|  |
| --- |
| **2****Escrow Account Controls****\\fnfglobal.local\userdata\Shared\FLAgency\FLTechSolutions\Website\ALTA_Best_Practices\National_Website_BP_Branding_Images\icon-money-large.jpg** |

**Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.**

# Purpose

Appropriate and effective Escrow controls and staff training help title and settlement Companies meet federal, state, and contractual requirements for the safeguarding of funds. These procedures ensure accuracy and minimize the risk of loss of funds. Loss of funds may not be covered by the Title Agency’s Errors and Omissions (“E&O”) insurance or the contract with its Title Insurer. Such losses would then become the responsibility of the Title Agency. Settlement companies may engage outside contractors to conduct Escrow Trust Accounting duties.

# What You Should Know

Lenders are understandably concerned about the proper disbursement of loan funds held in the Escrow Trust Accounts of third-party settlement agents. Title insurance underwriters issuing Closing Protection Letters (CPLs) to lenders also have a vested interest in the methods used by their policy issuing agents to safeguard and disburse funds held in Escrow Trust Accounts.

## Reconciliations

Title agents should have plans in place for conducting reconciliations between Escrow Trust Account bank information and what is shown in their escrow software. Title agents should also conduct three-way reconciliations. In some states, like Florida, title insurance agents must perform a three-way reconciliation of their Escrow Trust Accounts and submit them to their underwriters monthly. Escrow Trust Accounts with any outstanding balances, even if considered inactive, must be reconciled monthly.

Various states have requirements for escrow accounts. These can be specific to settlement agents or as part of lawyer ethics rules. Using a third-party service to perform escrow reconciliations is often recommended to achieve segregation of duties in a smaller operation or for efficiency in larger operations.

However, the ultimate responsibility for the accuracy of the reconciliation's rests with the title insurance agent, not the third-party performing reconciliations. Management should routinely review and approve all reconciliations.

*Federally Insured Accounts*

Many states have requirements for escrow accounts to be held in a financial institution either located within the state and to be a member of the Federal Deposit Insurance Corporation or National Credit Union Share Insurance Fund.

Due to the uncertainty created by the requirements for an account at a credit union to qualify as an insured account by the NCUSIF, FNTG agents must maintain all Escrow Trust Accounts for purposes of holding funds on title transactions to be insured by an FNTG underwriter, at an FDIC insured institution and not at a credit union.

## Dormant Funds

Most states have laws surrounding dormant funds and how to escheat them to a state’s unclaimed property division. You should check your state for specific rules and regulations surrounding dormant funds and how to escheat. If you need assistance, please contact your Agency Account Manager for rules and guidance.

# Considerations

(Note: The language in *italics* are questions FNF has created to help you develop your Best Practices. These questions are not exhaustive, and you should develop your own questions to fit your title agency’s needs.)

* Escrow Trust Accounts are properly identified.
	+ *How many escrow accounts do you have?*
	+ *How many escrow accounts do you need?*
	+ *One for each office location or one for the agency?*
	+ *One for each recording and premium account?*
	+ *For multiple branch locations, are disbursements centralized?*

See Resources – Escrow Account Control Checklist

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

See Resources – Template for Escrow Accounting Procedures

* + Accounts are identified as “escrow” or “trust” accounts. Appropriate identification appears on all account-related documentation including bank statements, bank agreements, disbursement checks, and deposit tickets.
		- *What are your state laws regarding what must be listed in the name of your Escrow Trust Account?*
		- *If you are an attorney, do your attorney ethics rules have any requirements for Escrow Trust Accounts* *above and beyond your settlement activities?*
		- *Do all of your documents use the same name for your Escrow Trust Account?*
		- *If your escrow account is interest-bearing, who benefits from the interest? Your title agency? The account beneficiaries? A state-designated charity or beneficiary? How do you document the interest?*

See Resources – Escrow Account Control Checklist

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

See Resources – Template for Escrow Accounting Procedures

* + Unless directed by the beneficial owner, Escrow Trust Accounts are maintained in Federally Insured Financial Institutions and subject to written Escrow agreements.
		- *Do you have written form for a beneficial owner to sign if funds will not be held in a Federally Insured Financial Institution?*
		- *Do you have written Escrow agreements to which you are a party?*

See Resources – Escrow Account Control Checklist

See Resources – Disbursement of Proceeds Guidelines

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

See Resources – Template for Escrow Accounting Procedures

* Funds held in Escrow Trust Accounts or other funds the Company maintains under a fiduciary duty to another person or entity are separately maintained and not commingled with the Company’s operating account or any individual’s personal account.
	+ *Do you have a written policy for timely and appropriately handling escrowed funds?*
	+ *Do you have a process based upon your state’s laws for handling dormant funds? Do you know what the escheat process is for your state?*

See Resources – Disbursement of Proceeds Guidelines

See Resources – Escrow File Audit Checklist for Closers

* In making disbursements from Escrow Trust Accounts, and subject to state law requirements, Company should ensure that undue risk is not being undertaken for escrow deposits that are not fully settled or that could be reversible.
	+ *Does your title agency staff know which types of funds are not fully settled and reversible?*
	+ *Is your title agency staff well-versed enough in the differences to explain why certain funds may not be used to a consumer, Realtor®, or lender?*
	+ *Considering good funds requirements, how much money from your operating account are you willing to risk if you accept funds that are not fully settled or that could be reversed?*
	+ *Does your title agency staff know this risk amount?*

See Resources – Bankshot | [www.getbankshot.com](http://www.getbankshot.com)

See Resources – Zoccam| <https://zoccam.com>

See Resources – Disbursement of Proceeds Guidelines

See Resources – Escrow File Audit Checklist for Closers

* Follow state good funds law and Title Insurer requirements/guidelines for Escrow Trust Account individual transaction disbursements.
	+ *What are your state’s good funds laws?*
	+ *Does your Title Insurer have additional requirements?*
	+ *Are these laws and requirements covered in your written policy?*

See Resources – Disbursement of Proceeds Guidelines

See Resources – Escrow File Audit Checklist for Closers

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

* Positive Pay or Reverse Positive Pay are utilized, if available for the payment type, and have policies and procedures in place that prohibit or control the use of Automated Clearing House transactions, international wire transfers, and electronic/digital receipt of funds from web based fintech applications.
	+ *If you set up a new Escrow Trust Account, do you have a checklist to make sure Positive Pay or Reverse Positive Pay is utilized?*
	+ *Do you have a checklist to ensure ACH, international wire transfers, and electronic/digital receipt of funds are prohibited or controlled to your specifications?*

See Resources – Disbursement of Proceeds Guidelines

See Resources – Escrow File Audit Checklist for Closers

* + When utilizing a third-party earnest money deposit or disbursement platform that facilitates the digital transfer of Escrow Trust Account receipts and disbursements, ensure that the platform meets the “Good Funds” law requirements and is not subject to the Electronic Funds Transfer Act (EFTA) which allows for reversal of consumer payments.
		- *Did the platform vendor provide you with a detailed agreement?*
		- *Does it meet your state’s Good Funds law requirement?*
		- *Does it meet your Title Insurer’s requirements?*
		- *What are the platform vendor’s fraud protections?*
		- *How does the platform vendor alert you to incoming funds and to which account it belongs?*
		- *Are the funds sent by the platform vendor reversible per EFTA?*

See Resources – Bankshot | [www.getbankshot.com](http://www.getbankshot.com)

See Resources – Zoccam | <https://zoccam.com>

See Resources – Disbursement of Proceeds Guidelines

See Resources – Escrow File Audit Checklist for Closers

* + For outgoing wire transfers, this includes documented procedures to verify wire transfer instructions independent of the initial communication. Such procedures should include the use of multi-factor authentication and should be similar in nature to those currently cited by ALTA in the Outgoing Wire Preparation Checklist.
		- *Do you have guidelines or checklists for outgoing wires?*
		- *Do you have a Rapid Response Plan for Wire Fraud incidents?*
		- *Who is responsible for developing these guidelines?*
		- *Do you test your procedures at least annually?*
		- *Do you have insurance to protect you from a loss due to an outgoing wire? Do you review your insurance coverage at least annually?*

See Resources – Disbursement of Proceeds Guidelines

See Resources – ALTA Outgoing Wire Preparation Checklist

See Resources – Mortgage Payoff Wire Fraud

See Resources – <https://nationalagency.fnf.com/FNF-Guidance/Risk-Management>

* + For incoming wire transfers, a documented procedure to alert Consumers about the potential risks of wire fraud and guidelines to mitigate losses.
		- *How do you initially contact the Consumer about wire fraud? Regular mail? Email? Realtor®? Lender?*
		- *Do you have written guidelines to provide to the Consumer? Do you also provide these to your Realtor® and lender contacts?*
		- *Do you test your procedures for incoming wires at least annually?*

See Resources – Disbursement of Proceeds Guidelines

See Resources – Consumer Wire Fraud Rack Card

* Transactions are conducted by authorized employees only.
	+ Only those employees whose authority has been defined to authorize bank transactions may do so. Appropriate authorization levels are set by Company and reviewed for updates annually. Former employees shall immediately be deleted as listed signatories on all Escrow Trust Accounts.
		- *Do you review your bank authorizations yearly?*
		- *Who determines your title agency’s authorization levels?*
		- *How are these levels documented?*
		- *If there is a termination, who is tasked with deleting a signatory on an Escrow Trust Account? How is this documented? Is the deletion completed before termination?*
		- *How many check signers do you need?*
		- *Do you have coverage for vacation or illness?*

See Resources – Template for Escrow Accounting Procedures

* + Background Checks are obtained and reviewed during the hiring process. Thereafter, at least every three years, updated Background Checks going back five years are obtained and reviewed for all employees.
		- *Who obtains the background checks?*
		- *What is your schedule for updating and reviewing background checks?*
		- *Do you inform new hires, and have you informed current employees about the need for regular background checks? Is it listed in your employee handbook?*

See Resources – Template for Escrow Accounting Procedures

* + Establish and implement a written plan designed to evaluate the results of the Background Checks and implement a process to mitigate any potential risks discovered during the review.
		- *Who will develop your Background Check evaluation plan?*
		- *Have you determined what risks are acceptable if found?*
		- *For acceptable risks, what mitigation will you take to lower the risk?*
		- *Do you explain these risks to your new hires and existing employees?*
		- *Have you made unacceptable risks a part of your employee handbook?*

See Resources – First Advantage | <https://ca.fadv.com/CA/FNF>

See Resources – HireRight | [www.hireright.com/fntg](http://www.hireright.com/fntg)

See Resources – Template for Escrow Accounting Procedures

* + Ongoing training is conducted for employees on the safe and secure management of Escrow funds and proper Escrow accounting. Training should include, but not be limited to, risk of digital funds transfer using fintech applications, good funds requirements, and wire transfer fraud prevention best practices.
		- *What are your state education requirements for continuing education? Do they include escrow training?*
		- *Will you develop in-house training or rely upon outside sources for training?*
		- *What topics for escrow training do you want to cover?*

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

* Outstanding Escrow Trust Account file balances are documented and reviewed from time to time to determine appropriate status or action. Balances older than six months require management approval of activity.
	+ *Who is responsible for reviewing Escrow Trust Account balances?*
	+ *What are your procedures for how often the balances should be reviewed?*
	+ *What actions must be taken based on the time and amount of the balance?*
	+ *How quickly must action be taken?*
	+ *For balances over 6 months, what manager will be tasked with approving activity?*

See Resources – Escrow Accounting Control Checklist

See Resources – Escrow File Audit Checklist for Closers

See Resources – Template for Escrow Accounting Procedures

* If available, efficient, and economical, make use of wire transfer verification service providers. Such service providers should be vetted to understand any risk of use, security protocols, and the providers’ protection of Consumer data.
	+ *Does this service provider have insurance coverage if they make an error?*
	+ *Does this service provider integrate with your current escrow software?*
	+ *How does this service provider protect Consumer data?*
	+ *How does the service provider contact you in the event wire verification fails or there is a data breach?*

See Pillar 3, Information and Data Privacy

* A written wire fraud response procedure, which includes the recommendations of the ALTA Rapid Response Plan for Wire Fraud Incidents is in place and is reviewed at least annually.
	+ - *Do you have a Rapid Response Plan for Wire Fraud incidents?*
		- *Who is responsible for developing these guidelines?*
		- *Do you test your procedures at least annually?*
		- *Do you have ACH blocks?*
		- *Do you have separate accounts for incoming and outgoing wire accounts?*

See Resources – ALTA Rapid Response Plan for Wire Fraud Incidents

* Escrow Trust Accounts are supported by detailed Trial Balances listing all open escrow file balances.
	+ *Does your escrow software create Trial Balances?*
	+ *Who is reviewing Trial Balances?*
	+ *What are the procedures if a Trial Balance is negative?*
	+ *Who should be notified if a Trial Balance is negative?*

See Resources – Escrow File Audit Checklist for Closers

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

See Resources – Template for Escrow Accounting Procedures

* All Escrow Trust Accounts are reconciled.
	+ *How often will you complete reconciliations? Daily is recommended.*
	+ *Who prepares your Escrow Trust Account reconciliations? Have you considered the value of staff time against experience to evaluate who should prepare reconciliations?*
	+ *Does more than one person know how to complete a reconciliation in your office?*
	+ *Is it time to consider using an outside reconciliation service?*
	+ *Is there any software that will complete reconciliations for you?*

See Resources – EscrowTRAX | AgentTRAX Application List

See Resources – First Banking Services | <http://www.firstbankingservices.com/escrowaccounting.aspx>

See Resources – SoftPro | [www.SoftproCorp.com](http://www.SoftproCorp.com)

See Resources – Bankshot | [www.getbankshot.com](http://www.getbankshot.com)

See Resources – Escrow File Audit Checklist for Closers

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

See Resources – Template for Escrow Accounting Procedures

* + On at least a daily basis, reconcile the Escrow Trust Account activities in the bank’s records to the activities in the Escrow Trust Account books, identifying and investigating any discrepancies. This activity may be performed electronically or manually depending on volume of items clearing the bank.
		- *How often will you reconcile your Escrow Trust Account’s bank records to your books?*
		- *Who will do this for your title agency? Does more than one person know how to do this reconciliation?*
		- *What procedures are in place for identifying and investigating any discrepancies?*
		- *When should the resolution of a discrepancy be completed by?*
		- *At what amount should a manager be contacted due to a discrepancy?*
		- *Does your escrow software do this reconciliation for you?*
		- *Is it time to consider an outside reconciliation service?*

See Resources – EscrowTRAX | AgentTRAX Application List

See Resources – First Banking Services | <http://www.firstbankingservices.com/escrowaccounting.aspx>

See Resources – SoftPro | [www.SoftproCorp.com](http://www.SoftproCorp.com)

See Resources – Escrow File Audit Checklist for Closers

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

See Resources – Template for Escrow Accounting Procedures

* + On at least a monthly basis, a Three-Way Reconciliation is performed.
		- *Whose task is it to complete a Three-Way Reconciliation?*
		- *Is there more than one person who knows how to do this in case of vacation or illness?*
		- *What procedures are in place in the event of a discrepancy found by this reconciliation?*
		- *When should the resolution of the discrepancy be completed by?*
		- *At what amount should a manager be contacted due to a discrepancy?*
		- *Is it a state requirement, like in Florida, to provide the Three-Way Reconciliation to your Title Insurer?*
		- *Does your underwriter have electronic access to your reconciliations?*
		- *Are there any state requirements, like Ohio, to have your escrow accounts audited by a third-party?*

See Resources – Escrow File Audit Checklist for Closers

See Resources – Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

See Resources – Template for Escrow Accounting Procedures

* + Segregation of duties is in place to help ensure the reliability of the reconciliation and reconciliations are conducted by someone who does not have signing or disbursing authority.
		- *Have you segregated duties?*
		- *What are the procedures for the person handling the reconciliation in the event of discrepancies being found?*
		- *Are you immediately funding found shortages?*

See Resources – Template for Escrow Accounting Procedures

* + Shortly after the monthly Three-Way Reconciliation of each fiduciary account is completed, results are reviewed and approved by Company’s management and are made available to Company’s contracted Title Insurer(s).
		- *When should the management review and approve a reconciliation by?*
		- *Does the Thee-Way Reconciliation have to be provided to your Title Insurer?*

See Resources – Template for Escrow Accounting Procedures

# Resources

## Earnest Money Services

Bankshot | [www.getbankshot.com](http://www.getbankshot.com)

Zoccam | <https://zoccam.com>

## Escrow Reconciliation Services

EscrowTRAX | AgentTRAX Application List

First Banking Services | <http://www.firstbankingservices.com/escrowaccounting.aspx>

SoftPro | [www.SoftproCorp.com](http://www.SoftproCorp.com)

## Escrow Account Management Software

RynohLive | <http://www.rynoh.com/>

## Employment Background Checks & Screening Services

First Advantage | <https://ca.fadv.com/CA/FNF>

HireRight | [www.hireright.com/fntg](http://www.hireright.com/fntg)

*Samples*

Escrow Account Control Checklist

Disbursement of Proceeds Guidelines

Escrow File Audit Checklist for Closers

Escrow File Audit for Managers, Checklist for Safeguarding Client Funds

Template for Escrow Accounting Procedures

ALTA Rapid Response Plan for Wire Fraud Incidents

ALTA Outgoing Wire Preparation Checklist

Consumer Wire Fraud Prevention

|  |
| --- |
| Your Steps1. Review your state’s laws concerning escrow accounts.
2. Create written policies and procedures concerning escrow accounts including authorization, disbursements, good funds, wire transfers, and reconciliations.
3. Consult the sample checklist and procedures to customize them to meet your agency’s specific needs and situations.
4. Create an internal audit process to ensure compliance with written procedures.
5. Develop escrow training in your company and maintain a Training Binder to document internal training.
 |
|  |

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**Sample – Escrow Account Controls Checklist**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| FUNCTION | WHEN | WHO | NOTES | LAST COMPLETED DATE |
| **Create List of Accounts, including contact person at bank (Note if any accounts are interest bearing and who the interest is paid to)** |  |  |  |  |
| **Is each account titled as an ‘escrow account’ or ‘trust account’?** |  |  |  |  |
| **Are Positive Pay/Reverse Positive Pay, Automated Clearing House blocks and international wire blocks in place for each account?** |  |  |  |  |
| **List of Authorized Signatories, including designations of who is the account owner** |  |  |  |  |
| **List of personnel for whom credit report and background checks were performed, as well as last date each report was completed** |  |  |  |  |
| **Are accounts being audited to ensure good funds compliance?**  |  |  |  |  |
| **Are internal audits conducted to ensure customer funds being maintained separately from** **Company’s operating account/any personal accounts?** |  |  |  |  |
| **Is training being conducted based upon audits?** |  |  |  |  |
| **Are written wire procedures being followed including two (2) approvers for disbursement?** |  |  |  |  |
| **Do you have a written wire fraud response procedure that is reviewed at least annually?** |  |  |  |  |
| **Current month reconciliations completed?**  |  |  |  |  |
| **Owner/Manager Review completed and documented?** |  |  |  |  |
| **Are trial balances being reviewed and issues corrected timely? Are reports being used to track trends and for teaching?** |  |  |  |  |
| **Is there a list of contacts for Software Company and/or 3rd Party Reconciliation Services if needed?** |  |  |  |  |
| **Are dormant funds being tracked and escheat laws followed?** |  |  |  |  |

**Manager’s Initials \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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# Sample – Disbursement of Proceeds Guidelines

## Buyer/Borrower Proceeds

Any amount shown on the ALTA SETTLEMENT STATEMENT (funds due from Buyer/Borrower) must come into our escrow/trust account from the borrower or be disbursed to our borrower. Any funds received by any other party must be reflected on a separate line in the 200 series designating the source of funds.

## Seller Proceeds

Most lender closing instructions contain provisions which prohibit the assignment of proceeds due to the borrower or seller without the written consent of the lender prior to closing. Here are two examples:

*“ANY disbursement on the seller side of the ALTA SETTLEMENT STATEMENT excluding lien-related items specified in the title commitment and standard closing costs) must be approved in writing by the Lender prior to disbursing the loan proceeds.”*

*“Closing agent must not make disbursements from the loan proceeds unless they are specifically authorized by these or the Supplemental Closing Instructions.”*

Each lender’s requirement could be different. Written requests to pay proceeds to anyone other than the seller(s) named on the settlement statement must be shown in the miscellaneous section of the settlement statement and approved by the funding lender as specified in their instructions. A verbal confirmation, and account verification, must be made before proceeds are released.

In a refinance transaction, the loan proceeds may only be paid in strict compliance with the written closing instructions provided by the funding lender. Any request to pay additional parties must be listed in the ALTA SETTLEMENT STATEMENT and approved in accordance with the lender’s instructions. In most cases, the funder’s approval of the ALTA SETTLEMENT STATEMENT or closing statement is not sufficient.

If a principal requests these types of disbursements, it is best to say it is against our Company policy. It is the settlement agent’s fiduciary duty to remain neutral and safeguard the funds on deposit. Lenders expect full disclosure of all receipts and disbursements in accordance with written mutual instructions. If a lender disapproves of any requested disbursement be sure to notify the party in writing. As the settlement agent, it is our duty to ensure all conditions are met.

Settlement agents may accept written instructions to deposit proceeds directly into a bank account on behalf of the principals. Settlement agents may also cut separate checks or send a wire in the name of each individual seller or borrower. Multiple disbursements to the same payee are not acceptable especially when asked to disburse in increments of $10,000 or less as this may be perceived as participation in a money laundering scheme.

## Escrowed Funds Disbursement

All escrow disbursements (check and/or wire) require two approvers. Evidence of the two approvals is required on the check/wire request and the check disbursement register for every escrow.

* 1. Approvers’ and/or check signers’ responsibilities on external disbursements are to ensure the payment amounts are supported, proper vendors are paid, and disbursements have been properly authorized by the escrow officer.
	2. Approvers’ and/or check signers’ responsibilities over our fee income are to ensure that checks/journals that recognize our Title/Settlement fees are only processed after the order has closed.

## Cancelled Checks and Stop Payments

***Cashier’s or Teller Checks***

Payment on a Cashier’s or Teller check issued by the Company may not be stopped without observing special procedures. A Cashier or Teller check in the hands of holder without knowledge of a defense must be honored by the financial institution on which it is drawn because it is the obligation of the financial institution not “ABC Title”. For this reason, to avoid duplicate payment, issuing a new Cashier’s or Teller check can only be done after the person whose obligation is paid by the Cashier’s or Teller check has completed an affidavit concerning the lost, stolen or destroyed item. Generally, the issuing bank will require a bond or other form of security for the amount of the check if it is going to reissue the check before a 90-day period has elapsed.

When a Cashier’s or Teller check has been issued to pay off an obligation that is part of closing and the check is lost, stolen or destroyed, the Settlement Agent must obtain approval from the appropriate supervisor before directing that a replacement item is issued. Under Company policy failure to observe this requirement may result in the Settlement Agent being personally liable if the Company suffers a loss on the transaction when the lost, stolen or destroyed item is subsequently presented and paid.

***Trust Account Checks***

A check that has been issued, processed in the accounting records, but subsequently lost, stolen or returned to the Company must be canceled. If the original check has been returned and is unsigned/negotiated on the back, mark it “Canceled”, remove the signature portion of the check and forward it to accounting for adjustment to the appropriate records. Canceled checks, if found, must be retained.

Unless a check has been lost or stolen, do not stop payment without consulting your supervisor. If the check has been lost or stolen, first determine if the check has cleared the bank. The accounting department should contact the bank to verify that the check has not cleared the bank. If it has not cleared, the bank should be advised both orally and in writing to place a stop payment on the check. No check may be reissued until it has been determined that it has not cleared the bank and you have received authorization from the accounting department. If the original check is subsequently found, it should be forwarded to the accounting department with a note across the face of the original check stating that a stop payment was issued on this check and indicating the date of the stop payment.

## Disbursement or Receipt of Funds By Wire

Wire transfer transactions usually involve large dollar amounts that must be processed quickly. There is also finality to a wire transfer transaction at the time of execution. Generally (but not always), wire transfers are not subject to a stop payment, recall, cancellation or adjustment; once a wire request has been executed the funds immediately become the property of the transfer recipient. Because of these concerns and to minimize the risk of loss from errors or fraud, wire transfer authority is to be centralized within a limited number of management, accounting or administration employees. No escrow department employee shall be unilaterally authorized to issue or accept a wire transfer. Customers are to communicate all wire transfer requests in writing and each escrow officer is then to communicate the wire transfer information to one of the authorized employees in writing or by fax and confirmed in writing. In all cases of initiation of a wire transfer by a Settlement Agent, escrow officer or other authorized party, a reasonable security procedure must be used to validate the transfer which may include mortgage payoff wire fraud prevention by Create-Confirm-Check. The ALTA Outgoing Wire Preparation Checklist shall be used.

In the event of a wire fraud incident, the written wire fraud response procedure shall be followed.

## Consumer Wire Fraud Education

For every transaction, wire fraud prevention information shall be shared with consumers by mail, e-mail, or through the consumer’s agent.

*Earnest Money Deposits*

If a third-party earnest money deposit or disbursement platform is used in a trust account to facilitate the digital transfer of escrowed funds, the platform must meet the Good Funds law requirements of our state and cannot be subject to the Electronic Funds Transfer Act. All use of these platforms must be reviewed and approved by management.

***The information provided in this SAMPLE Document is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice, and you should consult legal counsel and subject-matter experts to determine the appropriate policies, procedures and strategies applicable to your office or organization.***

# Sample – Escrow File Audit Checklist for Closers

|  |  |  |
| --- | --- | --- |
| ISSUE/TOPIC | YES/NO | COMMENTS |
| **The print date noted by the system on the SETTLEMENT STATEMENT (where applicable) is the same or prior to the signature date of the buyer/seller.** |  |  |
| **The SETTLEMENT STATEMENT was signed by all parties to the transaction.** |  |  |
| **An amended Settlement Statement was prepared for any updates subsequent to the closing.** |  |  |
| **Evidence that an amended Settlement Statement (if applicable) was sent to the affected parties (borrower/seller/lender) is in the file.** |  |  |
| **Supporting documentation exists for all disbursements including payoffs (invoice, demand, etc.).** |  |  |
| **Supporting documentation agrees to the amount and payee shown on the SETTLEMENT STATEMENT.** |  |  |
| **Transactions on the SETTLEMENT STATEMENT are accurately stated and in agreement with the check register (the SETTLEMENT STATEMENT and check register are consistent and in agreement) and purchase contract.**  |  |  |
| **Requirements specified in the lender’s instructions pertaining to the preparation of the SETTLEMENT STATEMENT were met.** |  |  |
| **The Lenders Closing Disclosure loan terms agree to the closing instructions.** |  |  |
| **The Lenders Closing Disclosure amounts agree with the SETTLEMENT STATEMENT.** |  |  |
| **Third party deposits are disclosed on the Lenders Closing Disclosure and SETTLEMENT STATEMENT.** |  |  |
| **Third party deposits are processed via third party deposit instructions.** |  |  |
| **Third party deposits are noted in the lender’s instructions or approved by the lender (in writing).** |  |  |
| **For transfers between escrow accounts, proper authorization from the affected principals is noted in both escrow files.** |  |  |
| **For transfers between escrow accounts, proper authorization from the appropriate supervisor or manager is noted in both escrow files.** |  |  |
| **Disbursements are made when funds are available and in accordance with state and local regulations as applicable (Good Funds Law applies in certain states – review current guidelines).** |  |  |
| **Seller, lender and/or mortgage broker credits are fully described and supported.** |  |  |
| **Title fees do not vary from filed or promulgated rates (where applicable).** |  |  |
| **Payoff demands are not accepted from mortgage brokers, realtors or borrowers and all precautions taken to prevent fraud.** |  |  |
| **Other fees and charges properly disclosed and payees disclosed.** |  |  |
| **Seller proceeds are only disbursed to owners of record. Disbursements to any other parties are approved in writing by the lender.**  |  |  |
| **Borrower proceeds (if applicable) are disbursed per funding lender’s instructions. Disbursements to any other parties are approved in writing by the lender.** |  |  |
| **For all Home Equity Lines of Credit (HELOCs) noted on Schedule B of the commitment, the authorization to close the credit line is sent with the payoff demand request or the payoff to the lender.** |  |  |
| **For all HELOCs, the written payoff request sent to the lender includes specific “freeze language.”** |  |  |
| **For all HELOCs, updated payoff figures were obtained no more than two days prior to full payment of the loan.** |  |  |
| **Ensure the documents are properly executed and notarized, if necessary.** |  |  |
| **There is a pre-closing title update/bringdown.** |  |  |
| **Recorded liens on the commitment are satisfied/cleared.** |  |  |
| **Party names and legal descriptions are correct on the insured documents and match the commitment that will become the policy.** |  |  |
| **Documents are recorded as quickly as possible and are e-recorded wherever e-recording is available.** |  |  |
| **Seller, lender and/or mortgage broker credits are properly disclosed on the Lenders Closing Disclosure and SETTLEMENT STATEMENT.** |  |  |
| **The correct lines/series per RESPA guidelines and/or company policy are used for entries on the ALTA SETTLEMENT STATEMENT. Earnest money deposits are properly disclosed on the Closing Disclosure, or ALTA Settlement Statement, in accordance with RESPA guidelines.** |  |  |
| **For FIRPTA (Foreign Investment in Real Property Tax), transactions, company policies and procedures are followed. NOTE: Company may want to elaborate to provide company specific procedures here.** |  |  |
| **IRS reporting requirements are met including completion of a 1099-S or 1099-S solicitations form.** |  |  |
| **Photocopy of deposit check, incoming wire and/or funding number (as applicable) is located in the escrow file or is readily accessible.** |  |  |
| **File contains evidence of wires being approved by more than one person.** |  |  |
| **The ALTA Outgoing Wire Fraud Preparation Checklist was followed.** |  |  |
| **Wire fraud information to consumer is documented in file.** |  |  |
| **A payoff demand is addressed to the respective title company, or the payoff information is verified via phone, and the result is documented. The payoff demand is not expired.** |  |  |
| **For short sales, the transaction complies with all requirements outlined in the Short Sale Final Approval Letter from the lender.** |  |  |
| **If the Short Sale Final Approval Letter is not received directly from the short sale lender (i.e., it is addressed to the seller/borrower), the contents, including the amount,expiration date and terms and conditions are verified with the lender, and the date, time and name of person with whom you spoke documented on the letter.** |  |  |
| **For short sales, the transaction includes the required Short Sale language in an amendment.** |  |  |
| **For short sales, the short sale approval letter was signed by the buyer(s) and the seller(s) on a short pay sale and the borrower(s) on a short pay refinance.** |  |  |
| **Outstanding File Trust Account Balances were documented and reviewed per Company procedures.** |  |  |
| **Any dormant funds were escheated per state law.** |  |  |

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# Sample – Escrow File Audit Procedures for Managers

# Checklist for Safeguarding of Client Funds

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Company/Branch: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City, State & Zip: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Escrow Officer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Escrow File No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title Order No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Auditor/Escrow Manager: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This audit checklist for fraud is provided as a general guideline for FNTG agents to assist with ALTA Best Practice implementation.

1. **View and print system generated statements.**

\_\_\_\_\_\_ Final ALTA Settlement Statement

\_\_\_\_\_\_ Master Closing Statement (buyer and seller)

\_\_\_\_\_\_ If a HUD1 Form was used, is it a HELOC or Reverse Mortgage transaction? If not, this form should not be used.

*Note: Escrow officers are trained to use an ALTA SETTLEMENT STATEMENT only when required under RESPA to do so. RESPA governs all federally regulated mortgage loans that are secured by residential real property (including condos and co-ops) designed principally for the occupancy of 1-4 families. In all cash or commercial transactions, you should only find a Closing Statement or Settlement State not a HUD1 Form Settlement Statement.*

**II. Compare the system generated statements to the statements in the escrow file. Look for the following issues:**

\_\_\_\_\_\_ Does the system generated statement match the statement shown in the escrow file?

\_\_\_\_\_\_ Were final settlement statements delivered to the parties (evidenced by fax transmittal, cover letter(s), email or notes in settlement system)?

\_\_\_\_\_\_ Does the total consideration (purchase price) reflected on the settlement statements match when compared to the purchase and sale agreement and/or escrow instructions?

\_\_\_\_\_\_ Does the total consideration (purchase price) reflected on the settlement statements match when compared to the lender’s instructions (if any)?

*Note: Any differences between the total consideration reflected on the settlement statement and the total consideration reflected on the purchase and sale agreement and/or escrow instructions and/or lender’s instructions must be documented by a subsequent amendment agreed to by all parties to the transaction.*

\_\_\_\_\_\_ Are all debits and credits between parties to the transaction reflected on the settlement statement properly documented in the purchase and sale agreement and/or escrow instructions and/or lender’s instructions and/or commission or payoff demand?

\_\_\_\_\_\_ Are all items reflected on the settlement statement as “P.O.C.” (paid outside closing) properly documented and agreed to on the purchase and sale agreement and/or escrow instructions and/or lender’s instructions?

**III. Receipts: Compare the statement to the final check register.**

\_\_\_\_\_\_ From the register, are the amount of funds receipted into the file in favor of the Buyer the same amount as shown on the statement?

\_\_\_\_\_\_ From the register, are the amount of funds receipted into the file from third parties the same amount as shown on the statement?

*Note: Funds received from third parties in favor of the buyer should be reflected on line 204, if the statement is a HUD form.*

\_\_\_\_\_\_ Are the third-party remitters disclosed on the receipts correctly?

*Note: The system generated receipts should reflect the name of the remitting party, not the buyer or seller who received benefit of the funds at closing.*

\_\_\_\_\_\_ Does the escrow file contain Third Party Deposit Instructions for deposits received from parties outside of the escrow transaction?

\_\_\_\_\_\_ Did the escrow operation wait for the funds to clear the bank prior to making disbursements??

\_\_\_\_\_\_ Were funds transferred between files? Any incoming transfer of funds between files should have a signed transfer instruction from the transferring file.

**IV. Disbursements: Compare the statement to the final check register.**

\_\_\_\_\_\_ From the register, do all disbursements match the amounts and payees shown on the statement?

*Note: Outgoing wire transfers may reflect the receiving bank as the payee on the register. Verify that the payee’s account name on the outgoing wire authorization form in the file matches the payee shown on the closing statement.*

\_\_\_\_\_\_ Lender’s instructions typically prohibit the payment of seller proceeds to parties other than the record title holder. Verify that estimated and final settlement statements to the lender reflect the payments to any third parties on the Settlement Statement.

\_\_\_\_\_\_ Verify that there are not multiple disbursements of seller’s proceeds due to money laundering risks.

\_\_\_\_\_\_ From the statement, add all receipts and all disbursements to verify that the totals match the receipt and disbursement totals from the register.

\_\_\_\_\_\_ Were funds transferred between files? Any outgoing transfer of funds between files should have a signed transfer instruction authorized by the parties to the transaction.

\_\_\_\_\_\_ Match the check copies or cancelled checks (if available) to the payees and amounts shown on the check register and closing statements. Please note any exceptions to the matching process.

\_\_\_\_\_\_ All check registers or disbursement logs should reflect the initials of the original check signers for all disbursements.

\_\_\_\_\_\_ If there are still funds held in the file, verify that there are proper instructions as to the future disbursement of the funds.

\_\_\_\_\_\_ Review the payoff of existing encumbrances:

\_\_\_\_\_\_ Is there a current payoff statement in the file?

\_\_\_\_\_\_ Is the statement issued in the name of the Company?

\_\_\_\_\_\_ Does the amount paid match the amounts on the payoff statement?

\_\_\_\_\_\_ Did the owner/borrower sign the payoff statement, approving the amounts to be paid?

\_\_\_\_\_\_ Were the funds paid and delivered to the correct payee?

\_\_\_\_\_\_ Was the correct loan paid off?

*Note: Sometimes borrowers can have multiple loans on different properties with the same lender. From time-to-time escrow will order a payoff statement and the lender will issue the statement on the incorrect loan. Escrow then unknowingly pays off the wrong loan. It is important to compare the payoff statement with the title report to validate that the principal balance could have been paid down to the amount shown on the payoff statement within the time allowed from date of origination.*

\_\_\_\_\_\_ Was payoff made to a private party beneficiary?

*Note: If a private party beneficiary was paid through the escrow, verify that an original release of the borrower’s obligation (satisfaction of mortgage or request for reconveyance or consummation deed) was received in exchange for the payoff check.*

\_\_\_\_\_\_ Was the payoff statement a result of a short sale?

\_\_\_\_\_\_ If the payoff was a short sale, read the payoff statement and verify that the terms and conditions of the short sale statement were strictly followed. The statement will usually indicate that there cannot be a subsequent or concurrent transaction and will provide any amounts that may be paid to the seller or any other party in connection with the transaction.

\_\_\_\_\_\_ If the statement represents the payoff of an existing Home Equity Line of Credit, then look for a “freeze letter” signed by the borrower instructing the payoff lender to “freeze” the account so that the borrower can no longer draw against it.

\_\_\_\_\_\_ Review the payment of invoices to verify that the checks are made payable to the invoicing parties.

\_\_\_\_\_\_ Watch for bogus invoices which bear no invoice number or property address and may appear to have been cut and pasted or are otherwise incomplete.

**V. Premium to the Underwriter**

\_\_\_\_\_\_ Review the posted premium in the file to the settlement statement to verify that fees collected were accurately paid to the Underwriter from the trust account.

\_\_\_\_\_\_ Verify that fees were accurately charged.

\_\_\_\_\_\_ FNF Rate Calculator should be used to calculate rates if your state has filed or promulgated rates <https://ratecalculator.fnf.com/>.

\_\_\_\_\_\_ Use of e-Pay / E-Remit

**VI. Forgery/Notary fraud: Compare copies of the notarized documents in the file.**

\_\_\_\_\_\_ Are the buyer’s documents and seller’s documents acknowledged by the same notary?

\_\_\_\_\_\_ Are the grantors (sellers) named on the conveyance deed the same as listed on the preliminary report or commitment?

\_\_\_\_\_\_ Was a “Remote Online Notarization” (RON) method used to witness signing of documents? (Complete guide to Online Notarization)

\_\_\_\_\_\_ Is a Notary Log maintained for each transaction, by each Notary Public?

**VII. Check for inflated purchase price:**

\_\_\_\_\_\_ If possible, review the conveyance deed that was recorded just prior to this transaction. Look for documentary transfer tax, if any, and multiply the applicable rate times $1,000 to determine the prior sale price on the property.

**VIII. Verify that governmental reporting requirements were followed:**

\_\_\_\_\_\_ Is there a 1099-S Certification for No Reporting in the file? Federal law requires that, unless the specific real estate transaction is exempt, the transferor’s name, address, tax identification number, and the amount of the proceeds must be reported to the Internal Revenue Service.

\_\_\_\_\_\_ Is the seller a foreigner? If so, did escrow withhold and report?

***NOTE:*** *FIRPTA – the Foreign Investment in Real Property Tax Act of 1980 – is a Federal statute that authorizes the United States to tax foreign persons when they transfer real estate located in the United States. To help ensure that the federal government receives the taxes that are due from foreign transferors, the statute requires the transferee to find out if the real estate transferor is a foreign person. If a real estate transferor is a foreign person and an exception as specified in the Act does not apply, the transferee – or, in our case, the Settlement Agent – must withhold 10 percent of the gross purchase price and report the transaction to the IRS within 20 days after the closing. If the transferor is a foreign person and we fail to submit the required tax, we may be held liable for the tax that should have been withheld – as well as for penalties for noncompliance.*

***REMINDER:*** *The Lenders Closing Disclosure is their document and their responsibility to be accurate and delivered to the borrower per the ‘Know Before You Owe Rule’ written regulations and timeline issued by the CFPB. Lenders can ask the settlement agent to assist them in the creation of the Closing Disclosure, however, the Closing Disclosure does not act as a disbursement of funds document. It is a DISCLOSURE provided to the borrower, 3 days prior to closing/settlement. The actual disbursement of funds document should be the appropriate ALTA Settlement Statement, or a settlement form generated through your closing software system.*

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# Sample – Template for Escrow Accounting Procedure

As you use this template, please keep in mind the following: This is a template. You must modify it to reflect how you do things in your office. When your office is audited for compliance with Best Practices, the auditor will compare your procedure manual to your actual practices.

**Types of Accounts**

Our office has the following accounts:

|  |  |  |  |
| --- | --- | --- | --- |
| TYPE OF ACCOUNT | ACCOUNT NUMBER | NAME OF BANK | NOTES |
| **Escrow/Trust Account** |  |  |  |
| **Incoming Wire Account** |  |  | Provides a firewall between the escrow account and fraudsters. |
| **Long-term Escrow Accounts** |  |  |  |
| **Premium Trust Account** |  |  |  |
| **Recording Trust Account** |  |  |  |

**Escrow Trust Account**

The escrow trust account is required for closings and settlements. Incoming funds are directed to the Incoming Wire Account and are transferred manually to the escrow trust account when: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Two signatures are required on all checks.

**Long Term Escrow Account**

This account is for construction holds, water holds, and other transactions where funds are being held pending the resolution of a task or tasks, such as the issuance of a final water bill or the completion of repairs or improvements.

Two signatures are required on all checks.

**Premium Trust Account**

This account holds the underwriter’s portion of the premium.

Two signatures are required on all checks.

**Recording Trust Account**

This account holds the funds being used for recordings.

Two signatures are required on all checks.

**Deposits**

Physical escrow account deposits are made daily and all deposits in transit over three days old (i.e., weekends) are investigated. Separate deposit slips are prepared for each file indicating the file number on each deposit slip. Copies of all deposited information (i.e., checks received as well as validated deposit tickets) are kept in the closing files to prove funds were received in accordance with the settlement statement or closing disclosure.

**Wire Transfers**

Wire transfer logs are maintained by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ in a \_\_\_\_\_\_\_\_\_\_\_ (or within our escrow software system). These logs are a special log specifically used to track wires and supplement the data electronically maintained for individual files.

**Check Controls**

All escrow account bank statements and checks state the words “escrow account” or “trust account”

(For paper checks) We lock our unused checks when not in the printer. We also use locking printer stands. Log checks out. We keep a record of all blank checks ordered and received and log them out as each user is given a new supply. Inventory checks are performed randomly by \_\_\_\_\_\_\_\_. Unused checks are compared against the log to ensure they are still unused.

(For laser checks) Our safeguards for our laser check programs/systems include, but are not limited to: 1) Print & Review the check register DAILY; 2) Print & Review a daily Void Transaction Report; 3) Designate one employee to assume ALL wire transfer responsibilities; 4) Designate one additional employee in the accounting department to confirm and verify ALL outgoing wires.

Copies of all disbursed checks are maintained in each file to prove funds were disbursed through the escrow account in accordance with the ALTA SETTLEMENT STATEMENT.

Signature stamps are not used on escrow checks.

Positive Pay or Reverse Pay services are recommended for escrow accounts whenever possible to provide additional protection against fraudulent disbursements.

Voided checks are defaced by physically removing the signature line. The originals are retained with accounting records.

Outstanding checks that were issued for payoffs and other lienable events, and checks for recording are investigated if they have not cleared within \_\_\_3\_\_\_\_ days.

Outstanding checks for other matters are reviewed monthly.

If using a Third-Party Vendor for bank reconciliations, who is contacted if there is a problem? Is there a plan in place to correct the error(s) found? Are the reconciliations checked by management?

**Long Term (Dormant) Escrow Account Procedures**

Long Term (Dormant) accounts are reconciled monthly using the same procedures noted for the primary escrow account.

Signed escrow agreements detailing terms of release of funds, for example, funds being held for earnest money; water/utility escrows; unfinished construction/repair escrows, are maintained in all files where escrow funds are being held. Contact information for all the parties involved is also contained in the file. Current copies of the file ledger showing disbursements-to-date are also held in the relevant file.

Note: Check your specific State for rules and regulations regarding Dormant Funds, and escheating funds to the State.

**Closing Transaction Records**

We utilize \_\_\_\_\_\_\_\_\_ brand of escrow closing and accounting software. The software maintains an electronic log of many of the following things (see the software documentation for exact specifications), in an electronic format that can be printed as needed:

* Unique file number. All records relative to a transaction must bear the unique case number.
* Receipts log, which lists all incoming funds and can be used to help verify daily deposits.
* Checkbook register for each escrow account in which a record is kept of all incoming and outgoing funds identified with the unique case number.
* Ledger card for each case file, which details in chronological order all receipts and disbursements for the particular case.
* Trial Balance listing of all cases by number showing open balances (whether positive or negative, and showing the total. This total should equal the running balance in the checkbook register.

**Reconciliation Procedures**

**Our escrow account is reconciled \_\_\_\_\_\_\_\_\_ (daily at minimum)**. A three-way reconciliation is performed, and any file shortages are investigated and resolved immediately by funding any shortages. To the extent that we recover shortages from other parties later, we reimburse our operating account.

The three-way reconciliation is done using the generally accepted title agency accounting procedures. The checkbook balance, reconciled bank balance and the escrow trial balance/ledger balance report balances are reviewed for agreement.

The owner/manager, \_\_\_\_\_\_\_\_\_, critically reviews and formally approves the bank reconciliation by initialing and noting the date of review. This process serves to verify that file shortages are timely funded.

**Escrow Account Controls**

Our agency has policy of strict segregation of duties. Here is a summary of our closing function staffing and procedures

|  |  |  |
| --- | --- | --- |
| WHAT | WHO | NOTES |
| **Receiving and Logging Funds** |  |  |
| **Recording Transactions in the Checkbook Register (Electronic)** |  |  |
| **Preparing Checks** |  |  |
| **Signing Checks** |  |  |
| **Reconciling** |  |  |
| **Review of Reconciliation Issues** |  |  |

Our Closers/Escrow Officers handle the following tasks:

* Receive closing/escrow instructions
* Verify wiring instructions with lender or other respective party to the transaction
* Record the receipt of funds in the software
* Verify good funds
* Work up the planned disbursements
* Balance the file before closing
* Match the checks to the ledger card before disbursing
* Conduct the closing
* Perform post-closing activities
* Match the file balance to the trial balance line item after closing

Receptionist handles the following tasks:

* Receive the funding check or bank wire (often Closer receives and gives to Receptionist for next step)
* Enter funding check data in the software
* Restrictively endorse the funding check
* Follow up on mortgage releases

Bookkeeper handles the following tasks:

* Record the receipt in the checkbook register
* Prepare the daily deposit
* Compare the deposit slip to the checks received before the deposit is made
* Generate checks
* Record the disbursements on the ledger card
* Record the disbursements in the checkbook register
* Verbally verify outgoing wire transfers with secondary approval
* Generate the daily escrow trial balance of open escrows
* Confirm/balance the trial balance total to the checkbook register total 2-way reconciliation
* Perform a 3-way reconciliation of the monthly bank statement to the trial balance and checkbook register—Note that the Manager reviews this 3-way reconciliation

Add other personnel or management who handle any escrow funds or who can approve any disbursement of funds within internal accounts or through external accounts or procedures. Also, add a secondary person to verify incoming and outgoing wires on a dedicated/separate computer.

ALTA Information Security Committee

Rapid Response Plan for Wire Fraud Incidents REVISED

V.2.5 09/21/2020

**ALTA Rapid Response Plan for Wire Fraud Incidents**

[https://www.alta.org/file.cfm?name=ALTA-Rapid-Response-Plan-for-Wire-Fraud-Incidentshttps://www.alta.org/file.cfm?name=ALTA-Rapid-Response-Plan-for-Wire-Fraud-Incidents](https://www.alta.org/file.cfm?name=ALTA-Rapid-Response-Plan-for-Wire-Fraud-Incidents)

*Time is of the essence – every second and minute counts.*

*Organize your team and make a plan in advance.*

*Be ready to act simultaneously and accomplish all of these steps as quickly as possible.*

**Step 1: Alert company management and your internal wire fraud response team.**

Contact your team according to a pre-arranged plan (group email; group text):

* Owner / Manager
* Accounting / Finance / Treasurer
* IT / IT Security
* Legal Counsel
* Underwriter(s)

**Step 2: Report Fraudulent Wire Transfers to the Sending and Receiving Banks.**

* Contact the sending bank’s fraud department and request that a recall of the wire be sent to the receiving bank because of fraud. Provide the details for the wire. Also request a recall or reversal and a Hold Harmless Letter or Letter of Indemnity.
* Ask the sending bank to initiate the [FBI’s Financial Fraud Kill Chain](https://www.alta.org/file.cfm?name=FBI-FinancialFraudKillChain).
* Also call the receiving bank’s fraud department to notify them that you have requested a recall of the wire because of fraud. Provide the details for the wire and request that the account be frozen.
* If a client or consumer was a victim and your bank/accounts were not directly involved, your client or customer will need to contact the bank themselves, but you may have helpful information to share, too. Coordinate quickly!

**Step 3: Inform the parties to the transaction (buyer, seller, real estate agents, broker, attorneys, underwriter, notary, etc.) using known, trusted, phone numbers for verbal verification.**

If you are unsure about what to say, here is a sample: “There appears to have been [attempted] wire fraud associated with this transaction. We recommend that you review your email security and update passwords and take any other appropriate security measures immediately. For the remainder of this transaction, all communication will occur using known, trusted, telephone numbers.”

**Step 4: File a complaint with the FBI’s Internet Crime Complaint Center (IC3)**.

**Need help to get started?** Visit [www.alta.org/ic3how](http://www.alta.org/ic3how) to see a two-minute how-to video.

**Ready to go?** Visit [www.alta.org/ic3](http://www.alta.org/ic3) and provide the following information:

* Victim’s name, address, telephone, and email
* Financial transaction information (e.g., account information, transaction date and amount, who received the money)
* Subject’s name, address, telephone, email, website, and IP address
* Specific details on how you were victimized
* For Business Email Compromise (BEC) events, copy email header(s). Learn How at <https://mxtoolbox.com/Public/Content/EmailHeaders/>
* Any other relevant information that is necessary to support the claimant

**Step 5: Report Fraudulent Wire Transfers and Attempts to Law Enforcement in the jurisdiction where the crime has occurred.**

* Local Police/Sheriff: <https://www.policeone.com/law-enforcement-directory/>
* FBI Field Office: <https://www.fbi.gov/contact-us/field-offices>

Ask your Field Office to initiate the [FBI’s Financial Fraud Kill Chain](https://www.alta.org/file.cfm?name=FBI-FinancialFraudKillChain).

* Secret Service: <https://www.secretservice.gov/contact/field-offices/>

**Step 6: Call the sending bank again to confirm that the recall request has been processed.**

**Step 7: Document your response using a Response Worksheet.**

* Customize this [ALTA Rapid Response Plan for Wire Fraud Incidents](https://www.alta.org/file.cfm?name=ALTA-Rapid-Response-Plan-for-Wire-Fraud-Incidents)
* Customize a Response Worksheet (available in [Excel](https://www.alta.org/file.cfm?name=Rapid-Response-Worksheet---Excel-Format) or [PDF](https://www.alta.org/file.cfm?name=Rapid-Response-Worksheet---PDF-Format))
* Assign each step to an appropriate person/entity
* Track progress through to completion or resolution
* Retain the Response Worksheet for future reference/update

**Step 8: Consider contacting your insurance carrier(s) and outside legal counsel.**

**Step 9: Review your Incident Response Plan to determine if you need to update passwords, secure hardware, and review email logs to determine how and when email accounts were accessed.**

**Step 10: If funds were wired out of the U.S., hire an attorney in that country to help recover funds.**

ALTA Information Security Committee

Outgoing Wire Preparation Checklist

V.2.0 08-19-2019

**ALTA Outgoing Wire Preparation Checklist**

Visit the ALTA Website: <https://www.alta.org/business-tools/information-security.cfm>

**Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**File Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Company Name/Location: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Section 1: Provide the source of the wiring instructions:**

|  |  |
| --- | --- |
| ☐ | I received the initial outgoing wire instructions directly from the **payee in person**. The instructions have not been modified or amended. ***Proceed to Section 2.*** |
| ☐ | I received the initial outgoing wire instructions directly from the **payee via the United States Postal Service or a known overnight mail or messenger service** and **verified** the accuracy of the instruction by **calling the payee** at a phone number obtained independently from any phone number shown in the package. The instructions have not been modified or amended. ***Proceed to Section 2.*** |
| ☐ | I received the initial outgoing wire instructions directly from the **payee via fax** and **verified** the accuracy of the instruction by **calling the payee** at a phone number obtained independently from any phone number shown in the package. The instructions have not been modified or amended. ***Proceed to Section 2.*** |
| ☐ | I received the initial outgoing wire instructions from the **payee**, which have been modified or amended in writing in person at the following date/time: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. ***Proceed to Section 2.*** |
| ☐ | I received the initial outgoing wire instructions directly from the **payee by email** and **verified** the accuracy of the instruction by **calling the payee** at a phone number obtained independently from any phone number shown in the email. The instructions have not been modified or amended. ***Proceed to Section 2.*** |
| ☐ | I received the initial outgoing wiring instructions **via a 3rd party** (e.g., attorney, realtor, lender) and have **verified** the accuracy of the instruction by **calling the payee** at a phone number obtained independently from any phone number obtained via the 3rd party. The instructions have not been modified or amended. ***Proceed to Section 2.*** |

**Section 2: Verify instructions received by email or from someone other than the payee.**

|  |  |  |
| --- | --- | --- |
| ☐ | Wire Payee Name: |   |
| ☐ | Wire Amount: |   |
| ☐ | Payee Phone Number: |   |
| ☐ | Source of Phone Number (*never use the phone number included in an email*): |
|   | ☐ | Original Order or Contract: |   |
|   | ☐ | Secure Portal: |   |
|   | ☐ | Internet Search: |   |
|   | ☐ | Other (*describe*): |   |
| ☐ | Name of Person I Spoke With: |  Date: |
| ☐ | Wire Information confirmed. Account and ABA Routing Number, and Account Name match payee in the file. Wire instruction notes indicate correct payment information (e.g., loan number, beneficiary, other information). |
| ☐ | Wire Information confirmed. Account and ABA Routing Number match an entry on our company’s list of validated wire instructions for common bank payoffs. |

**Wire Creator: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **(Signature) (Date)**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(Printed Name)**

**Wire Authorizer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **(Signature) (Date)**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **(Printed Name)**

**Section 3: Verify Delivery of Wired Funds.**

|  |  |  |
| --- | --- | --- |
| ☐ | Date Wire Was Sent: |   |
| ☐ | Date Wire Was Received: |  |
| ☐ | Name of Person Who Confirmed Receipt:  |  |
| ☐ | Purpose of Wire:  |  |
|  | ☐ | Loan Payoff |  |
|   | ☐ | Equity Loan Payoff |   |
|   | ☐ | Seller Proceeds |   |
|  | ☐ | Real Estate Commission |  |
|   | ☐ | Other (*describe*): |   |

**Verified By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **(Signature) (Date)**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(Printed Name)**

**Consumer Wire Fraud Prevention Rack Card**

  

**Mortgage Payoff Wire Fraud Tips**

