



Technical Questions and Answers

Section 9540, *Attest Engagement: American Land Title Association Best Practices Framework*



.01 Types of Engagements

Inquiry—The American Land Title Association (ALTA) seeks to guide its membership on best practices to protect consumers, promote quality service, provide for ongoing employee training, and meet legal and market requirements. These policies, procedures, controls, and practices (collectively referred to as *practices* for purposes of this section) are voluntary and designed to help members illustrate to consumers and clients the industry professionalism and best practices to help ensure a positive and compliant real estate settlement practice. These practices are not intended to encompass all aspects of title or settlement company activity.

The ALTA Best Practices Framework¹ (the framework) has been developed to assist lenders in satisfying their responsibility to manage third party vendors. The framework comprises the following documents a company needs when electing to implement such a program:

- *Title Insurance and Settlement Company Best Practices*
- *Assessment Procedures*
- *Certification Package*, which includes the following three parts:
 - “Agency Letter” (part 1)
 - “Best Practices Certificate” (part 2)
 - “Declarations Page” (part 3)

¹ Information regarding the American Land Title Association (ALTA) Best Practices Framework is available at ALTA’s website at www.alta.org/bestpractices/index.cfm.

What types of engagements may a practitioner perform for a title insurance and settlement company (the company) in order to assist management and third parties about whether the company has implemented the framework?

Reply—A practitioner may perform an engagement that the company would consider best suited to its circumstances. Such engagements may include attestation engagements (such as an examination, review, or an agreed-upon procedures engagement) or an engagement under CS section 100, *Consulting Services: Definitions and Standards* (AICPA, *Professional Standards*).

[Issue Date: April 2015.]

.02 Applicability to an Attest Engagement

Inquiry—The company may request its independent public accountant (practitioner) to examine or review its title insurance and settlement practices for the purpose of expressing an opinion or a conclusion about whether those practices comply with the framework’s best practices as of a point in time or for a period of time. Would such an engagement be an attest engagement under AT section 101, *Attest Engagements* (AICPA, *Professional Standards*)?

Reply—Yes. AT section 101 states that the attestation standards apply when a CPA in public practice is engaged to issue or does issue an examination, a review, or an agreed-upon procedures report on subject matter, or an assertion about the subject matter that is the responsibility of another party. When a practitioner is engaged by a company to provide an examination or a review report on the company’s practices, such an engagement involves subject matter that is the responsibility of the company. Consequently, AT section 101 applies to such engagements.

[Issue Date: April 2015.]

.03 Suitability of Criteria

Inquiry—Paragraph .23 of AT section 101 specifies that “the practitioner must have reason to believe that the subject matter is capable of evaluation against criteria that are suitable and available to users.” What are the criteria against which such subject matter is to be evaluated and are such criteria suitable and available?

Reply—The criteria for evaluating whether the company’s practices have been implemented to comply with the framework’s best practices are set forth in the framework. The suitability of those criteria should be evaluated by assessing whether the criteria meet the characteristics discussed in paragraph .24 of AT section 101. AICPA staff believe that the criteria set forth in the framework will, when properly followed, be suitable and, because the framework is available on ATLA’s website, the criteria are generally available.

[Issue Date: April 2015.]

.04 Nature of Examination or Review Procedures

Inquiry—What is the nature of the examination or review procedures that should be applied to the company’s best practices?

Reply—The objective of the procedures performed in either an examination or a review engagement is to accumulate evidence, sufficient in the circumstances, about whether the company has implemented practices in a manner that supports the company’s assessment recap provided in the framework questionnaire, *Assessment Procedures*, and to provide an opinion or a conclusion based on that evidence. The objective does not include providing assurance about whether the company’s best practices operated effectively to ensure compliance with federal and state consumer financial laws. In an examination, the evidence should be sufficient to limit attestation risk to a level that is appropriately low for the high degree of assurance imparted by an examination report. In a review, this evidence should be sufficient to limit attestation risk to a moderate level.

Examination procedures include obtaining evidence by reading relevant policies and programs, making inquiries of appropriate company personnel, inspecting documents and records, confirming company assertions with its employees or others, and observing activities. In an examination, it will be necessary for a practitioner’s procedures to go beyond simply reading relevant policies and programs and making inquiries of appropriate company personnel. Alternatively, review procedures are generally limited to reading relevant policies and procedures, and making inquiries of appropriate company personnel. When applying examination or review procedures, the practitioner should assess the appropriateness (including the comprehensiveness) of the company’s practices supporting the company’s assessment recap.

A particular company’s practices may vary from those of other companies. As a result, the sufficiency of evidence obtained from the practitioner’s procedures performed cannot be evaluated solely on a quantitative basis. Consequently, it is not practicable to establish only quantitative guidelines for determining the nature or extent of the evidence that is necessary to obtain the assurance required in either an examination or a review. The qualitative aspects should also be considered.

In determining the nature, timing, and extent of examination or review procedures, the practitioner should consider information obtained in the performance of other services for the company, for example, the audit of the company’s financial statements. For multi-location companies, whether practices were designed and placed in operation as of the assessment date should be evaluated for both the company’s headquarters and selected locations. The practitioner may consider using the work of the company’s internal auditors. AU-C section 610, *Using the Work of Internal Auditors (AICPA, Professional Standards)*, may be useful in that consideration.

Examination procedures and (in some instances) review procedures may require access to information involving specific instances of actual or alleged noncompliance with laws. An inability to obtain access to such information because of restrictions imposed by a company (for example, to protect attorney-client privilege) may constitute a scope limitation. Paragraphs .73–.75 of AT section 101 provide guidance in such situations. The practitioner should assess the effect of the inability to obtain access to such information on the practitioner’s ability to form a conclusion about whether the related policies and programs operated during the period. If the company’s reasons for not permitting access to the information are reasonable (for example, the information is the subject of litigation or a governmental investigation) and have been approved by an executive officer of the company, the occurrences of restricted access to information are few in number, and the practitioner has access to other information about that specific instance or about other instances that is sufficient to permit a conclusion to be formed about whether the related best practice operated during the period, the practitioner ordinarily would conclude that it is not necessary to disclaim assurance.

If the practitioner's scope of work has been restricted with respect to one or more matters, the practitioner should consider the implications of that restriction on the practitioner's ability to form a conclusion about other matters. In addition, as the nature or number of matters on which the company has imposed scope limitations increases in significance, the practitioner should consider whether to withdraw from the engagement.

[Issue Date: April 2015.]

.05 Form and Content of Report

Inquiry—What is the form of report that should be issued to meet the requirements of AT section 101?

Reply—The standards of reporting in AT section 101 provide guidance about report content and wording, and the circumstances that may require report modification. Example 1, “Illustrative ALTA Best Practices Program Assertions and Examination Reports,” and example 2, “Illustrative Review Report Review Report,” of this Technical Question and Answer (Q&A) section are illustrative reports appropriate for various circumstances. Paragraph .66 of AT section 101 permits the practitioner to report directly on the subject matter or on management’s assertion. In either case, the practitioner should ordinarily obtain a written assertion. An illustrative company assertion is also presented in examples 1 and 2.

The engagements addressed in this Q&A section do not include providing assurance about whether the company's procedures operated effectively to ensure compliance with federal and state consumer financial laws or to evaluate the extent to which the company or its employees have complied with federal or state laws. The practitioner's report should explicitly disclaim an opinion on the extent of such compliance.

When scope limitations have precluded the practitioner from forming an opinion, the practitioner's report should describe all such scope restrictions. If the company imposed such a scope limitation after the practitioner had begun performing procedures, that fact should be stated in the report.

A company may request the practitioner to communicate to management or the board of directors or one of its committees, either orally or in writing, matters noted that do not constitute significant findings about the company's best practices. Agreed-upon arrangements between the practitioner and the company to communicate findings noted may include, for example, the reporting of findings of less significance than those contemplated by the criteria, the existence of findings specified by the company, the results of further investigation of findings noted to identify underlying causes, or suggestions for improvements in various best practices. Under these arrangements, the practitioner may be requested to visit specific locations, assess the effectiveness of specific policies or programs, or undertake specific procedures not otherwise planned. In addition, the practitioner is not precluded from communicating findings believed to be of value, even if no specific request has been made.

Example 1—Illustrative ALTA Best Practices Program Assertions and Examination Reports

Illustration 1—Unqualified Opinion; General-Use Report; Criteria Attached to the Presentation

Company Assertion

The responses in the accompanying *Assessment Procedures* portion of the American Land Title Association (ALTA) Best Practices Framework are based on company practices as of [date, for example July 15, 20XX]. Based on the results of our assessment procedures as set forth in the *Assessment Procedures* and our responses indicated in the “Assessment Recap” column, we believe our title insurance and settlement practices as of [date, for example July 15, 20XX], comply, in all material respects, with ALTA best practices based on the ALTA criteria.

Examination Report

Independent Accountant’s Report

To the Board of Directors of the XYZ Company

We have examined XYZ Company's (Company) title insurance and settlement practices and the Company’s responses in the accompanying *Assessment Procedures* document from American Land Title Association (ALTA) Best Practices Framework as of July 15, 20XX. XYZ Company’s management is responsible for its practices and for its responses to its assessment procedures. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence as to whether the Company’s practices support the responses indicated in the Assessment Recap column of the *Assessment Procedures* and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination procedures were not designed, however, to evaluate whether the aforementioned practices operated effectively to ensure compliance with the Federal and State Consumer Financial Laws or to evaluate the extent to which the Company or its employees have complied with federal or state laws, and we do not express an opinion or any other form of assurance thereon.

In our opinion, the Company’s title insurance and settlement practices, as of July 15, 20XX, comply, in all material respects, with the ALTA best practices based on the ALTA criteria.

Illustration 2—Unqualified Opinion; General-Use Report, Management’s Assertion

Examination Report

Independent Accountant’s Report

To the Board of Directors of the XYZ Company

We have examined management’s assertion that XYZ Company's (Company) title insurance and settlement practices, as of July 15, 20XX, comply, in all material respects, with the American Land Title Association (ALTA) best practices. XYZ Company’s management is responsible for its practices and for its responses to its assessment procedures. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence as to whether the Company’s practices support the responses indicated in the “Assessment Recap” column of the *Assessment Procedures* and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination procedures were not designed, however, to evaluate whether the aforementioned practices operated effectively to ensure compliance with federal and state consumer financial laws or to evaluate the extent to which the Company or its employees have complied with federal or state laws, and we do not express an opinion or any other form of assurance thereon.

In our opinion, management’s assertion referred to above is fairly stated, in all material respects, based on the ALTA criteria.

Example 2—Illustrative Review Report

Company Assertion

The responses in the accompanying *Assessment Procedures* portion of American Land Title Association (ALTA) Best Practices Framework are based on Company practices as of [date, for example July 15, 20XX]. Based on the results of our assessment procedures as set forth in the *Assessment Procedures* and our responses indicated in the “Assessment Recap” column, we believe our title insurance and settlement practices as of [date, for example July 15, 20XX], comply, in all material respects, with the ALTA Best Practices based on the ALTA criteria.

Independent Accountant’s Report

To the Board of Directors of the XYZ Company

We have reviewed XYZ Company's (Company) title insurance and settlement practices and the Company’s responses in the accompanying *Assessment Procedures* portion of the American Land Title Association (ALTA) Best Practices Framework as of July 15, 20XX. XYZ Company's management is responsible for its practices and for its responses to its assessment procedures.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the Company's practices. Accordingly, we do not express such an opinion. Additionally, our review was not designed to evaluate whether the aforementioned practices operated effectively to ensure compliance with federal and state consumer financial laws or to evaluate the extent to which the Company or its employees have complied with federal or state laws and we do not express an opinion or any other form of assurance thereon.

Based on our review, nothing came to our attention that caused us to believe that the Company’s title insurance and settlement practices, as of July 15, 20XX did not comply, in all material respects, with the American Land Title Association (ALTA) best practices based on the ALTA criteria.

[Issue Date: April 2015.]

