

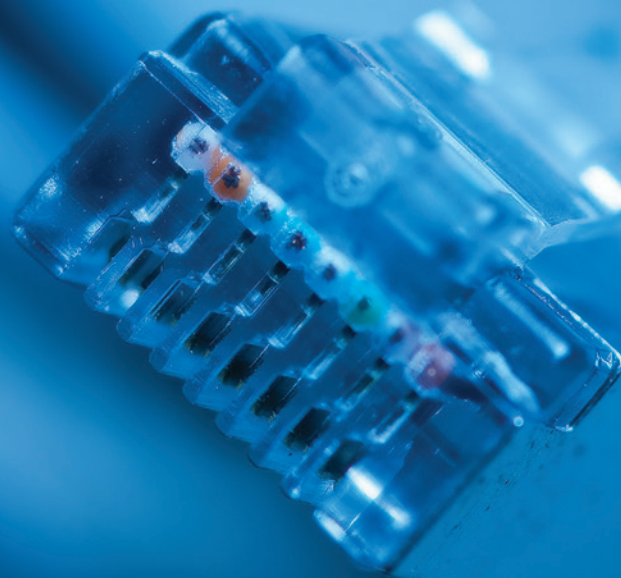
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American Land Title Association

TitleNews

The Need for Electronic Collaboration: Solutions to Effectively Share Data for TRID

Different Technology Options Hit the Market to Help Title Professionals, Lenders Meet Challenge of Exchanging Needed Fees for TILA-RESPA Integrated Disclosures



A background image showing three business professionals in a meeting. On the left, a man with glasses and a striped tie. In the center, a woman with blonde hair and glasses. On the right, a man with a beard and a solid tie. They are all smiling and looking towards each other.

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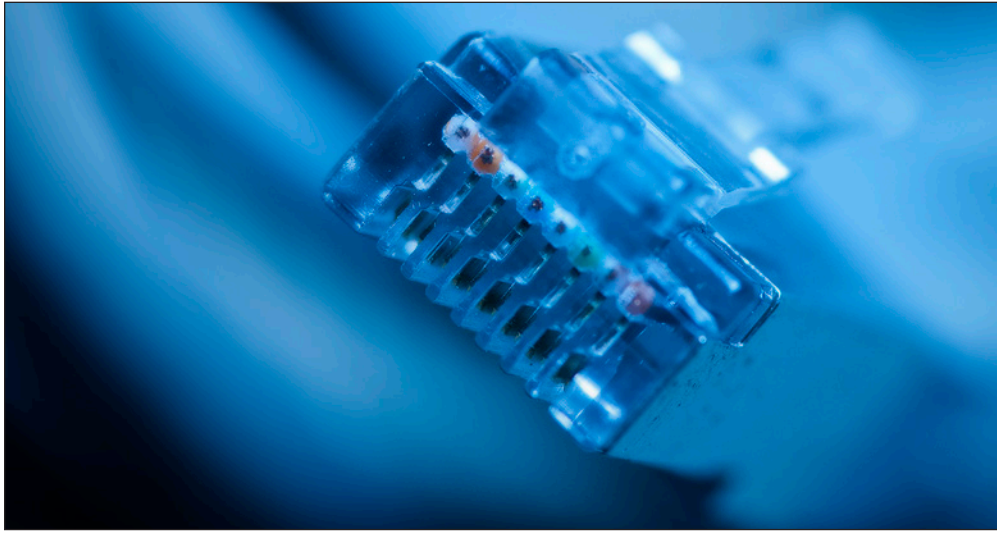
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2015 ALTA FORUMS & CONFERENCES

October 7 - 10 | Annual Convention
Boston

STATE CONFERENCES

June 10 - 12 | South Dakota
Sioux Falls, SD

June 11 - 14 | Arkansas
Eureka Springs, AR

June 18 - 21 | New England
(CT, ME, MA, NH,
RI, VT)
Goat Island;
Newport, RI

June 18 - 20 | Texas
Grapevine, TX

July 9 - 10 | Illinois
Delevan, WI

July 12 - 14 | Michigan
Bellaire, MI

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Look at What You're Missing
in this month's Digital Issue

Digital Edition

TitleNews

Electronic Collaboration

The digital edition includes a webinar recording addressing solutions to technology challenges that can help title professionals effectively exchange data during different points of the transaction, get deals closed and ensure regulatory compliance.

Go to www.alta.org to get your copy of Digital TitleNews Today!

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Preparing for the Unknown Unknowns

In 2002, then U.S. Secretary of State Donald Rumsfeld said during a Department of Defense briefing that “There are known knowns. There are things we know that we know. There are known unknowns. That is to say, there are things that we now know we don’t know. But there are also unknown unknowns. There are things we do not know we don’t know.”

At the time, many mocked his response to a question about the lack of evidence linking the Iraqi government with the supply of weapons of mass destruction to terrorist groups. But the statement does make sense. In fact, the “unknown unknown” concept existed before Rumsfeld. In science, research is based on investigating known unknowns. Scientists develop a hypothesis and then test. At the beginning, it’s not known if the results will support the hypothesis. Occasionally, the result is unexpected—an unknown unknown.

We face our own science experiment August 1, when the Consumer Financial Protection Bureau’s Integrated Disclosures go into effect. We know the new disclosures will change significantly the home-buying process and how closings are conducted. We know that data will need to be shared more efficiently in order to meet the new delivery requirements.

What we don’t know is how the rule will work in actual transactions. That’s why we’ve encouraged members of Congress to support a bill that would provide a temporary safe harbor from the enforcement of the rule through the end of the year as long as companies show a good-faith effort to comply.

We know it will take greater collaboration among all stakeholders to get deals closed efficiently and compliantly. We know that technology will play a role. However, the form of that technology will evolve. Many companies have developed solutions to help title professionals and lenders meet the new production and delivery requirements of the Closing Disclosure. Check out the cover article to learn about some of the options.

With so many unknowns swirling, the best and only answer is to be prepared. Continue talking with your business partners. Continue training your staff. Complete the necessary software updates. We know that August is a busy time for closings, so you’ll want to make sure processes are in order before deals that require the new disclosures start coming your way.

Despite the unknown unknowns, I know ALTA members and the industry will once again rise to the challenge.



— Michelle Korsmo, ALTA chief executive officer



House Passes Points and Fees Legislation

The U.S House of Representatives in April passed the Mortgage Choice Act (HR 685), a bill introduced by Rep. Bill Huizenga (R-Mich.) that would exclude fees a lender pays to an affiliated title company from the 3 percent cap on points and fees under the Consumer Financial Protection Bureau's Qualified Mortgage rule.

Under the Dodd-Frank Act, fees paid to a title company affiliated with the lender are considered fees paid to the lender and are included in the 3 percent cap.

Lenders have said that including affiliated title fees in the 3 percent cap make it difficult to issue small loans that are compliant. It's been reported that lenders are directing borrowers to non-affiliated title companies to avoid exceeding the cap and facing potential lawsuits. Mortgage lenders have been hopeful that the Republican-controlled Congress will be receptive to making changes to the QM rule.

While the bill passed the House by a vote of

286-140, ALTA believes Senate Democrats, including Elizabeth Warren and Jeff Merkley, are likely to oppose the legislation. Additionally, the White House issued an administrative policy statement saying it will veto any points and fees legislation because it "would weaken key consumer protections and provisions of the Dodd-Frank Wall Street Reform Act." If that were to happen, ALTA believes there are probably not enough votes in Congress to override a White House veto.

Because ALTA represents various business models, the association has not taken a position on the Mortgage Choice Act. However, it is appropriate that ALTA respond to requests from our members about how they can advocate on the legislation to ensure Congress has accurate information about title insurance. If you have any questions please contact Justin Ailes, ALTA's vice president of government and regulatory affairs, at jailes@alta.org.

Join an ALTA Committee: Submit Your Name by July 17

ALTA is accepting volunteers for its 32 committees. Deadline The deadline to submit your name is Friday, July 17.

The ALTA president-elect makes all committee

appointments in the late summer for a term beginning after the Annual Convention in October. For more information, go to www.alta.org/about/comm-serv.cfm.

ALTA, MBA Partner for Sixth TRID Forum

Due to high demand, ALTA and the MBA have collaborated to offer an additional TILA-RESPA Integrated Disclosure Forum to educate industry about the Consumer Financial Protection Bureau's new disclosures, which go into effect Aug. 1 for most closed-end consumer mortgages.

The forum will be held June 23 in Denver at the Hyatt Regency Denver Tech Center. To register,

go to meetings.alta.org/respa-tila.

"We are now less than two months out until implementation of this regulation, which will result in a paradigm shift in how closings are handled," said Michelle Korsmo, ALTA's chief executive officer. "These forums have provided a venue for all stakeholders to learn about the challenges, discuss solutions and form new relationships."

Fannie Mae Clarifies Use of ALTA Short Forms in Selling Guide

Fannie Mae recently announced updates to its Selling Guide, including clarification on lenders use of ALTA's short forms.

The Selling Guide was unclear on whether lenders could use ALTA's short forms. The update clarifies

that Fannie Mae currently accepts title policies that are written on ALTA's short form. The Selling Guide has been updated to state that the ALTA short form must provide coverage equivalent to the 2006 ALTA standard form.

ALTA Board Approves Model Settlement Statements

The ALTA Board of Governors approved recommendations to adopt four new model ALTA Settlement Statements for title insurance and settlement companies to use in order to itemize all the fees and charges involved in the transaction.

Settlement statements are currently used in the marketplace in conjunction with the federal HUD-1. The ALTA Settlement Statements are not meant to replace the Consumer Financial Protection Bureau's (CFPB) Closing Disclosure, which goes into effect on Aug. 1.

"We have heard from

many title and settlement agents that the CFPB's new Closing Disclosure will not be sufficient to meet state regulators' requirements to accurately show costs that the seller and homebuyer will be responsible for in a real estate transaction," said Michelle Korsmo, ALTA's chief executive officer. "Specifically, for many states, the Closing Disclosure requires settlement providers to inaccurately disclose the costs of title insurance to the consumer.

"To meet the needs of our members who are looking for a model

form and to bring standardization to the industry where desired, ALTA developed model Settlement Statements for title insurance and settlement companies to use to itemize all the fees and charges," Korsmo continued.

There are four versions of the ALTA Settlement Statement available:

- *ALTA Settlement Statement Combined*
- *ALTA Settlement Statement Seller*
- *ALTA Settlement Statement Borrower/Buyer*
- *ALTA Settlement Statement Cash*

Each settlement statement is available for use by settlement agents in Excel, Word or PDF format. ALTA is working with settlement software providers to incorporate these newly approved forms into software programs. To download the settlement statements, go to www.alta.org/cfpb/documents.cfm.

While there is no formal comment period, ALTA welcomes comments and concerns from members and industry partners. Send questions or concerns to Andrew Fairchild, ALTA's executive assistant, at afairchild@alta.org.

ALTA Urges Senate to Make Tax Code 'Simpler, Fairer'

ALTA joined 23 other organizations in a comment letter encouraging members of the Senate Committee on Finance to improve the United States tax code.

In the 12-page letter to Sen. Orrin Hatch, the committee chairman, and Sen. Ron Wyden, ranking member of the committee, ALTA and the other organizations said the tax code should be made "simpler, fairer and more efficient."

The letter urged Congress to "reject tax reform proposals that

unduly increase the overall tax burden, or that reduce the corporate tax rate at the expense of those who pay taxes on business and investment income through the individual tax provisions, as through pass-through entities or as proprietors."

The signatory organizations encouraged the Senate Finance Committee to consider how changes to commercial real estate taxation dramatically affects real estate investment activities and indirectly impact the health of the nation's economy, job creation, retirement

savings, lending institutions, pension funds and local communities.

The letter outlines three areas where real estate-related tax reforms could have a major impact on economic growth:

1. *the cost of capital and the tax treatment of investment*
2. *entity choice rules and the consequences for business formation*
3. *the alignment of tax rules with underlying economics*

In addition, well-designed tax reform will provide a critical

incentive for investment in energy-efficient buildings, according to the letter. Rational taxation of real estate assets and entities promotes job creation and facilitates sound, environmentally responsible real estate investment and development, which contributes to strong property values and well-served, livable communities.

For more information on this letter, contact Ben Lincoln, ALTA director of government affairs, at blincoln@alta.org.



Send ALTA Your State Convention Pics!

From New England to Arizona, ALTA's Board of Governors and staff are crisscrossing the country this summer attending various state land title association conventions. Be sure to share your photos from the professional development sessions and networking events (and even the after-parties) with social@alta.org. We'll post many photos and videos from these events on our Facebook and Twitter accounts. You can join our conversation by liking us at www.fb.com/altaonline and following us using [@ALTAonline](https://twitter.com/ALTAonline) on Twitter. Pictured: Dana Askins and Mark Bilbrey at the Oklahoma Land Title Association Convention in April.

Social Media Pro Tip: Have You Yelped Yourself?

You've heard of Googling yourself (or company), but have you ever searched for your business on Yelp? If the answer is no—do yourself a favor and search today. Monitoring consumer reviews sites, such as Yelp, will help you manage your online reputation and resolve possible consumer complaints. It's easy to take a negative review "offline" by simply

replying to an individual that you will be in touch soon. You are then able to speak to the customer without other online eyes watching your every move. Additionally, when a customer calls to thank you for a job well done, encourage them to visit your Yelp account to leave a positive comment for others to see. A little effort goes a long way in building your reputation.

Industry Pride During National Homeownership Month

During June, we will post several photos and videos promoting the value of our industry to consumers. Hundreds of people shared our National Homeownership Month posts. We primarily focused on ALTA's HomeClosing101 website www.homeclosing101.org, which offers a real estate glossary, a guide to shopping for title insurance and a section on the importance of title insurance.



Are You a Video Pro?

Are you creating great videos for your company or organization? ALTA wants to highlight your great work! Please email links to your video projects to social@alta.org and look for them to be showcased on our Facebook and Twitter accounts.



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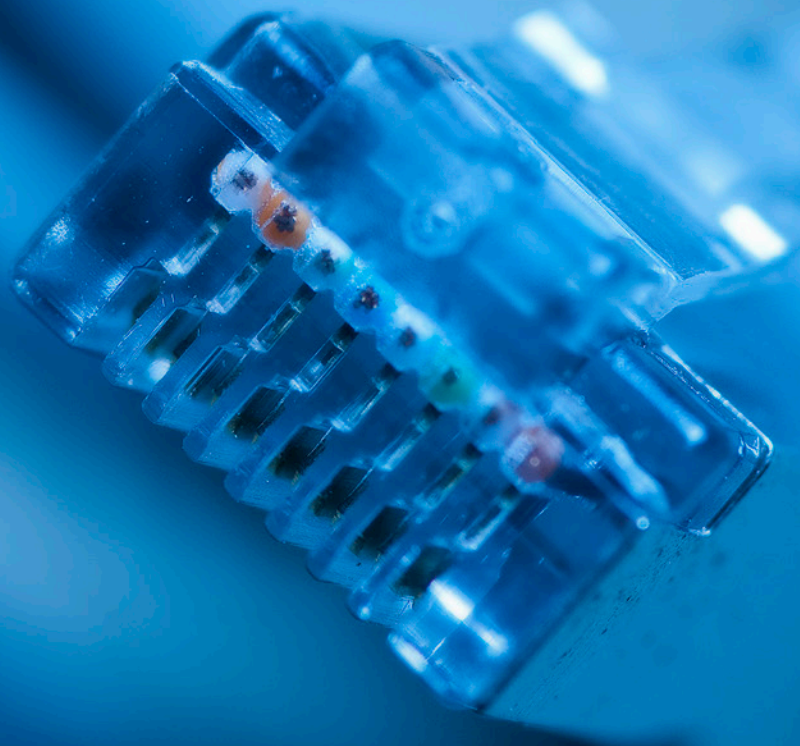
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The Need for Electronic Collaboration: Solutions to Effectively Share Data for TRID

Different Technology Options Hit the Market to Help Title Professionals, Lenders Meet Challenge of Exchanging Needed Fees for TILA-RESPA Integrated Disclosures

Jill Marshall knew getting prepared to handle the Consumer Financial Protection Bureau's (CFPB) new TILA-RESPA Integrated Disclosures (TRID) would be time-consuming and costly. She just wasn't sure to what extent. While attending an education session put on by one of her underwriters a few months ago, a sharp dose of reality rocked Marshall's email. One of her office managers started sending Marshall, who is president of Indiana-based Columbia Title, updates of how long it was taking to get staff registered for a collaborative web-based system that would be essential come Aug. 1. >>

By Jeremy Yohe



After receiving a few emails, Marshall put the phone down and quickly calculated the lost staff time it would take to get the required staff registered into a single platform in order to be ready for TRID. Marshall said “it blew my mind,” but she understands that because the disclosures pull information from two separate systems, electronic collaboration between title professionals and lenders will be paramount to complete the CFPB’s new Loan Estimate and Closing Disclosure.

“We work with national lenders and community banks, so we have to have processes in place to handle a wide range of capabilities and requirements to provide data for the new disclosures,” Marshall said. “Title agents and attorneys who

implementing this new process will cost the settlement services industry \$67.8 million over the next five years. It will cost lenders \$207 million per year for the next five. That brings the total price tag for implementation to more than \$1.3 billion.

Software developers have been working tirelessly since 2013 to update their products. But not every title company uses an off-the-shelf solution. One title company that uses proprietary software reports having spent nearly \$500,000 to update its system. This work required the efforts of six full-time employees over a 12-month development cycle.

“With the need for significant staff training on the new processes needed to meet these regulatory requirements, it is crucial that

through a third-party online portal or integration with the lender origination software (LOS) and title production system (TPS).

Several technology vendors have developed solutions to share and combine loan-centric information stored in lenders’ loan origination systems and property-centric data found in title/settlement agents’ systems.

“Because of the various options, title professionals will really need to work with their lenders to learn how they will pass data back and forth,” said Leslie Wyatt of SoftPro. “If a lender tells you how they plan to do business going forward, if you don’t have the software to handle their process, you may not be able to meet their requirements.”

Integrated Systems

Two of the most common TPS systems, SoftPro and RamQuest, offer integrations with lender LOS. Wyatt called this a plug-and-play option that allows data to be exported and allows both parties to have real-time access to an updated Closing Disclosure.

“Featuring a dynamic design, RamQuest’s Closing Disclosure expands and contracts, self-adjusting as needed for each unique transaction,” said Paul Bandiera, RamQuest’s president. “It also features a flexible override mode that will enable title and settlement agents to meet specific lender requests and handle exceptions with ease.”

If a title company integrates its TPS with a LOS there is no third party acting as a bridge between systems. If truly integrated, a notification is sent through the software when there’s a new order.

“Title agents and attorneys who conduct closings need to understand that they can’t just flip a switch and be ready to handle transactions requiring the Closing Disclosure.”

conduct closings need to understand that they can’t just flip a switch and be ready to handle transactions requiring the Closing Disclosure.”

A key component of being prepared is updating software systems in order to share data and produce the new disclosures. Getting ready for Aug. 1 is an enormous challenge that will not come cheaply to the industry. According to the CFPB’s own estimates,

companies complete installation of new software well ahead of August,” said ALTA President Diane Evans NTP.

According to industry experts, there will be three main models for sharing data after the Aug. 1 implementation of TRID. The first is the traditional method in which orders are transmitted via phone, fax, email or delivered in person. The other two main methods are

The title professional can accept the order and its data or reject it.

Ellie Mae reported that its Title & Closing Center within its Encompass all-in-one mortgage management solution will be enhanced to support TRID. To help lenders with TILA-RESPA compliance, Ellie Mae will expand the breadth of data and enhance the automated workflows within the Encompass Title & Closing Center, which enables clients to access most title companies and title agents as well as order closing documents without having to leave the secure Encompass environment. John Haring, Ellie Mae's director of compliance enablement, said his company focused on refining fee management and minimizing the impact on the user. In order to support production of the new forms, Ellie Mae developed 3,200 new fields and 2,500 calculations were introduced into the LOS. Additionally, about 275 title and recording fields, new borrower and transaction fees and details and expanded fee reconciliation workflows were developed.

"Keep in mind that we still need to support the HUD, GFE and TIL," Haring said. "Functionality needs to work on any type of loan.

In addition, some community banks and credit unions initially won't have the capability to meet the TRID requirements. That means title companies that provide service to these lenders likely will be asked to produce and deliver the Closing Disclosure to the homebuyer.

While a survey conducted by ALTA found that 53 percent of title professionals have either viewed a test version of their software to produce the Closing Disclosure or

have scheduled a demo (Read more about the ALTA survey on page 19), banks may not be as prepared.

According to a survey conducted by the American Bankers Association, which polled about 800 of its members, more than a third of respondents indicated their software vendors had not provided a solid delivery date for solutions. With installation expected to take several months, many banks may not be prepared come August.

■ "Keep in mind that we still need to support the HUD, GFE and TIL. Functionality needs to work on any type of loan."

"We expect actual deliveries of systems to lag what bankers are being promised," said ABA Executive Vice President Robert Davis. "If this holds true, and bankers are uncertain about the level of potential supervisory tolerance, we expect a measurable reduction in credit availability during a transition period."

Web-based Options

Several vendors have launched web-based solutions that allow settlement agents and lenders to pass data securely through an online portal. BeesPath's ClosingBridge uses electronic file delivery and communication tools to help lenders and settlement agents work together on the preparation and delivery of the integrated disclosures. The new system serves as a bridge between disparate systems, enabling lenders

working on their existing loan origination systems to connect with settlement agents using their own production systems. It provides a single integration point for lender and settlement system vendors to connect their systems for exchanging data, documents and messages without building numerous custom system-to-system integrations, according to BeesPath President Todd Hougaard.

All documents, data and

communication exchanged between settlement agents, lenders and consumers can go through ClosingBridge, eliminating email, fax and other non-secure document delivery methods to better protect non-public personal information, Hougaard added.

"The TRID rules are causing a major shift in the process workflows between lenders and their settlement agents," Hougaard said. "Most lenders don't necessarily want to take on the responsibility, acquire the expertise, and absorb the cost of preparing the new Closing Disclosure. For years, our goal has been to bring together lenders and settlement agents so that they can work together seamlessly with every interaction, communication and information exchange. ClosingBridge is a significant step toward achieving that goal. It helps

bridge the gap between lender and settlement systems, making compliance a team effort, instead of just a lender task.”

Simplifile, which has been a long-time provider of electronic recording services, also has developed a web-based collaborative fee sharing and document service. Nancy Alley, vice president of strategic planning for Simplifile, said the solution also supports post-closing efforts, enabling sharing of recording status and the return of recorded documents and the final policy. Settlement agents that already e-record would only need to connect to their lender and be trained on the functionality to get up and running.

“Simplifile already has integrations with 25 title software systems for e-recording and is working to update these existing integrations to support the fee data and document exchange,” Alley said. “The web-based portals offer immediate, easy adoption, and having an independent solution in between the systems offers the most flexibility for adoption and places the integration burden on the collaboration platform instead of the agent.”

eLynx’s product provides settlement agents two options to submit fee data to lenders. For title production systems directly integrated with its Electronic Collaboration Network (eCN), the settlement agent completes his or her work. Fee information is sent automatically to eLynx via a Mortgage Industry Standards Maintenance Organization (MISMO) data exchange. The lender then reviews, accepts or declines the fees. If a direct integration has not yet been established, the settlement agent

would produce a PDF of the Closing Disclosure and upload the document to eLynx, which extracts the relevant data and presents it to the lender.

“Because lender-settlement agent coordination will both increase and start much sooner, it will be far more efficient for settlement agents to utilize electronic collaboration platforms that eliminate manual entry,” said Alex Cheung, vice president of product management and marketing at eLynx. “They help settlement agents minimize errors, respond faster and ensure compliance. Settlement agents who know how to use these kinds of platforms will indeed be more competitive. On the other hand, it will take time for some lenders to adapt, meaning that there is time for settlement agents to learn these new platforms.”

Hybrid Solution

Several lenders—including Bank of America, Wells Fargo and Union Bank, will use RealEC’s Closing Insight to help reconcile closing data and manage title and closing services in one location in order to generate the Closing Disclosure. Beginning Aug. 1, the lenders said all documents, data and information—including closing instructions, fees, status and other relevant details—will be exchanged only through Closing Insight.

In addition to accessing information through a secure portal, many settlement agents will be able to connect to Closing Insight through their existing software. Closing Insight is integrating with the following title and settlement production software platforms:

- SoftPro RamQuest
- FAST
- Streamline and TitleExpress
- ResWare
- Aim+/SureClose
- SnapClose
- LandTech
- RBJ-Edge

In order to receive orders from Bank of America, settlement agents must register with Closing Insight. Bank of America will initiate requests through Closing Insight, which supports a variety of notification methods. How a settlement agent is notified when there’s a new order will be determined if the agent is a web user or accessing the platform through its title and escrow production software. Bank of America, which indicated it will not pass on the cost to use Closing Insight onto the settlement agent or consumer, said collaboration to finalize fees for the Closing Disclosure will start generally 10 business days before closing. Bank of America said any changes to the Closing Disclosure must be made through Closing Insight. Depending on the change, the lender will advise whether a new three-day waiting period is required. While the lender and settlement agent must both approve the Closing Disclosure to be used for consummation, changes may only be made with Bank of America’s approval.

While Wells Fargo has not mandated that its settlement agents register with Closing Insight, the lender’s goal is that it becomes “the new standard for interaction.”

“Our goal to continue doing business with local title and settlement service providers has not changed,” Wells Fargo said in a letter to its agents. “Our expectation is

that all title and settlement agents who close Wells Fargo loans must be ready, willing and able to comply with our requirements and closing instructions. Unlike today where we typically use email to pass these important details back and forth, Closing Insight will support an interactive, online collaboration that includes a full view of information from both parties and provides an audit trail and quality checks to reduce errors,” according to Wells.

Providing evidence of compliance is a key issue according to Tim Anderson, director of eServices for DocMagic. Lenders and settlement agents will need to use the same provider in order to produce an electronic audit trail. Making sure that fees on the Closing Disclosure reconcile with the Loan Estimate (with no RESPA tolerance violations) will be a challenge in these situations.

“If you use one vendor for the initial upfront Loan Estimate disclosure and another for the final, you are also going to get different APR, GFE and TIL calculations—one may be accurate, and one may be inaccurate,” Anderson said. “If you are using different system providers, I guarantee this is going to be non-compliant and the CFPB may assess fines.”

No Shirt, No Shoes, No Service

While some banks may continue to rely on traditional methods to share data for the Closing Disclosure, Bank of America, Wells Fargo and Union Bank all said they will no longer use email or fax.

“Unlike today where we typically use email to pass these important details back and forth, Closing Insight will support an interactive, online collaboration that includes a

Digital TitleNews Extra Title Topics: TRID Electronic Collaboration

full view of information from both parties, and provides an audit trail and quality checks to reduce errors,” according to Wells.

Zack Boonjue, general manager of PeirsonPatterson LLP believes there will be “mass confusion” in the market because title and settlement agents will be expected to work with various platforms in order to share the needed data with different lenders. This is what led his company to create what Boonjue says is a platform-neutral, cloud-based system that isn’t tied to any LOS or doc-prep system.

“Vendors are creating collaboration tools that only work with their document system,” Boonjue said. “I must admit that we initially started off in that same direction, but quickly realized that a neutral system will be more practical.”

In PeirsonPatterson’s Comismo solution, the originator will open a file in its integrated LOS. The user selects invitee(s) and sends an

email requesting participation. The invitee follows the link and begins populating a screen that looks like pages two and three of the Closing Disclosure. The invitee can manually key in suggested changes or upload a file from his or her system. Comismo will report all changes to the originator, who has the option to accept changes on a line-by-line basis. A notification is sent to the invitees upon completion and updated data files are available for download.

While some lenders and settlement agents will continue at first to fax, email or exchange data by phone, Boonjue warned of TILA liability on the Closing Disclosure. “Mistakes will be costly,” he said.

“We cannot afford to share information the traditional way,” Boonjue added. “Faxing and emailing scanned images will cause delays and errors.”

Proprietary Systems

Meanwhile, some lenders will use their own platform to handle the new disclosures.

As an example, New York Community Bank and NYCB Mortgage Company (NYCB) are developing a technical solution that integrates into its existing Gemstone platform.

NYCB's primary objective is to control accuracy of the disclosures by providing a solution that allows settlement agents and funding clients to import or enter information into Gemstone, where it will be combined with other data. The bank's other objective is to automate the production and delivery of the disclosures to ensure compliance with regulatory timelines, tolerances and other applicable considerations.

“We cannot afford to share data the traditional way. Faxing and emailing scanned images will cause delays and errors.”

“Because the creditor retains ultimate responsibility and liability for the timely delivery of accurate integrated disclosures, NYCB will generate and deliver the (Loan Estimate) and (Closing Disclosure) to the applicant and other applicable individuals,” the bank said in its memo.

In conjunction with table-funding clients, NYCB said settlement agents will prepare the Closing Disclosure in Gemstone. NYCB will generate

and deliver the form to applicants and other applicable individuals. For purchase transactions, settlement agents will be responsible for providing the Closing Disclosure to the seller and delivering a signed copy to NYCB.

According to NYCB, Gemstone will also facilitate the generation and delivery of any necessary revised Loan Estimates or Closing Disclosures to the consumers.

End-to-End Solutions

Several companies are developing solutions to aid completing of the integrated disclosures, but also are rolling out services that allow for the electronic delivery, signing and recording of the documents.

DocMagic's Collaborative Closing Portal is one such solution where title and settlement agents can share

data and documents with lenders through a secure web portal. The system supports the new MISMO 3.3 data format. In addition, DocMagic is directly connected and integrated with many title, closing and LOS systems. After a lender submits documents to the portal, a secure notification and link is sent to invite the title company to login and update their side of the data transaction. Depending upon their system interface and capabilities,

Anderson said this can be a fully automated solution. If the settlement agent has no way to connect with the system, they can manually enter the information.

Anderson said companies that implement more electronic methods and e-sign processes are going to have a significant market advantage and will increase business as a result of using technology to differentiate themselves while reducing their compliance risk.

“The new consumer of today is expecting the same superior customer service and experience at closing,” Anderson said. “This regulation is really forcing lenders to do the same for closing documents and process. Stopgap, piecemeal solutions may not ensure the lender will pass regulatory muster.”

Matthew Corcoran, director of marketing and user experience for Pavaso, believes the industry as a whole is overlooking the consumer experience of the transaction and the effects the CFPB is hoping for after Aug. 1. While developing collaborative platforms is important, he says all process improvements should be made with the consumer as the focus.

“This is going to be a Netflix-Blockbuster moment for the industry. “This is a way for us to take advantage of an industry change and get ahead of the competition as far as the consumer experience.”

Pvaso announced an accelerated path for businesses to implement digital closings in order to prepare for sweeping industry changes. In a release, Pavaso said its Fast Track program provides a quick, low-impact implementation of its Digital Close solution in two weeks. Pavaso said the program helps lenders and

title companies tackle the larger issue of TRID that is still largely overlooked in the industry—the consumer’s experience.

Mark McElroy, president and CEO of Pavaso, said the platform accounts for and creates a unified process of closing real estate, offering functionality for each stakeholder to service the consumer and other parties involved in the transaction. This program eliminates large capital investment and lengthy implementation timeframes.

“This is going to be a Netflix-Blockbuster moment for the industry.”

“With no hardware requirements, and no long and expensive training or rollouts, this plan was designed to fit with businesses’ current plans, regardless of what they are, and establish the future today,” McElroy added.

TRID Language

In addition to preparing for new timing requirements and tighter fee tolerances, settlement agents and lenders must develop standardized fee names or descriptions for the Loan Estimate and Closing Disclosure.

Because the CFPB wants consumers to be able to compare fee estimates with what’s actually charged at consummation, TRID requires fee terminology to be consistent between the two forms.

“This is a challenge because fees for services are not called the same

thing across the country,” said Don Partington, executive vice president and general counsel for Fidelity National Title Group. “Lenders and settlement agents will need to communicate and come to an agreement on fee naming.”

An example of variances in naming include valuation services versus appraisal. Ethan Pack, director of Information Technology Solutions for Stewart, said some states require a specific terminology for fees.

“In Texas, if you’re referring to a fee for termites, it has to be called a wood destroying insect fee,” he said. “There will need to be collaboration here to decide on fee name standardization. Lenders and settlement agents have started attempting to determine standard fee names.

According to Steve Acker, founder of the technology-consulting firm Closergeist, MISMO is developing fee standards with the help of ALTA and MBA. He said version 3.3 of MISMO establishes a common dataset that is a prerequisite to share data required for the disclosures. In addition, Fannie Mae and Freddie Mac have developed a new industry-standard dataset (the Uniform Closing Dataset) to support implementation of the Closing Disclosure.

“For software providers who must update systems to support the new Closing Disclosure, the UCD will take much of the guesswork out of determining which pieces of data go into which spots on the form,” Acker said. “In addition to providing a blueprint to populating the disclosures, the UCD will also serve as a standard data format for settlement software and loan origination systems to exchange information about loan costs. Whatever solution a title agent selects, they should make sure it’s MISMO compliant.”

The Road Ahead

While there are many options available in the market, ideally settlement agents will want to use a fully automated model through a third-party portal or direct integration. However, for some small lenders data exchange will be a manual process for some time. How information is exchanged will evolve after Aug. 1.

“Collaboration can occur in different ways, and will be required to handle these new forms,” Partington said. “Settlement agents will need to be able to connect with multiple platforms and be ready to do some things manually. The important thing is to ask your lender partners how they plan to pass data back and forth.” ■



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ALTA Survey Finds 92% of Title Professionals will be Ready for TRID Implementation

Top Concerns Include Collaboration With Lenders and Realtors, as Well as the Three-day Rule

The overwhelming majority of title professionals will be prepared for the Aug. 1 implementation of the Consumer Financial Protection Bureau's (CFPB) TILA-RESPA Integrated Disclosures (TRID) rule, according to a survey conducted by ALTA. The survey showed that 92 percent of respondents indicated that their companies will be prepared to handle the new forms and comply with the regulation. The survey polled more than 500 title professionals, including

title agents, underwriters, attorneys and abstractors.

"The land title insurance industry has been a leader in preparing the real estate industry for the new disclosures and our hard work is reflected in the preparedness of our members," said Michelle Korsmo, ALTA's chief executive officer.

The CFPB's rule integrates forms required under the Truth-in-Lending Act (TILA) and Real Estate Settlement and Procedures Act (RESPA). For most consumer mortgages, a three-page Loan Estimate will replace the current Good Faith Estimate and early TIL disclosure, while a five-page Closing Disclosure will replace the HUD-1 and final TIL disclosure.

Closing Delays

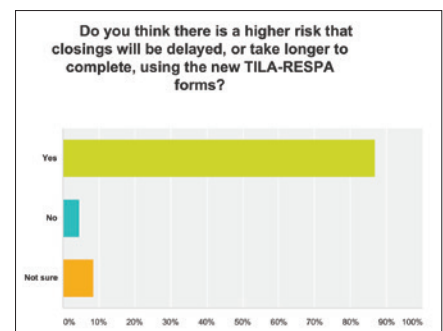
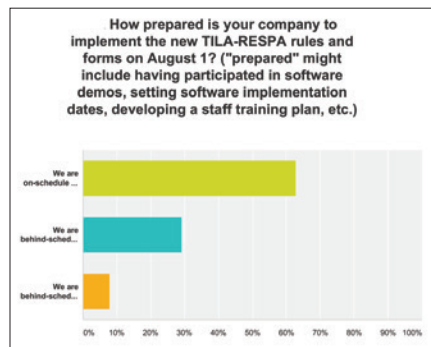
While most title professionals will be prepared for implementation, 87 percent believe TRID will delay closings or result in closings taking

longer to complete. Only 5 percent believe the disclosures won't affect closings, while 8 percent are unsure. The top reasons given as to why closing delays will occur include:

- Three-day delivery rule
- Changes at the closing table
- Walk-through issues
- Issues with small lender/credit union readiness
- Lender/Realtor communication issues

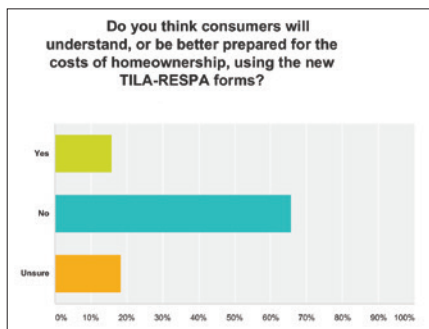
According to one person who took the survey, "Lenders I've spoke with seem to have a timeline already in place for when the order comes in. The three-day rule cuts down a lot of the time lenders have to work on things. With the way business has always been conducted in this industry, a dramatic change like this will not happen overnight. There are too many [parties involved] to make this go smoothly and to complete the assigned tasks on time."

Some who took the survey believe the new regulations will cause transactions to take up to 60 days to close. Others believe the new forms will tack on an additional two or three weeks to the closing process.



One person pointed out how this will impact the strict closing deadlines for REO sales. “The three-day rule will lengthen the lender’s process, most likely delaying the closing from the seller’s close-by date. This means the agents will need to get an addendum to extend the closing date, which takes additional time to get the seller’s approval and signature. This could potentially become a vicious circle of delays,” the respondent said.

Consumer Understanding



According to the survey, more than two thirds believe the TILA-RESPA forms will not help the CFPB meet its objective of helping consumers be better prepared to understand the costs of buying a home. Meanwhile, only 15 percent believe TRID will help consumers better understand their transaction.

Some do believe the new Closing Disclosure will help consumers understand the costs associated with purchasing a home. According to one person, “The contents of the Closing Disclosure Form is great and I love the first page details. However, I believe the average consumer will choose to ignore the remainder. It is all about how much is my payment and how much do I bring to closing. Beyond that, most simply do not care.”

However, others said that while the forms may display fees in a more

What About the Lenders?

More than 40 percent of mortgage lenders are not prepared to meet the Aug. 1 implementation of the CFPB’s TILA-RESPA integrated disclosure (TRID) rule, according to a recent survey conducted by Capsilon Corporation.

The survey also showed that only 12 percent of respondents reported that their companies are “very prepared” to meet the TILA-RESPA requirements.

The survey was conducted during the Mortgage Bankers Association’s (MBA’s) National Technology in Mortgage Banking Conference and Expo, which took place March 29 through April 1 in Orlando. Additional responses were solicited online the week following the conference.

The survey, which polled more than 100 executives from leading mortgage lenders, also revealed that four out of five of the respondents believe that their companies’ loan production costs will continue to rise in 2015 versus 2014 as they increase focus on compliance-related activities, with 20 percent forecasting that their loan production costs will be “significantly” higher this year. In fact, 67 percent of the lenders reported that they have already hired additional in-house staff or engaged with outsourced staff to handle compliance-related activities, which is driving loan production costs higher.

Meanwhile, QuestSoft’s ninth-annual compliance survey showed that TRID dominates lenders’ compliance concerns. More than 500 lenders responded to the 2015 survey, with 76 percent ranking TRID as a high concern, and an additional 15 percent citing it as a medium concern.

“Each of the past few years has come with a major deadline, and understandably, the highest compliance concerns reflect the next pressing deadline,” said Leonard Ryan, founder and president of QuestSoft. “Integrated disclosures require not only major technology updates to handle the new forms, but process changes as well to implement required waiting periods and coordinate new workflows.”

Following the integrated disclosures, the next highest concern amongst the lenders surveyed are the looming changes to Home Mortgage Disclosure Act (HMDA) rules, with 55 percent citing the pending changes as a high concern. Rounding out the top five is a trio of concerns that reflect the growing impact of audits and enforcements of the regulations passed over the past five years. Fair Lending exams ranked third, with 27 percent citing it as a high concern, followed by increased CRA exam scrutiny (19 percent) and Ability-to-Repay violations (19 percent).

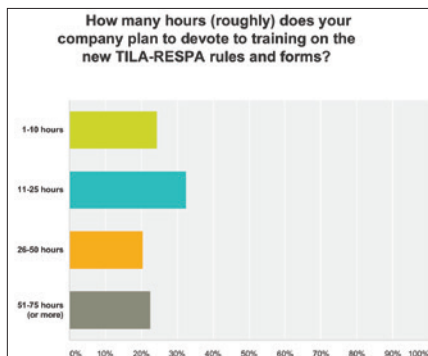
“While lenders are understandably concerned about this year’s deadline, it is telling that the highest level of concern will shift to dealing with the enforcement and examination of those rules after the deadline,” Ryan said. “Lenders will continue to rely on trusted partners to test loans, prepare for audits and meet industry compliance standards.”

readable fashion, consumers will still have to review the document.

“While the new forms are generally understandable, there will be confusion about the title premiums, just as one example. We will probably need to use a simple closing statement to help the borrower and seller understand,” according to one person who took the survey.

Training

In order to prepare for the new forms and rules, 43 percent of those polled will devote at least 26 hours to training staff. Another 33 percent will spend at least 11 to 25 hours training staff to handle the disclosures.



Software

More than half of those surveyed reported they have either viewed a test version of their software to produce the Closing Disclosure or that a demo has been scheduled. However, 39 percent indicated they have not viewed a demo of updated software and that nothing has been scheduled.

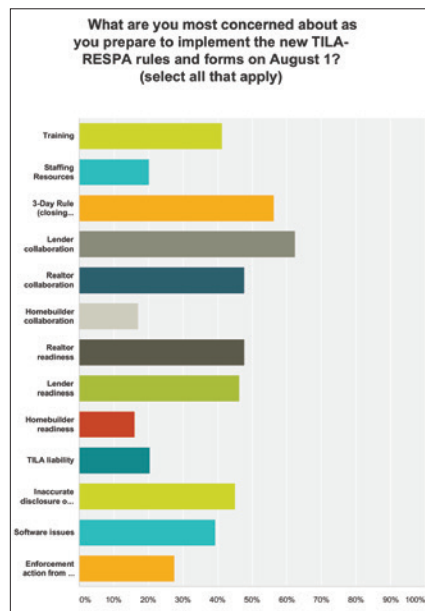
Top Concerns

When asked about their biggest worries regarding preparing for the new disclosures, responses indicated that collaborating with lenders to exchange data and meet production and delivery requirements of the

rule is the top concern of title professionals who took the survey.

“For nearly two years, we have encouraged our members to initiate conversations with their Realtor and mortgage lender partners to ensure the implementation of the new forms is seamless for consumers beginning August 1,” Korsmo added. “All stakeholders who participate in the transaction share the CFPB’s goal that these new disclosures help consumers better understand their terms when they buy a home or refinance their mortgage.”

Title professionals and lenders have been modifying business processes, upgrading software and training staff to comply with the 1,888-page regulation. ALTA has collaborated with the Mortgage Bankers Association and National Association of Realtors to host six industry education forums around the country, with a focus on ensuring real estate transactions continue to be closed efficiently and compliantly.



Enforcement

Because there are many unknowns with how the disclosures will work in actual transactions, ALTA has asked that the CFPB follow a hold-harmless period of restrained enforcement and liability through the end of 2015 following the Aug. 1 implementation of TRID.

In May, Reps. Steve Pearce (R-N.M.) and Brad Sherman (D-Calif.) introduced a bipartisan bill that would provide a temporary safe harbor from the enforcement of the TRID rule through the end of 2015 as long as companies show a good-faith effort to comply.

In the House, Reps. Andy Barr (R-Ky.) and Carolyn Maloney (D-N.Y.) submitted a letter to the CFPB asking for a hold-harmless period, as have Reps. Blaine Luetkemeyer (R-Mo.) and Randy Neugebauer (R-Texas). There’s support in the Senate as well. Sens. Joe Donnelly (D-Ind.) and Tim Scott (R-S.C.) also sent a bipartisan letter requesting a hold-harmless period through the end of the year.

“The bureau provided 21 months to rewrite business processes, upgrade software and train staff to comply with the 1,888-page regulation,” Korsmo said. “Unfortunately, our members are not able to test the processes to develop these new disclosures in real-life transactions before the implementation date. We know from implementing past regulations that unforeseen issues will arise in actual transactions. Therefore, a formal hold-harmless period through December 31 will allow our members to make a good-faith effort to comply with the TRID regulation without the fear of potential enforcement actions or lawsuits.”

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ALTA Best Practice Manuals: Every Closing Agent Needs One, Every Lender Should Require One

Best Practices Play Integral Role to Managing Risk and Proving Regulatory Compliance

BY GREGORY KORN

Over a period of 30 days recently, I reviewed the Best Practice Manuals of over 200 closing agents. To understand why I undertook that time-consuming endeavor, it is important to understand what's included in ALTA's Title Insurance and Settlement Company Best Practices.

ALTA created its Best Practices to help its members document policies and procedures used to protect the interests of consumers and lenders. Lenders are responsible for the actions of any third-party service providers they hire to perform functions on their behalf. It is paramount that lenders review the documentation of a closing agent's Best Practices manual. This is crucial to managing risk and performing the due diligence required by regulators for vendor management.

Whether a lender has a closing agent list, a few approved closing agents or hundreds of them, the lender is responsible for ensuring that each closing agent can safely meet the needs of the lender, protect the consumer and satisfy all involved in the closing transaction.

The Best Practices established by ALTA help lenders document that they are monitoring their closing agents. So what are the Best Practices and how should a closing agent go about documenting them?

Best Practice No. 1: Document the establishment and confirmation of licensing. In this section of the manual, closing agents should document the areas in which they practice and identify the individuals licensed to do so. In a small firm, the individuals and license numbers may

ALTA Develops Best Practices Compliance Management Report

With the support of ALTA's Best Practices Task Force, ALTA has published a member-exclusive, 32-page Best Practices Compliance Management Report, which can be completed and provided to lenders and others evidencing compliance with Best Practices.

ALTA members can add their company logo and name to the cover page to customize the report.

In Section 1 of the report, members can input business and demographic information, followed by pages that provide a snapshot of where a company stands in adoption of ALTA's Best Practices.

The bulk of the report includes appendices to include the necessary information to support compliance to each pillar of the Best Practices. ALTA members seeking a review by a third party (if applicable) can use the final section of the report.

To download the Compliance Management Report, go to www.alta.org/bestpractices.

be typed into this section. For larger firms, an exhibit to the manual that lists all licensed employees and the areas in which they practice may be more appropriate.

Best Practice No. 2: Develop written procedures for the control of escrow IOLTA accounts. Closing agents should be sure to list the institution(s) that hold their accounts and list the account names to document that their IOLTA account is separate from their operating account. List the individuals within the firm who can access the accounts as well as the controls in place to manage them. Timely reconciliation is critical.

Best Practice No. 3: Document a written privacy and information security plan. Make sure this section pertains to how the closing agent runs their office. Document what security provisions are in place to protect a consumer's private information. Document hiring practices and background checks on all employees. As part of this section or as a separate exhibit, document disaster recovery plans. It is important for a lender to know and plan for how a closing agent will maintain services if a disaster were to occur. If the firm outsources any functions, it is important to document these functions here and the steps taken to make sure these parties are following procedures and protecting consumer information.

Best Practice No. 4: Adoption of real estate settlement procedures and policies to ensure compliance with federal and state consumer financial laws. Document recording and pricing procedures. Show the steps taken to track the shipment of documents and the timeliness of responses to recording rejections.

Best Practice No. 5: Document procedures for title policy production

SunTrust Requires ALTA Best Practice Self-assessment by July 1, Shares Plans for TRID

To prove compliance with third-party oversight required by the Consumer Financial Protection Bureau, SunTrust announced it will require its settlement service providers to implement ALTA's Best Practices.

In a letter to its network of providers, SunTrust said settlement service providers must complete an ALTA Best Practices self-assessment by July 1 to remain eligible to close loans for SunTrust.

"SunTrust believes that the most efficient and comprehensive way to comply with this guidance is to require our approved settlement agents to adhere to ALTA's Best Practices," Andrew Valentine, SunTrust's national closing manager, wrote in SunTrust's communication.

In the same letter, SunTrust said it will produce and deliver the Closing Disclosure to consumers in order to comply with the TILA-RESPA Integrated Disclosures (TRID) rule. SunTrust will require title and settlement agents to provide complete and accurate fees up to two weeks prior to the scheduled closing date.

In addition, the lender said it will handle any Closing Disclosure revisions. A final Closing Disclosure will be included with the closing documents and delivered to settlement service providers at closing.

"The procedural changes that these rules require will have significant impacts on the manner and timing of communications between SunTrust and its settlement service providers and cause changes to our respective roles and responsibilities, all of which are intended to ensure the best possible mortgage experience for our clients," Valentine said. "SunTrust is prepared for the new rule's implementation and it is our expectation that our settlement service providers who close our loans are or will be prepared as well."

Title and settlement agents will be responsible for preparing and delivering the sellers Closing Disclosure on purchase transactions. A signed copy of the sellers Closing Disclosure will be required as a condition to receiving funding approval.

SunTrust expects its settlement service providers "to provide timely notice concerning any settlement fee changes that occur, including those that occur at or after closing."

Prior to closing a loan impacted by the new rules, SunTrust will send an attestation form to its settlement service providers so they can confirm ability to comply with the rules and the expectations.

and premium remittance. Don't forget to identify the title insurance companies for whom the closing agent is able to write policies. If an agent is approved by multiple companies, indicate all of them. Indicate timelines

for the delivery of policies and for premium remittance.

Best Practice No. 6: Maintain appropriate professional liability insurance and fidelity coverage. Be sure to include the amounts of coverage held as well as any deductible

and the name of the insurance provider. It is also acceptable to include a copy of the declarations page from the closing agent's policy.

Best Practice No. 7: Adopt and maintain written procedures for resolving consumer complaints. Regulators have made it abundantly clear that if a consumer isn't pleased, a complaint should be filed. It is critical that a closing agent's staff is trained on how to handle and respond to complaints. Complaints should be logged and tracked to identify potential service issues or other problems.

Remember that the lender is responsible for an agent's actions. So, if the agent does respond to a complaint, it is important to notify the lender of the complaint and how it was resolved.

Some other things to keep in mind when preparing a Best Practices manual:

- Make sure the entire staff is aware of the manual and understands its contents
- Make sure a principal of the closing agent firm signs the manual and lists the date it was established
- At least annually, review the manual to identify any changes to your business practices and update it accordingly

If you are a lender, do you require submission of a Best Practices manual? If not, how are you documenting to your regulator the service provider you have hired is equipped to protect consumers and your institution?

If you are a closing agent, have you completed your Best Practice manual? If not, how are you planning to document to a lender that you are able to protect their consumers and interests?

The views expressed in this article are the author's and do not necessarily reflect those of his employer, colleagues or his clients. The information provided by the author is for informational purposes only and is not intended as legal advice.



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Kelo v. New London: A Decade Later

A Look at the Repercussions of the 2005 U.S. Supreme Court Ruling on Eminent Domain

BY BETHANY BERGER

Ten years ago this month, the Supreme Court issued its opinion in *Kelo v. New London*. This article looks back at what the case meant—or didn't mean—for eminent domain, drawing from the perspectives of lawyers, economists, sociologists and planners who spoke at a conference I helped organize at the University of Connecticut School of Law this spring. Conference proceedings can be found at www.law.uconn.edu/calendar/symposium/20th-thomas-r-gallivan-jr-conference-kelo-decade-later

Kelo Outrage

The decision to allow the taking of lands for economic development followed U.S. Supreme Court precedents set down over a century ago and reaffirmed in the 1950s and 1980s. According to attorney Clark Neily, who helped represent the plaintiffs for the Institute for Justice, the case was met with a “collective yawn” by those in the know. Property professors and lawyers predicted the result would be 8-1 in favor of New London.

But the decision for New London was 5-4, and the public responded with outrage. Within a month, editorial pages from New Jersey to Texas were comparing *Kelo* to *Dred Scott v. Sanford*. In 2011, Justice Antonin Scalia agreed, linking *Kelo* with *Dred Scott* and *Roe v. Wade*, as one of the Court’s “top ten failures of political judgment,” and predicting “I

do not think that the *Kelo* opinion is long for this world.”

The public focused on the idea that the government could take property from one person and give it to another for the economic good of the city. But this happened all the time before *Kelo*. Sociologist Debbie Becher investigated over 7,000 uses of eminent domain in Philadelphia between 1992 and 2007 for her book *Private Property and Public Power: Eminent Domain in Philadelphia*. Four hundred of these cases were development projects like those in *Kelo*. Many were even more direct transfers between parties, transferring one owner’s abandoned lot to his or her neighbor. Most of these takings, however, were uncontroversial, even popular. So what made the difference in *Kelo*?



A File photo of Susette Kelo in front of her house pink house.
Photo Credit: Institute of Justice

One difference is that relatively few of the properties Becher studied were occupied homes. Regardless of their economic value, homes carry a greater sense of investment and invasion if they are taken away. But a few hundred of the Philadelphia cases affected occupied homes. The owners were generally satisfied if compensation ensured that they could afford replacement housing in a similar neighborhood and the development was perceived as in the public interest.

were black or Latino. Kelo's house was also a single-family detached home on the beach, so it looked like the kind of suburban home where middle-class voters could imagine themselves. New London's choice to proceed under the state law and authorize eminent domain for economic development, rather than the law authorizing blight removal, played into this narrative. The Institute for Justice, of course, also very effectively publicized the case.

was in a state with significant numbers of post-industrial cities like New London.

But the *Kelo* backlash operates at a political level as well. One city planner I asked to participate in the conference said she couldn't for political reasons. Professor Anika Singh Lemar, who teaches Urban Development at Yale Law School, said that cities are now much more reluctant to use eminent domain for economic development. The result is that some developments don't happen, and those that do, happen more slowly and expensively than they would have otherwise.

This chilling effect doesn't seem to apply to all takings, however. Attorney David Domina from Nebraska spoke at the conference about his legal battle on behalf of homeowners whose farms have been condemned to make way for the Keystone Pipeline. After *Kelo*, Nebraska had passed a law prohibiting taking property primarily for economic development, but the law specifically exempted takings for pipelines. Then, in 2010, the legislature passed a law allowing the governor to approve siting of the Keystone Pipeline directly, bypassing a Public Service Commission, which the state constitutional usually requires to approve condemnations for common carriers. In January 2015, four of seven Nebraska Supreme Court justices found that the statute was unconstitutional, but Nebraska requires a supermajority to invalidate a state statute, so the law was upheld.

Professor Thomas Mitchell spoke about another taking in New Orleans. Louisiana was the first state to enact a post-*Kelo* limit on constitutional takings. But in

In the end, the decision in *Kelo v. New London* was not a grand victory for the plaintiffs or for New London, for cities or for property owners.

In the Fort Trumbull area of New London, Conn., as well, all but seven of 90 property owners were happy to accept the city's offers. At the time, Fort Trumbull housed a junkyard, a railroad stockyard, oil storage terminals and car repair businesses. Eighty percent of commercial properties on the peninsula were vacant, as were 20 percent of residential properties. Susette Kelo's house had been vacant for decades until she purchased in it 1997. Eighty-eight percent of the structures were in fair to poor condition, with only 12 percent in average condition.

At the conference, Becher speculated that one reason the case resonated so strongly was that Kelo and her neighbors were white, while most of the Philadelphia owners

Kelo's Impact

Kelo remains good law despite Justice Scalia's prediction, and congressional efforts to overturn it failed to take hold. The state legal response was much more powerful. Forty-four states passed some kind of law ostensibly responding to *Kelo*. Some of these laws prohibit takings for economic development, some limit them to removal of blight, some prevent all takings that will result in transfers to private owners, and some change the procedural requirements for economic development takings. But only a fraction of these state laws restrict eminent domain in a meaningful way. An even smaller number were passed in states that frequently used eminent domain in the first place. Notably, only one of the most stringent laws, Michigan's,



2010, Louisiana repealed parts of the amendment, playing into the State and LSU's plans to abandon New Orleans' relatively unscathed Charity Hospital and replace it with a privatized medical complex. The plans required leveling a 26-block neighborhood to make room for both the medical center and commercial space around it. Today the homes are condemned, but the new medical center is still under construction and Charity Hospital remains closed.

These cases generated none of the attention *Kelo* did, perhaps because the takings in Nebraska and New Orleans support private industry more directly, and so don't play as well into the concerns of property rights advocates.

New London Today

So what happened in New London after the decision? In March 2006, 89-year-old plaintiff Wilhemina Dery died while still living in her home in Fort Trumbull. Susette Kelo and Michael Cristofaro refused to leave. The New London City Council voted to evict them in May 2006.

Connecticut Gov. Jodi Rell ordered the city to give them more time, and threw in additional state funds to sweeten the deal. Eventually, Kelo agreed to have her house disassembled and removed to another location. Although she said she wanted to continue to live in the house, she soon left New London, accepting compensation instead. In 2008, local conservative activist Avner Gregory bought the house for \$1, moved it off Fort Trumbull and painted it an even brighter shade of pink to preserve as a monument against eminent domain.

The planned development in New London still hasn't happened. The long delay in removing the final owners placed the redevelopment project on a collision course with the 2008 recession. Financing for the project fell through. In 2009, Pfizer, whose move to Fort Trumbull catalyzed the redevelopment plan, left New London, immediately after its 10-year tax abatement agreement with the city expired. Yale's Urban Design Program is working with New London on a

revised development plan, but not much has been built yet. Attorney Londregan, though, argues that "New London and its taxpayers achieved all of the public benefits from that plan." The Fort Trumbull peninsula had been a post-railroad brownfield. It flooded with every major rainfall, and it had worn out electrical and sewer services. There were few sidewalks in front of the properties and no public access to the Thames River. All of this has been remediated. There is now a 90-acre public walkway along the river. The property taxes coming from Fort Trumbull aren't much—only \$471,000—but they are almost double what they were in 2000 when the plan was proposed. Londregan argues, though, that the "substantial and significant public benefits" for New London are that it now it has "pads for development," something the market could not provide on its own.

In the end, the decision was not a grand victory or loss for the plaintiffs or for New London, for cities or for property owners. It leaves them where they were when the case started, in the complicated political dance between respecting property rights, respecting other community interests, and responding to economic demands.



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ALTA, NYSLTA Comment on Regulatory Proposal for Title Industry in New York

The proposed regulation also imposes caps on ancillary charges

ALTA and the New York State Land Title Association both issued comments to sweeping title insurance industry regulations proposed by New York Gov. Andrew Cuomo. On April 29, Cuomo proposed regulations targeting illegal kickbacks. The state's Department of Financial Services (DFS) believes kickbacks result in inflated title insurance premiums.

"We've seen reports that the New York State Department of Financial Services found that kickbacks have occurred in the real estate industry," said Michelle Korsmo, ALTA's chief executive officer. "For the sake of consumers and the real estate industry professionals who work to remain compliant with state and federal regulations, those participating individuals should be held accountable."

The DFS provided a 45-day public comment period, which closes June 22. The department will finalize the regulation after reviewing comments.

Rafael Castellanos, president of NYSLTA, said his association has worked cooperatively with the DFS to ensure that consumers are protected from unscrupulous actions, receive the benefits of greater transparency and work within an appropriate regulatory structure.

"In 2014, the association provided important feedback on legislation establishing the licensing of title agents, and intend to provide valuable input on the proposed regulations," he said.

According to the NYSLTA, an estimated 450,000 title insurance policies were issued in New York in 2012. The typical one-time cost of a title insurance policy for the owners of property selling for \$200,000 ranges from \$1,029 in metropolitan New York and its suburbs to \$952 in upstate New York.

In New York, the Title Insurance Rate Service Association (TIRSA) submits rate proposals to the state's superintendent of insurance for

approval. TIRSA, which under the supervision of the superintendent, compiles and submits to the department statistical data for title insurance premiums, losses and expenses.

Cuomo claims the regulations will reduce title insurance closing costs by 20 percent for new home purchases and up to 60 percent for refinancing transactions. The proposal outlines categories of expenditures which, when provided as an inducement for title insurance business, are illegal and violate state law.

The proposed regulation also imposes caps on ancillary charges, such as fees for searches and services that are provided in connection with the issuance of a title insurance policy but not included in the title insurance premium. As an example, an escrow fee should be no more than \$50 per escrow. For Patriot Act searches, the proposal says charges can be no more than 150 percent of the out-of-pocket cost paid for the search. The regulation also would prohibit the payment of gratuities and pick-up fees to closers of real estate transactions.

Current regulations require title insurers to maintain records for a period of six years. However, the proposed regulations would require insurers to re-state statistical reports for a 10-year period. This requirement would also apply to title agents. The data would need to be provided within 60 days after the rule is finalized. ■

North Carolina-based Law Firm Achieves SOC 2 Certification

Brady & Kosofsky PA., a North Carolina-based law firm offering real estate closing, title search, REO and loss mitigation services, announced it has completed a Service Organization Control 2 (SOC 2) Type 1 certification. Completion of the SOC 2 Type 1 certification indicates that processes, procedures and controls adopted by Brady & Kosofsky in its validated private cloud have been formally evaluated and tested by the independent accounting and auditing firm of Kushner, Smith, Joanou & Gregson LLP of Newport Beach, Calif. The certification included the company's controls related (among other things) to the Trust Services Principles and Criteria of Security and Availability.

Brady & Kosofsky, through its proprietary technology platform and private cloud, provides title search and curative services to servicers, asset management companies, title insurance agencies, title insurance underwriters, banks and mortgage originators. All of these entities are subject to CFPB

oversight and compliance with the Gramm Leach Bliley Act and OCC third-party risk requirements may request and leverage.

"SOC 2 exams are rigorous independent assessments, geared toward service providers who handle consumer non-public private information of consumers—especially providers of mortgage products and other financial services to regulated banks," said Jaime Kosofsky, a partner of Brady & Kosofsky who oversees the firm's compliance efforts.

"With the release of the comments of the OCC and CFPB Bulletin 2012-03, it became apparent that our banking partners and clients would benefit if our firm took steps to define our security protocols and have them scrutinized by a third party."

The certification is an important step for any real estate title services and closing provider that supports the highly regulated consumer banking and lending industry.

RamQuest Expands Integration with FNTG

RamQuest Inc., a provider of title and settlement solutions for the land title industry, announced the expansion of its existing integration with Fidelity National Title Group to include closing protection letters (CPL) through the RamQuest Closing Market digital network. RamQuest's Closing Market digital network is an application-to-application interface that electronically connects business partners, allowing each participant to work from his or her own software.

This enhancement to the Fidelity integration provides agents direct access from their Complete Closing Enterprise and RamQuest One production solutions to order Fidelity National Title's Closing Protection Letters. RamQuest customers have had access to electronic policy jackets as well as the ability to auto-report gross premiums to Fidelity's accounting department with the Closing Market integration since 2014 and the addition of closing protection letters will only further streamline processes.

Michigan-based Transnation Title Agency Expands into Hoosier State

Michigan-based Transnation Title Agency recently expanded its footprint with the acquisition of National Escrow Title in Indianapolis.

The deal gives Transnation its first brick-and-mortar presence in Indiana. While licensed in Wisconsin, Indiana, Ohio and Pennsylvania, Transnation Title primarily operated in Michigan.

Because the company has several customers conducting business in

the Hoosier State, Monte Reinert, owner and CEO of Transnation Title, believed the time was right to make a deal.

Since 2008, Transnation has grown from seven offices and 60 employees to 25 offices and 150 people. Transnation Title, which is employee owned and operated, was recognized on "The Build 100" ranking by Inc. magazine as among the top 100 sustained-growth companies in the nation in 2014.

Accurate Group to Expand Presence in Ohio

Accurate Group, a provider of real estate appraisal, title and compliance services, announced that it has hired two former executives from the FirstMerit Title Agency that was recently closed due to the bank's decision to exit the title business.

Kelly R. Westbury, former president of FirstMerit Title, and Laurice Petit, former commercial relationship manager at FirstMerit Title, joined Accurate Group effective April 20. Westbury and Petit will open a new Accurate Group office in the Canton, Ohio, market to focus on closing residential purchase and refinance transactions along with commercial title insurance transactions.

Stewart Title Expands Footprint in Buckeye State

Stewart Title announced the acquisition of a majority interest in First Ohio Title Insurance Agency LLC. First Ohio has provided title and settlement services throughout Ohio, Indiana and Kentucky since 1999.

First Ohio has nine centrally located offices, and will continue to operate under the First Ohio name.

"I am thrilled with the opportunity to add Kelly and Laurice to the Accurate Group team," said Paul Doman, president and CEO of Accurate Group. "I have worked with Kelly for many years and there is no one better at providing great service to her many loyal clients. I am also excited to have Laurice join our team to strengthen our commercial closing capabilities as we continue to see great growth in our commercial title business. We always look for strategic opportunities to quickly add great talent and this was clearly one of those cases where we were pleased to be able to make a quick but well planned investment."

"Stewart Title is pleased to welcome First Ohio to our family of companies," said Glenn Clements, group president of Stewart Title. "This expansion is further support of Stewart's five-year strategic plan, including the growth of our Stewart Title operations into key metro markets where we can best serve our real estate customers."

U.S. Supreme Court to Decide if Congress Can Grant Right to Sue in Federal Court

The U.S. Supreme Court on April 27 agreed to decide whether Congress can give someone a right to sue in federal court, even if that individual cannot show that he or she suffered any specific harm.

The case, *Spokeo Inc. v. Robins*, will be heard this fall by the high court. The case brings up the same questions that were at issue in *First American v. Edwards*. That case was heard by the court in 2012 before being dismissed as improvidently granted on the last day of the term with no explanation.

The *Spokeo* case involves a federal Fair Credit Reporting Act of 1970 lawsuit by Thomas Robins, who claimed that an online search engine put out inaccurate personal information about him. The Spokeo search engine collects information about individuals from public sources, such as telephone books, social networks, marketing surveys, real estate listings, business websites, and other

databases. While *Spokeo* makes the information available to those who search for it online, the site cautions users that it does not verify the accuracy of the data.

Robins claimed that *Spokeo* had provided flawed information about him, including that he had more education than he actually did, that he was married although he remains single, and that he was financially better off than he actually was. Robins contended that the inaccurate information would make it more difficult for him to get a job and to get credit and insurance even though he had not applied for any jobs or credit.

Steve Gottheim, ALTA's legislative and regulatory counsel, said this case is important to ALTA members because the Real Estate Settlement Procedures Act and Truth-in-Lending Act have damages provisions that seem to allow consumers recovery even if they were not harmed.

Adeptive Integrates ResWare with ePN

Adeptive, the developers of ResWare, recently integrated with eRecording Partners Network (ePN) to

better equip its customers to e-recording documents such as deeds, mortgages and reconveyances.

A lot will happen between today and August 1, 2015.

Rates will go up, stay the same, or fall - who knows? Someone will land that big client - we hope it's you! There will be lots of dinners, and even more meetings. There will be vacations to the beach, to the mountains, to the lake, to the river, or overseas.

A lot will happen between today and the first day of August. However, we recommend you take time to ...

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Member Participation Keeps ALTA Strong

Have you ever thought about the value of volunteering? It's a rather difficult concept to put a price tag on, but there is intrinsic value in volunteering. According to the Corporation for National and Community Service, nearly 63 million Americans volunteered through an organization in 2013. This equaled nearly 7.7 billion hours of volunteer time. The estimated value of this volunteer service is nearly \$173 billion. That's impressive. And it tells an important story of our giving nature.

This spirit of volunteerism runs deep in the fabric of ALTA members. We take pride in helping our communities, our neighbors and even strangers. We take this effort even further and help each other and our industry. We do this by volunteering on any of ALTA's 32 committees. ALTA is only as strong as the participation of its membership, and once again, we have a fabulous opportunity to continue cultivating support for our valued committees. If you have a special area of expertise (real property records, claims, international development or industry technology, for example), or if you have an area of interest (such as membership, government affairs, public relations, research or employee and professional education), there is a committee on which you can volunteer to serve.

Each of ALTA's committees plays a vital role in protecting and growing the industry. The Forms Committee continues to modify and create new forms to meet market demands. The Best Practices Task Force's work on developing and improving the Best Practices has been monumental in helping members meet regulatory compliance. A new group called the Homebuyer Outreach Program Work Group, which is comprised of members from several committees, is developing material to empower members to clearly and confidently communicate the value of an owner's title insurance policy. This will be vital—especially as the new TILA-RESPA Integrated Disclosures are implemented. These are just a few examples. There's not enough space on this page to share the value all of our committees provide.

People volunteer for an endless variety of reasons. Many people want to gain experience, acquire new skills, meet new people, or expand their network of contacts. Looking back at the various committees I've been involved with gives me great pride. To me, it's about contributing and helping our industry become stronger. It's about networking, developing new connections and making friends.

ALTA's president-elect reviews the list of volunteers and appoints members to serve on committees during his or her presidential year, which begins during the Annual Convention. Committee letters or emails normally are sent to committee members following the approval process. If you'd like to be considered for a committee, send an email to membership@alta.org. The deadline to submit your name is Friday, July 17.

Together, we can do extraordinary things!



— Diane Evans, ALTA president

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