook for future bailouts of our housing finance system.

Casting a shadow over all of these problems is the probable disappearance of the 30-year fixed-rate mortgage. Pundits gloss over the threat to the gold standard mortgage posed by privatizing the housing finance system, saying that markets for jumbo mortgages are evidence of the ability of the private market to jump in. While these commentators are correct in pointing out that the spread between a jumbo and a conforming loan is currently about one half of a percentage point, they neglect to acknowledge that only the most select group of borrowers who can afford at least a 20% down payment, have a 750 FICO score and substantial financial reserves can access the jumbo loan market.

While it is tempting to jump on the privatization bandwagon, policymakers should carefully consider the costs and benefits of all options – and give serious consideration to unintended consequences. Real estate is the single greatest source of wealth in America. It deserves the judicious and responsible backing of the government. Real reform of Fannie Mae and Freddie Mac is needed, but only to put them back onto a track that they never should have left.

Anne Anastasi,
President, ALTA

decipher each lender's own standards without having to abide by a national standard," she said. "We are also spending an enormous amount of time clearing prior title problems because so many of my competitors have shut their doors. We are working twice as hard in time and effort for the same income."

In Pennsylvania, rates are all-inclusive and agents can't charge for additional time. Moving from national standards may add another 30 minutes spent on each file, thus costing agents such as Cardello money.

"It is really hard on the staff and time management is difficult when we are chasing old mortgages," she said. "We need some type of government standards."

Bob Miller, chief executive officer of Maryland-based TSS Software Corp., said it shouldn't be the government's purview to establish industry standards. Rather that should be the responsibility of bona fide trade associations such as ALTA.

"It's hard to imagine a more dizzying, inefficient, chaotic, contradictory and costly array of 'standards' than those controlling title, appraisal and mortgage businesses," Miller said.

Depending upon how the secondary market evolves as the GSEs exit, David Coleman, managing director of the consulting firm The Summit Point Group, believes the loss of the GSEs' servicing guidelines could have the greatest impact on the industry.

> "Without having a national standard, I cannot begin to imagine the difficulty a title agent would have in trying to decipher each lender's own standards."

It will be important to watch if government entities will step in to dictate standards and guidelines or if secondary market players align to juggle guidelines and standards.

"Over time, one can only guess as to what the ultimate impact on selling guide standards and methods will be in a world without the GSEs," said Coleman, who served as vice president of technology at Fannie Mae, where he helped develop and roll-out the Desktop Underwriter. "Absent the near centralization of guidelines afforded under the GSEs, the industry will be open to great influence."

Market Consolidation

Eliminating Fannie and Freddie will result in an even greater number of mortgage loans ending up in the portfolios of far fewer companies, consolidating risk in already too-big-to-fail institutions. It also could concentrate more business among the largest lenders.

"Consolidation is a special concern for more rural states like mine," said Chuck Dyer, owner of Ozark, Ark.-based Edward Title LLC. "The largest banks have left my area to smaller local and regional banks. If these entities can't originate and sell loans, I don't know how the housing industry will be financed."

If the market shifts from the GSEs to the larger financial institutions, business relationships will shift from local contracts to national contracts. As these financial institutions grow bigger, they will crowd out smaller loan originators. Jobs will be lost at small businesses including title agencies, appraisers, attorneys and property inspectors. This could make it more difficult for small title agents to compete.

"Real estate is still local and it's best for everyone that the people handling it be local," Dyer said. "This is not a 'protect your turf issue,' it's a service and consumer issue."

Cardello fears an option to compete would require forming an affiliation with a large lender, but she can't afford to give a percentage of her revenue to them.

"I would have to shut my doors," she said.

Miller takes a different stance here as well. He said a market without the GSEs would not reallocate market share to the largest lenders; rather the result would be a freer, more competitive market and more opportunities for local lenders. He also said in a truly free market, the demand for title insurance would not diminish or give way to self-insuring lenders, as many fear.

"Indeed, the roots of the American title insurance industry are traceable to that kind of economic system," he said. "It should not be forgotten that the advent of land title insurance occurred — and the industry flourished — long before the virulent spread of government interventionism in the U.S. mortgage and housing markets."

Others believe the loss of the GSEs would spur large lenders to begin self-insuring. Cardello has seen lenders self-insure on refinances and she doesn't believe banks would be truly interested in the borrowers' protection. "Who would be offering the owner a title policy?" she asked.

Drum said eliminating the GSEs could push the industry to conditions similar to what was experienced in the late 1970s, before Fannie began to require title insurance.

"Should we lose the GSEs, the largest lenders would likely be forced into a self-insuring process, which would bring a wide number of difficulties to our industry," he said.

Vacuum in Market Discipline

With elimination of the GSEs, many are concerned that large lending institutions may attempt to reduce costs by trimming key underwriting standards, like appropriate title assurance requirements, thus potentially transferring financial risk to investors, too-big-to-fail institutions and ultimately to taxpayers.

The recent financial crisis showed that cutting corners in mortgage underwriting standards nearly led to a collapse of the financial system, and will certainly mean litigation for years to come. A similar race to the bottom in collateral underwriting standards should not be allowed. To protect the integrity of real estate contracts and private property rights, Congress should ensure that appropriate standards for managing collateral risk are preserved in the housing finance system.

"The fact is that the federal government has played a major role in the mortgage industry, thus, indirectly in the title/settlement services industry by way of the secondary market for decades," Drum said. "To suddenly vacate – and even a wind-down of a few years would qualify as suddenly – that role will create a dangerous vacuum and even more uncertainty at a time when the industry desperately needs some stability."

Miller, meanwhile, believes that if the goal is to achieve long-term soundness and stability of U.S. mortgage finance and housing markets, it's necessary "to abolish the hillbilly gaggle of government-sponsored enterprises known as Fannie, Freddie and Ginnie (Mae)."

> "Consolidation is a special concern for rural states like mine. The largest banks have left my area to smaller local and regional banks. If these entities can't originate and sell loans, I don't know how the housing industry will be financed."

Period of Change

The challenges of the last few years have had a dramatic impact on the mortgage industry, driving a rapid succession of changes that now includes the dismantling of Fannie Mae and Freddie Mac. Title agents and underwriters will need to make adjustments to business models to remain competitive.

"While one can only speculate as to how this play will end, there has already been enough exposed in the first act to point to the need for industry participants to begin planning, and acting, for a future that does not include Fannie Mae and Freddie Mac," Coleman said. "Operational planning that includes investment in new methods, processes and technology can create or otherwise enable the needed abilities that will be required to remain competitive and viable in an industry that is poised for a period of rapid change."

ALTA Members Take Industry Message to Capitol Hill

A successful Lobby Day caps an information-filled Federal Conference as nearly 200 attendees converged on Washington, D.C.

Attendees of ALTA's 2011 Federal Conference and Lobby Day met with 190 members of Congress and staff sharing the value of the land title insurance industry, offering input on how to reform Fannie Mae and Freddie Mac, RESPA Reform and the Dodd-Frank Act.

Some of the notable members of Congress Federal Conference attendees visited were U.S. Sens. Tim Johnson (R-Ill.) and Richard Shelby (D-Ala.), and U.S. Reps. Allyson Schwartz (D-Pa.), Ed Royce (R-Calif.), Judy Biggert (R-Ill.), Gary Miller (R-Calif.), Spencer Bachus (R-Al.).

"Thanks to the dedication and willingness of attendees to sacrifice time with their family, time at their businesses and hard earned money, we collectively can further our influence and messages," said Anne Anastasi, president of ALTA. "Most importantly, we can further the new recognition of our worth. The presence of the members attending the conference is valued and overwhelmingly appreciated."

ALTA's top priority was sharing input on efforts to reform the housing finance system. ALTA suggested to members of Congress that the GSEs be scaled back to their original mission of providing stability in the secondary market for residential mortgages. Key points were to preserve the 30-year fixed-rate prepayable mortgages and that the presence of Fannie and Freddie allow small businesses to compete, promote responsible underwriting standards for collateral and lower the costs of providing credit to consumers.

Of all the Congressional visits, 46 were with committee members and 60 were with freshman members of Congress. From veterans of the Federal Conference and Lobby Day to first-timers, the experience to connect with their representatives proved invaluable.

"While I work in a small state, the matters at hand affect our company greatly," said Paula Bachmeier, senior vice president and manager of Minot Guaranty and Escrow Co. in North Dakota. "The work that the ALTA staff does in preparing us for meeting with our representatives is amazing. Our representatives

Pam Croke, Anne Anastasi, Diana Sabol and Shonna Cardello get a picture with Rep. Mike Fitzpatrick (R-Pa.) during the TIPAC reception.

need to know that we at home are directly affected by the issues being addressed. An informal, impersonal email or letter by no means is enough to convey that message. Our visit was an educational, eye-opening and, hopefully, productive engagement with our congressional delegation."

As a first-time attendee of the conference, David Walker, owner of Greater Metropolitan Title in Illinois, said he enjoyed the conference and gained knowledge about the inner workings of the government.

David Townsend, Rebecca McKittrick and Randy Lee stand on the outside deck of the Jones Day Building overlooking the U.S. Capitol.

"The feeling of being part of an effort to shape the future of our industry is motivating. I will definitely be back next year."

U.S. Reps. Ed Perlmutter (D-Colo.), right, and Ed Royce (R-Calif.) share their thoughts on reform of Fannie Mae and Freddie Mac.

"The thought of Lobby Day was, at first, intimidating, but the preparation and support from the ALTA staff was great," said Walker, who is president of the Illinois Land Title Association. "I was surprised at how welcoming and interested those on Capitol Hill were to hear what we had to say. It encourages me to know that our voice is heard and will continue to be heard by those who shape the laws that affect our industry."

Walker is already planning to attend next year's Federal Conference because he was so motivated by being part of an effort to shape the industry's future.

"I forged new relationships with other title insurance professionals, both agents and underwriters alike," he said. "Relationships (that) I know will be of value as I continue to grow my business. The feeling of being part of an effort to shape the future of our industry is motivating. I will definitely be back next year."

Deborah Scott, of Omaha National Title & Escrow and past-president of the Nebraska Land Title Association, realizes the importance of Lobby Day having attended several Federal Conferences.

"Our elected officials go to Washington armed with their intelligence which is limited by their life's experience," she said. "There are no truer words than 'if you're not at the table, you're sure to be on the table.' It's our responsibility, not only to the industry, but to our families, friends and neighbors to expand the knowledge of those elected officials in order to preserve our land rights."

David Townsend, CEO of Agents National Title Insurance Co., summed up the experience by saying it's the industry's opportunity to let its voice be heard.

"The ALTA Federal Conference provides unsurpassed access to our national policymakers," he said. "Every agent and underwriter is affected by their decisions."

ALTA members from Georgia, including Diane Calloway, meet with Sen. Johnny Isakson (R-Ga).

RESPA Reform: Lessons Learned and Regulatory Enforcement Trends

Phil Schulman of K&L Gates moderated a panel addressing the impact of last year's RESPA reform. Joining him were Bart Shapiro and Laura Gipe, both from the HUD Office of RESPA, and Dan Wold, of Old Republic National Title Insurance Co. and chair of ALTA's RESPA Task Force.

Gipe told attendees that HUD plans to take an enforcement action against a "large" lender that forced title agents to pay for tolerance cures. She said title agents who paid the tolerance cures will be reimbursed soon by the lender, which was sending demand letters and invoices to title agents for reimbursements for tolerance cures.

Gipe added that agents also were threatened with the loss of future business if they did not make the payment to the lender, indicating all title agents removed from the lender's approved list for failure to repay will be restored.

Mortgage Fraud Task Force

Frank Pellegrini, of Prairie Title and chair of ALTA's Abstracters & Title Insurance Agents Section, led a panel discussion on efforts by the federal government to prevent mortgage fraud. Joining the discussion were Rodd Adkins, executive director of the Financial Fraud Enforcement Task Force for the U.S. Department of Justice; Fernando Ramos, special agent in charge, criminal investigation division for the HUD Office of the Inspector General; and Gregory Brown, supervisory special agent for the Federal Bureau of Investigation.

Legislators Address Attendees

U.S. Senator Ben Nelson (D-Neb.) and U.S. Reps. Ed Royce (R-Calif.) and Ed Perlmutter (D-Colo.) each shared comments on several items impacting Congress. Nelson spoke during Tuesday's lunch offering his view on ways to reduce the federal deficit. Pulling a quote from Harry Truman, Nelson said "the buck shrinks here."

Nelson said the government must cut as much as possible in appropriate ways, modify tax rates so U.S. companies can compete globally and take on entitlements.

"How can you plan your budget if Congress can't budget out more than two weeks at a time," Nelson said.

Royce and Perlmutter focused their discussion on reform of the GSEs during a congressional briefing Tuesday morning. After each provided initial comments, the two shared the stage while fielding questions from the audience.

Combined Mortgage Disclosure Forms

With the disclosure improvement for mortgages and other financial products a top priority for the new Consumer Financial Protection Bureau (CFPB), ALTA's RESPA Task Force discussed a draft of its combined RESPA/TILA disclosures during the Federal Conference.

These combined disclosures are being developed by the CFPB as directed by Congress under the Dodd-Frank Act. The Task Force's main goal in developing a draft was to provide guidance on content.

As a result of the inclusion of both RESPA Good Faith Estimate (GFE) and Settlement Statement (HUD-1) into the combined form concept required by Dodd-Frank, ALTA suggested one form be used early in the process that generally combines the GFE with initial TILA disclosures and a second form to be used later in the process that combines disclosure made under the current HUD-1 and a final TILA disclosure. The early and late disclosure forms both provide itemization of APR computation items.

The Task Force shared the draft documents with the CFPB staff on March 17. The discussion was positive with CFPB staff expressing gratitude to the Task Force for producing an initial draft.

ALTA members from Illinois, including Greg Kosin, Frank and Mary Pellegrini, and Dan and Merry Mennenoh, meet with Rep. Judy Biggert (R-Ill.)

TIPAC Honors 2010 Contributors

ALTA's Title Insurance Political Action Committee (TIPAC) honored several members who helped contribute to a successful donation campaign in 2010. John Voso, chair of TIPAC, handed out the awards during the Tuesday session. The contributors helped TIPAC reach its goal of raising more than $250,000 last year.

Members of ALTA's Title Insurance Political Action Committee receive awards for their efforts to raise awareness for TIPAC.

- **2010 Top TIPAC Donation by State Premium** (*Most Contributions in State by State Premium*) – Karen Johner
  North Dakota Guaranty & Title Co./North Dakota
- **2010 TIPAC Agent Award** (*Greatest Amount Raised*)
  Peter Griffiths
  Land Title Guaranty Company/Colorado
- **2010 Rookie of the Year** (*Shows Great Promise*)
  Brenda Rawlins
  First American/Washington
- **2010 TIPAC Underwriter Award** (*Most Raised per Market Share*)
  John Voso
  Old Republic Title Insurance Company/Ohio
- **2010 TIPAC Underwriter Award** (*Most Raised*)
  John Hollenbeck
  First American/California
- **2010 Outstanding State Award** (*Most Contributors*)
  Tony Winczewski
  Commercial Partners Title/Minnesota

So far in 2011, TIPAC has received $148,095 from 201 contributors. If you have any questions about TIPAC, please contact Kelley Williams at *kelley@alta.org*.

Breaking into the Import/Export Business

Title agents conducting transactions in this segment must overcome more than finding orders and language barriers; they need to explain to foreign investors the need for title insurance and the functions performed by the various parties.

Capturing new business from foreign investors who are shopping for bargain-priced U.S. commercial properties and U.S. investors/businesses acquiring and developing commercial properties in foreign countries may seem daunting to most title agents, but this is an emerging market that can generate substantial income for companies of all sizes.

International buyers, including recent immigrants and temporary visa holders, accounted for about 7 percent of the $907 billion in U.S. home sales for the 12-month period that ended last March 31, according to the National Association of Realtors. As a sign of the possibilities, a Russian billionaire investor paid $100 million in March for a 25,000-square-foot French chateau-style mansion in Los Altos Hills, Calif., marking the highest known price paid for a single-family home in the U.S.

Bruce Hawley, senior vice president, senior underwriting counsel and multi-national title services group manager for Stewart National Title Services, said title companies can find foreign customers through U.S. real estate brokers marketing to foreigners, law firms that have offices in foreign countries and other U.S. advisors that cater to foreign investors, according to Hawley. Other avenues to find potential foreign investor clients are at international real estate trade fairs and conferences, local chapters of foreign chambers of commerce and local foreign community/religious groups.

"Large accounting firms have consultants that focus on this and have people advising foreigners investing in the U.S.," Hawley said. "You need to float yourself in that circle and you may find some activity. There are companies that are set up to provide advice to foreign investors."

Title agents interested in developing business in this market should think about the real estate agents they know that might be catering to these types of groups.

"Every community has some large ethnic group," Hawley said.

Explain the Process

A major obstacle in tackling this market is explaining the need of title insurance to foreign customers. First, you need to understand their title customs and practices and offer language translation assistance, if needed. A title agent will need to explain the roles of the "usual suspects" in a U.S. real estate transaction, such as the title agent, attorney, notary, etc., and explain how they compare with what they are used to in their countries.

"The big thing, we take it for granted what our business is," Hawley said. "We know in the U.S. the government doesn't tell you who owns the real estate, except with a few Torrens systems."

Foreign investors need to be told the differences between a title abstract, a title report, an opinion of title and a title insurance policy. Basically, you need to make the "value proposition" for title insurance.

"In some countries a title report could be a last owner search or an encumbrance search," Hawley said. "You need to get it right the first time as a lot of time and money is wasted when people misunderstand each other because of different meanings."

In other countries, notaries represent something different than they do in the United States.

"In foreign countries, a notary is the combination of an attorney, notary and recorder of land deeds," Hawley said. "They get about 2 percent of the purchase price and are appointed for life. They are the gatekeeper in some countries."

Foreign investors will pay a lot of attention to the notary, so you will need to explain the notary's role in the United States.

Hawley urges title agents to develop electronic and "paper" advertisements and marketing collateral that are tailored to meet the needs of foreign buyers.

"If you are in an area where there is a lot of traffic from one group, you may want to get information translated to that language," he said.

There are several websites, such as Global Edge (*globaledge.co.uk*), preferred by foreign buyers. Global Edge caters to foreign investment.

Special Concerns

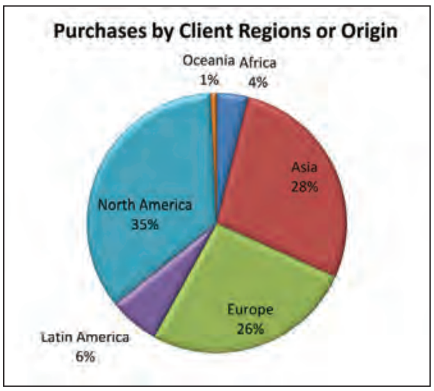
There are several issues when handling U.S. transactions for foreign buyers, including USA PATRIOT Act considerations, the Foreign Investment in Real Property Tax Act (FIRPTA), federal restrictions on sovereign wealth funds, EB-5 Visas (investors fast tracked to permanent green card) and state title and tax laws concerning foreign owners.

A few years ago, Hawley said an Arab fund wanted to buy a large port in New Jersey. The deal nearly went through before someone raised a red flag. The government stopped the transaction and there are now laws that limit the sale of certain properties to foreign investors.

While foreign investors can provide a revenue stream, there also are potential orders on the export side with people and businesses from the United States looking to invest in other countries.

The top countries drawing attention from the U.S. include the United Kingdom (London), Germany and Canada. Other emerging markets include China, Brazil, India, Mexico and Turkey. Hawley said there was a lot of buzz about these before the market downturn. Brazil draws interest from specific industries such as pension funds and cosmetic companies.

Another group of countries garnering interest is Portugal, Italy, Ireland, Greece and Spain. These countries have weaker economies, but some think there's an opportunity to buy there. What's left of the vacation home segment appears to have shifted to Central American and Caribbean countries because Americans feel safer there, according to Hawley.



Although Mexico, Canada and China are reported as accounting for a total of 41 percent of international sales, international purchasers come from a wide diversity of countries.

Americans' allure to Mexico has been impacted by several factors. With a lack of home equity in U.S. homes, transactions in former hot spots such as Cabo and Acapulco have stopped. Fear of drug wars and hassles to get through customs also have diverted attention elsewhere.

Among commercial transactions, U.S. investors are commonly interested in buying multi-family properties, followed by office industrial, retail and hotel properties, according to the Association of Foreign Investors in Real Estate (AFIRE). On the residential side, U.S. investors aim to purchase vacation homes (full/fractional/time-share ownership) and retirement homes.

"There are several resources available to help you handle your customers' foreign real estate transactions," Hawley said. "Agents should work with their underwriter to develop and handle this business. You can also work with other title agents in other countries."

International law firms may also serve as a resource as a title agency may work with a local law firm that has an international contact in another country.

Overcoming Challenges

Title companies that successfully close deals in the import/export segment have overcome several challenges to selling title insurance in foreign countries. First, title companies integrate with local closing procedures, utilize automated

Foreign Investors Lick Chops over U.S.

The import/export business is a segment with great opportunity as foreign investors overwhelmingly rank the U.S. commercial real estate market as their No. 1 choice for investment in 2011, viewing it as the best opportunity for price appreciation, according to a survey of foreign real estate investors.

When ranked among countries targeted for real estate investment in 2011, the United States drew four times as many votes as the second-ranked Britain, according to an annual survey by the Association of Foreign Investors in Real Estate (AFIRE).

About 65 percent of the survey respondents said the United States offered the best opportunity for price appreciation, far outstripping the 10 percent who ranked China as No. 2. During the overheated market in 2006, only 23 percent put the United States as No. 1.

About 72 percent of the respondents said they plan to increase investment in the United States in 2011.

Among the top cities favored by foreign investors, New York and Washington scored almost four times higher than third place Boston.

products and procedures and employ attorney networks.

Selling title insurance in foreign countries can prove daunting as locals are unfamiliar with the product and concept as there was no significant marketing until the early 1990s. Most non-U.S. markets rely on a Title Registry (Torrens) and Public Notary system, and don't understand the need for title insurance.

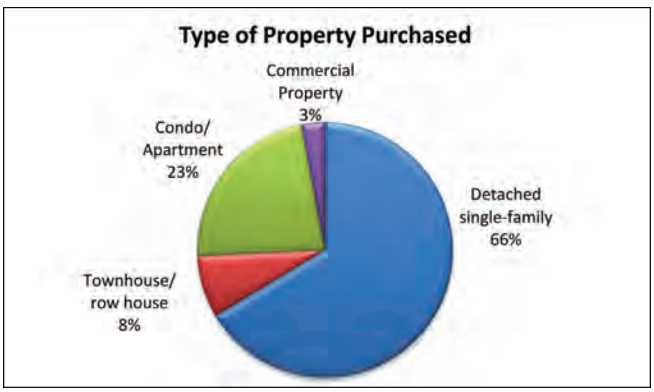
It's important to note when handling transactions overseas, deals are more expensive and take longer. Title searches also aren't done on credit and cost on average \$5,000 to \$6,000.

"This is serious money and nonrefundable," Hawley said. "That's probably one of the hardest things for Americans who have to pay this up front. You need to set an expectation that some money will be needed up front and it will take longer."

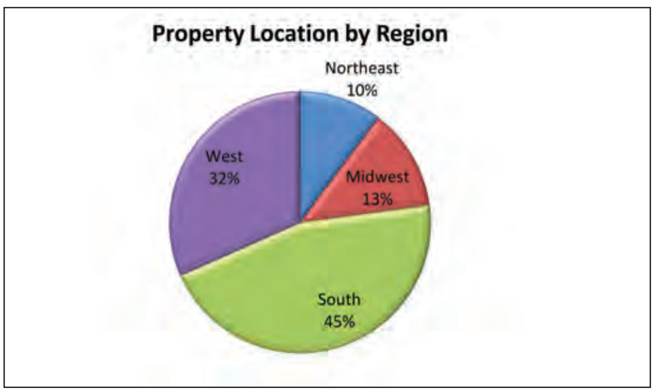
In a Title Registry system, properties are indexed according to description of the property, attorneys provide a legal opinion of title and a registry provides proof of recorded title. In some countries, a government indemnity fund exists in case of error by registry. But in many cases there is no fund to pay for mistakes or provide defense. Notaries generally have no legal responsibility to "indemnify" a party in the event of a loss due to a title defect. This is another reason to provide title insurance.

As in the United States, there are many benefits to having title insurance on international deals. First, it assumes risk and provides protection against the unexpected. By resolving title matters prior to closing and allowing investors to focus on the deal, the legal certainty of the deal is increased, the investment process is streamlined and closing delays are eliminated.

"Title insurance is a U.S. product, but as investors move overseas, particularly lenders, they want assurance and we are seeing it resonate within countries," Hawley said.



Detached homes were in the majority by type of property. However, compared to domestic buyers, international buyers purchased more condos.



In the South, foreign purchases are concentrated in Florida and Texas. In the West, purchases are mainly in California and Arizona.

Source: *The 2010 National Association of Realtors Profile of International Home Buying Activity*

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Federal Reserve Board Issues Policies Regarding Escrow Accounts

The Federal Reserve Board issued final and proposed rules for implementing escrow-related provisions pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

According to the D.C.-based law firm Patton Boggs, the final rule enacts a higher APR threshold for determining whether first-lien "jumbo" mortgages are higher-priced mortgage loans for which an escrow account must be established. In 2008, under the Home Ownership and Equity Protection Act (HOEPA), the board issued final rules requiring creditors to establish escrow accounts for first-lien, higher-priced mortgage loans. HOEPA defines a first-lien mortgage as a higher-priced mortgage loan if its APR is 1.5 percentage points or more above the current average prime offer rate. The final rule, however, codifies in Regulation Z a slightly modified version of this requirement.

Under this new iteration of the rule, for non-jumbo loans or loans that do not exceed $417,000, the 2011 maximum original principal obligation for a mortgage to be eligible for purchase by Freddie Mac, the standard is the same as that established in 2008 (1.5 percentage points). However, for jumbo loans, or loans that exceed $417,000, the determination is made against a higher standard: The final rule triggers the escrow requirement for first-lien jumbo loans only if the loan's APR is 2.5 percentage points or more above the average prime offer rate.

The final rule is effective for applications received by creditors on or after April 1, 2011.

Patton Boggs also reported the Fed also issued for comment a proposed rule that, among other provisions, (i) lengthens the minimum period for mandatory escrow accounts for first-lien, higher-priced mortgage loans from one to five years (and longer under certain circumstances, such as when the loan is delinquent or in default), (ii) extends the partial exemption for certain loans secured by a condominium unit to planned unit developments and other similar property types, and (iii) creates an exemption from the escrow requirement for creditors operating predominately in rural or underserved counties that have an annual origination of 100 or fewer first-lien mortgage loans and do not escrow for any mortgage-related services.

For any closed-end transaction secured by a first lien on residential real property, the proposed rule would also implement two new disclosure requirements.

The first disclosure, given within three days of any relevant escrow-related transactions' consummation, would describe what an escrow account is and how it works, including a statement of the amount of the first year's disbursements, the amount to be paid at consummation to initially fund the account and the amount of regular escrow payments.

The second disclosure, given within three days of any event in which an escrow account is not established or cancelled, would also describe the account and its function. In addition, however, this disclosure would also describe the risks of not having an escrow account, including the consequences of failing to pay home-related costs such as taxes and insurance.

Regional Underwriter Expands into Minnesota

Agents National Title Insurance Co. (ANTIC) is now licensed to issue title insurance in Minnesota. ANTIC, which is based in Columbia, Mo., is also licensed in Arkansas, Indiana, Kansas, Mississippi, Missouri, South Dakota and Wyoming. In 2010, the underwriter reported $4.7 million in title insurance premiums. This is up from $3.6 million in 2009.

Wisconsin Agency Expands Footprint with Acquisition

Knight-Barry Title Group continues to take advantage of the economic downturn by making acquisitions.

The Wisconsin-based title company recently acquired Executive Title, which has offices in Brookfield, Whitefish Bay and Hartland, Wis. The acquisition of the 12-year-old agency gives Knight-Barry a total of 17 offices and 160 employees.

"This deal provides an immense opportunity for lenders and real estate professionals to use the highest quality and most efficient title and closing services in Wisconsin," said Jeff Green, president of Knight-Barry. "We are constantly looking to expand our coverage area and this acquisition fits perfectly with our goals."

Green said the company recently expanded into Michigan and has plans to enter Minnesota, Illinois and Florida by the end of 2011.

Over the past 10 years, Knight-Barry has followed a very aggressive plan to become the largest title insurance agency in Wisconsin. The company acquired Absolute Title Services LLC of Appleton, Wis., in May 2010.

RedVision Reports Continued Growth; Expands in California

RedVision, a national provider of real property research solutions, reported growth for the fourth consecutive year while receiving accolades in Inc. 500 and The Red Herring Top 100.

The company said success in 2010 stemmed from the addition of geographic coverage in Utah, the strategic hiring of vice president of sales and marketing Gary Rader and the release of the company's integrated workflow platform, TitleVision. Despite 2010 market conditions, RedVision expanded service coverage, increased its U.S.-based staff to 536 and processed its seven-millionth transaction.

The company also expanded in California with a seven-county title plant, covering Alameda, Contra Costa, Marin, Sacramento, San Joaquin, San Mateo and Santa Clara counties, and also opened a plant in Clark County, Nevada, which contains Las Vegas.

Stewart Title Guaranty Forms Northern New England Agency Services District

Stewart Title Guaranty Company announced the formation of the Northern New England Agency Services District, which will bring together Stewart's independent title agencies in Massachusetts, New Hampshire, Maine and Vermont into one district. The district was formed in order to optimize efficiency and strengthen the service and support that Stewart Title provides to title agencies in Northern New England.

To lead the new district, Stewart Title has promoted Stephen Dinsmore as senior vice president and Northern New England agency services district manager, and James Bilodeau Jr. as vice president and Northern New England agency services district director of sales.

Westcor Integrates With eLynx Electronic Closing Network

Westcor Land Title Insurance Co. has integrated operations with eLynx's electronic closing network (eCN), with the option of providing lender customers with electronic closing protection letters.

Westcor now joins four of the nation's largest title underwriters in having a direct connection and seamless integration with eCN. This integration gives lenders instant verification of authorized settlement agents and earlier notification of pending insured transactions.

When settlement agent fraud occurs, lenders lose millions, eLynx said in a statement. Lenders are increasingly impacted by these crimes and are finding that these criminals have not been easily exposed in the past. eCN can identify the potential crime before the loan is closed thereby protecting both the lender and the underwriter.

"With eCN, eLynx has become the industry's enabler of a compliance-based closing process that minimizes the risk of fraud," said Mary O'Donnell, president and CEO of Westcor Land Title Insurance. "eCN provides our company with a neutral, streamlined connection to all of the other parties in the transaction."

North American Title Integrates with SoftPro to Aid Agent Productivity

North American Title Insurance Co. is now helping its agents become more productive by making its underwriting products available to its agents via SoftPro 360, a business exchange platform offered by Lender Processing Services' SoftPro Division.

The integration will allow North American Title's agents to order electronic policy jackets without leaving their SoftPro workspace.

"By using SoftPro 360, agents will no longer have to go to a separate website, significantly improving their day-to-day productivity," said Joyce Weiland, SoftPro's president.

When agents place orders with North American Title through SoftPro 360, digital copies of electronic policy jackets are returned electronically through the SoftPro 360 interface. No data needs to be re-entered.

"The efficiency our agents will gain as a result of our integration with SoftPro 360 will provide them with a much-needed competitive advantage in this difficult marketplace," said Emilio Fernandez, president of North American Title.

GreenFolders Provides Security Tool for Messages and Files

GreenFolders announced the availability of GreenFolders Communicator, a secure communications tool that enables GreenFolders users to easily send secure messages and files to their customers and clients directly from within the GreenFolders office management system.

The Communicator leverages the security, control capabilities and unique features of Sendside's communication platform to provide a secure system for organizations needing to send important messages and documents to parties "outside the firewall."

Dan Iorg, GreenFolders' chief technical officer, said the system provides an effective way for title companies to share client files electronically with their customers; protect their customers' privacy; and maintain compliance both with electronic data laws and electronic communications laws.

CEO of Regional Underwriter Retires

EnTitle Insurance Company announced the retirement of Michael Waiwood, who serves as president and CEO.

Waiwood will remain with the company until a successor is named. He has offered his consulting services to the board of directors following his retirement.

Waiwood, who is also an attorney, has spent more than 40 years in the title insurance industry with various title agencies and underwriting companies. He began his career as a title examiner and has served in countless roles and responsibilities within the industry, including roles as chief underwriting counsel, regional claims counsel, regulatory counsel, regional manager, as well as president of another underwriter and president of a larger, multi-state title agency.

TitlePrep Joins Closing Market Network of Service Providers

RamQuest Inc. added TitlePrep to the network of service providers on its Closing Market digital network. RamQuest's Closing Market is an application-to-application interface that electronically connects business partners allowing each participant to work from within their own software.

Using the TitlePrep integration, RamQuest's Closing Market-enabled customers can streamline the title search ordering and receipt process by never having to leave their file. In addition to facilitating the search, the TitlePrep integration also provides the customer with a preliminary commitment. With TitlePrep's network of abstractors, virtual plants and title plants across the country can service customers' needs for title search services nationwide.

"On the front end, we're saving up to 70 seconds per order, which is a nice boost in efficiencies equaling about one hour per day for one employee," said Rich Barbezat, vice president of operations at Avenue 365 Lender Services. "We've also picked up a few extra seconds with the automatic notes confirming the search is in process."

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Making Market Conduct Exams More Efficient Benefits Everyone

Market conduct exams garnered a fair amount of discussion during a few committee meetings at the recent American Land Title Association Federal Conference in Washington, D.C. Participants at the conference discussed the impact these exams have on the title industry and how ALTA and its members can work with the NAIC to make the exams more effective. As a result of these discussions, ALTA created a Market Conduct Exam Task Force and participants have already had one conference call to discuss the issues.

Market conduct examinations are conducted by state insurance departments and focus on the business practices of title insurers and agents. The exams are designed to monitor marketing, advertising, policyholder services, underwriting, rating, and claims practices. The adopted reports are public records.

Market conduct examinations ensure equitable treatment of policyholders and compliance with state statutes and regulations. Upon completion of an examination or investigation, the Market Conduct Division imposes appropriate administrative actions as warranted – often a fine. Matters not resolved through negotiated agreements are presented at Formal Hearings.

At the recent ALTA Federal Conference, participants engaged in a lengthy discussion of the issues surrounding market conduct exams. Most of the complaints by the industry focused on the outsourcing of these exams to vendors who often charge between $100,000 and $300,000 for the exam itself. In many states, the insurance departments then levy an administrative fee on top of the exam fee of anywhere from 10 percent to 50 percent of the total. Other complaints concerning market conduct exams focused on unclear standards for what constitutes an inducement or rebate in violation of state law.

At the recent NAIC annual convention in Austin, Texas, the NAIC Market Conduct Exam Working Group, which is a subgroup of the Title Insurance Task Force and comprised of representatives of state insurance departments, met in private on March 27 to discuss market conduct examinations. At a public session of the Title Insurance Task Force, it was asked if future discussions on market conduct issues by the regulators would be public. Steve Robertson (Indiana insurance commissioner), a member of the working group, indicated that future market conduct examination discussions would be held in public and the Market Conduct Exam Working Group would be open to working with ALTA on this issue.

Hopefully, ALTA's efforts working with the NAIC will help create a better system of conducting market conduct exams.

Richard Hogan,
Legislative and Regulatory Counsel, CATIC

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