

**SSAE 16: MEETING CFPB COMPLIANCE
REQUIREMENTS FOR TITLE AND ESCROW
COMPANIES**



SSAE 16
Professionals

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On April 13, 2012 the Consumer Financial Protection Bureau (CFPB) issued Bulletin 2012-03 titled "Service Providers". The CFPB bulletin included expectations around supervised banks and nonbanks (i.e. lenders) to oversee business relationships with their service providers in a manner that ensures compliance with Federal consumer financial law, which is designed to protect the interests of consumers and avoid consumer harm.

SSAE 16 AND ALTA: THE COMPLIANCE VEHICLE OF CHOICE

The title and escrow marketplace has been baffled on the best way to demonstrate adherence to the new CFPB guidance. Amid the fog of uncertainty, the SSAE 16 (also known as SOC 1 audits) audit is the prevailing compliance vehicle of choice when meeting the CFPB requirements. In response to the CFPB bulletin, many title and escrow companies have been in search of specific guidance to follow to come into compliance. One of the more popular sources of guidance has come from the American Land Title Association® (ALTA®). ALTA® has created the Title Insurance and Settlement Company Best Practices. To test compliance with these best practices, many in the title and escrow industry are using the SSAE 16 audit as the "go-to" compliance vehicle of choice.

THE ALTA BEST PRACTICES FRAMEWORK

ALTA developed their Best Practices Framework in 2013. This framework was established so that title insurance and settlement companies can assist lenders in risk management associated with third party vendors. The ALTA Best Practices Framework consists of the following seven pillars:

1. Establish and maintain current License(s) as required to conduct the business of title insurance and settlement services.
2. Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.
3. Adopt and maintain a written privacy and information security program to protect Non-public Personal Information as required by local, state and federal law.
4. Adopt standard real estate settlement procedures and policies that help ensure compliance with Federal and State Consumer Financial Laws as applicable to the Settlement process.
5. Adopt and maintain written procedures related to title policy production, delivery, reporting and premium remittance.
6. Maintain appropriate professional liability insurance and fidelity coverage.
7. Adopt and maintain written procedures for resolving consumer complaints.

While some title and escrow companies may find these requirements mirror their existing standard operating procedures, there are many more companies that find this entire process not only daunting, but also extremely confusing. To further complicate matters, escrow companies in “escrow states” may not feel comfortable following the ALTA Best Practices Framework.

EIC MODEL POLICIES AND PROCEDURES

A similar, but competing set of requirements has been developed by the Escrow Institute of California (EIC), known as the “EIC Model Policies and Procedures”. This is a compliance standard for escrow/settlement companies and provides an overview of the legal and regulatory requirements under state and federal laws and regulations. The EIC Model Policies and Procedures, along with the control framework to meet the requirement, may be used with any response or communication with title/settlement providers, real estate professionals, lenders and consumers.

The EIC Model Policies and Procedures are made up of the following six sections:

1. Licensing
2. Insurance & Bonding
3. Personnel/Employment
4. Trust Accounting/Funds Handling Procedure
5. Privacy Policy
6. Consumer Complaints

CHOOSING THE RIGHT COMPLIANCE FRAMEWORK

Choosing the right compliance framework is important. If not properly planned, choosing the right framework can be both costly and frustrating. Choosing the wrong framework would require internal resources to redouble efforts, something that can be catastrophic for a small business. Every situation is different and many factors come in to play in regards which compliance framework should be chosen. Every situation is different, so gathering advice from a reputable CPA firm with expertise in financial services is the best place to start.

ABOUT SSAE 16 AND SOC 2 REPORTS

SSAE 16 Reports are prepared in accordance with Statement on Standards for Attestation Engagements (SSAE) No. 16, Reporting on Controls at a Service Organization. SSAE 16 reports retain the original purpose of the predecessor SAS 70 audit, by providing a means of reporting on the system of internal control for purposes of complying with internal control over financial reporting (ICFR). SSAE 16 reports are meant to audit business process controls that your customers rely upon and outsource to your company.

For reports that are not specifically focused internal controls over financial reporting, the AICPA has issued an Interpretation under AT section 101 permitting service auditors to issue reports. These reports are now known as Service Organization Control (SOC) 2 reports and focus on controls at a service organization relevant to the following Trust Service Principles and Criteria:

- **Security:** The system is protected against unauthorized access, use, or modification.
- **Availability:** The system is available for operation and use as committed or agreed.
- **Processing Integrity:** System processing is complete, valid, accurate, timely, and authorized.
- **Confidentiality:** Information designated as confidential is protected as committed or agreed.
- **Privacy:** The system's collection, use, retention, disclosure, and disposal of personal information are in conformity with the commitments in the service organization's privacy notice and with criteria set forth in the Generally Accepted Privacy Principles (GAPP) issued by the AICPA and CPA Canada.

Both SSAE 16 or SOC 2 Type I and Type II reports can be issued:

- **Type I** – a Type I is a report on policies and procedures placed in operation as of a specified point in time. SSAE 16 or SOC 2 Type I Reports evaluate the design effectiveness of a service provider's controls and then confirms that these controls have been placed in operation as of a specific date.
- **Type II** – a Type II is a report on policies and procedures placed in operation and tests of operating effectiveness for a period of time. SSAE 16 or SOC 2 Type II Reports include the examination and confirmation steps involved in a Type I examination plus include an evaluation of the operating effectiveness of the controls for a period of at least six calendar months. Most user organizations require their service provider to undergo the Type II level examination for the greater level of assurance it provides.

DO TITLE AND ESCROW COMPANIES NEED BOTH THE SSAE 16 AND SOC 2 AUDIT

Some CPA firms are pushing their title and escrow companies to perform both audits (a SOC 2 audit covering the ALTA pillar #3 and an SSAE 16 covering the 6 remaining pillars). However, SSAE 16 Professionals has a different, more cost-effective point-of-view. They recommend that unless you are being absolutely forced to perform both audits, only choose to undergo the SSAE 16 audit. Given the flexibility the SSAE 16 audit provides, you can include the ALTA pillar #3 as a control objective within the SSAE 16 audit report. This approach will save both time and money when undergoing the audit.

SSAE 16 AUDIT BENEFITS TO TITLE AND ESCROW SERVICE ORGANIZATIONS

Title and escrow companies that invest in the SSAE 16 and/or the SOC 2 audit will experience the following benefits to their organization:

- CFPB Regulatory Requirement – With the CFPB requiring controls around your critical processes, the audit is a way to prove your company is in compliance with their regulations.
- Annual Investment – Many companies view SSAE 16 audits as an annual investment with a proven ROI, increasing your prospective client base, organizational productivity, customer retention and accountability.
- Financial Audit Requirement for Public Companies - Auditors of your Clients will increase their scrutiny of the “system of internal control” during their audits of the financial statements (Sarbanes-Oxley), which will result in more requests for your SSAE 16 report.
- Competitive Advantage - SSAE 16 compliance can be a key differentiator to your prospective clients.
- One Time Audit - Avoids user auditors (auditors of your clients) continuously contacting your personnel for separate audits throughout the year. Rather, your clients request and rely on the SSAE 16 report.
- Increased Trust and Transparency with Customers - Customer are more likely to trust your organization with their data or performing an important business process on their behalf because they will have the ability to review your SSAE 16 report and verify the effectiveness of your controls. This allows your customers to manage their risks and exposures while outsourcing key business services to your company.
- Increased Investor Confidence – Many investors, including venture capitalists and angels, require the companies they invest in to perform annual SSAE 16 audits. The SSAE 16 audit allows the investors to manage their risk by ensuring effective internal controls are in place.

- Build Efficiencies with RFP's – If your company receives RFP's throughout the year from client prospects, your SSAE 16 can reduce the overall effort in completing the RFP. Client prospects are concerned with risks to their information, many of which will be independently tested within the SSAE 16 report. Additionally, if your company does not perform a SSAE 16 and the RFP includes a question requiring the report, you face the possibility of being eliminated from the bidding process, even if you are the most qualified service provider.

CHOOSING THE RIGHT CPA FIRM TO PERFORM YOUR AUDIT

Some companies are so confused, they do not know who to turn to or how to get started. By performing hundreds of these audits annually, SSAE 16 Professionals, LLP (SSAE 16 Professionals) can assist you in a cost effective manner. However, simply performing a large number of SSAE 16 audits isn't enough. Title and Escrow companies are a special industry that requires experienced financial services industry personnel to perform the audit. SSAE 16 Professionals has devoted a team from its Financial Services Practice that is dedicated to providing specific and practical guidance to the marketplace. With all the confusion surrounding the SSAE 16 audit process and how it can be tailored to meet ALTA's requirements, the Senior Leadership team at SSAE 16 Professionals has made a concerted effort to educate the marketplace.

Choosing the right CPA firm is the first critical decision when undergoing the SSAE 16 audit. Unlike many CPA firms who are who perform a wide variety of services without a true specialty, SSAE 16 Professionals is dedicated to performing SSAE 16 and SOC 2 audits. Below is what separates SSAE 16 Professionals from the rest of the pack:

- Experience – The SSAE 16 Professionals' leadership team has over 80 years of business management, operations, and information technology (IT) experience. Each of their professionals has over 10 years of relevant experience at "Big 4" and other large international or regional accounting firms. Each professional carries one or more of the following designations: CPA (Certified Public Accountant), CISA (Certified Information Systems Auditor), CIA (Certified Internal Auditor), CRISC (Certified in Risk and Information Systems Control), and/or CISSP (Certified Information Systems Security Professional). Staff members are treated as valued and highly talented peers, allowing the firm to pass on the cost-savings to the valued client.
- PCAOB Registered – As a registered CPA firm with the Public Company Accounting Oversight Board (PCAOB), both your management team and your clients can rest assured that SSAE 16 Professionals is upheld to the strictest of auditing standards.

- Resources – SSAE 16 Professionals takes pride in working closely and collaboratively with their clients to ensure all service related risks are addressed with appropriate control objectives and control activities. Utilizing a detailed approach also helps to identify opportunities for improvement within their clients' operations. A proven methodology, flexible delivery methods, efficient economic operating model, and focus on adding value for their clients is evident in everything they do.
- Fixed Fee Engagements – Many firms quote a low fee with a lot of assumptions and then hit the client with change orders when the work inevitably takes longer. A quote from SSAE 16 Professionals is set in stone (fixed fee), and they will write off any excess time to get the work done properly (any time incurred on top of the fixed fee quote would be considered a first year investment in hopes of establishing a long-term SSAE 16 relationship with their clients).
- Full Readiness – The SSAE 16 Professionals readiness methodology is much more detailed than others who quote a low fee and then highly gloss over selected areas. SSAE 16 Professionals performs a full/complete SSAE 16 readiness run through of all controls/areas and provide detail on what needs to be done to pass every test associated with general controls and application level controls.
- What You See is What You Get: Unlike many other firms, the Partners, Directors, and Managers at SSAE 16 Professionals take a very active role in each engagement. The leadership team does not disappear after the proposal process.
- Local Decision Making: Although SSAE 16 Professionals has the resources of national and "Big 4" firms, they are not required to consult with a regional or national office when a decision needs to be made. The decision makers will be part of the audit process from the start of the engagement and all of decisions will be made locally. Their clients have found that working directly with the decision makers in the firm allows for much quicker decisions and the timely resolution of issues.
- Effective Planning at the Beginning of the Audit: Unlike many firms, the audit planning is taken very seriously at SSAE 16 Professionals. Detailed audit planning will be conducted and will involve all members of the engagement team. This form of planning ensures that all significant issues are identified and addressed at the beginning of the audit, not at the end. The audit process is risk-based and the appropriate amount of time and effort is spent on the important facets of the audit. This upfront planning also ensures that the audit will be completed in a timely manner to meet client contractual obligations or other organizational needs.
- Ultimate Support Behind Every Engagement: Performing an SSAE 16 audit is a big accomplishment. SSAE 16 Professionals publicly announces each successful engagement

through a formal press release that is drafted with input from the client's marketing team. The press release is sent to major search engines like Google, Yahoo! News, and Bing. Additionally, the press release is sent to 30,000+ journalists, bloggers, and 250,000+ opt-in news subscribers.

ABOUT SSAE 16 PROFESSIONALS

SSAE 16 Professionals services clients across a wide range of industries throughout the United States and the world. The leadership of SSAE 16 Professionals has operated highly successful audit and consulting service firms for over a decade. Combined, the leadership team has over 80 years of business management, operations and related information technology (IT) experience. Instead of providing a wide range of client services, the firm focuses solely on performing SSAE 16 audits, SOC 2 audits, applicable readiness assessments, and other IT audit and compliance reports.

SSAE 16 Professionals was founded in early 2008 to counter the falling economy by providing clients with top professional talent and exceptional value from a boutique-type professional services firm. The leadership team has collectively performed over 500 SOC audits and applicable readiness assessments. Each of professional has over 10 years of relevant experience at "Big 4" and other large international or regional accounting firms, and most carry the designation of Certified Public Accountant ("CPA"), Certified Information Systems Auditor ("CISA"), Certified Information Systems Manager ("CISM"), or Certified Internal Auditor ("CIA"). Valued staff members are treated as highly talented peers, while omitting avoidable layers of management and associated costs. More can be learned about the firm by visiting their website at www.ssaе16professionals.com.

CONTACT SSAE 16 PROFESSIONALS

SSAE 16 Professionals has assembled top tier leadership to help their clients through the SSAE 16 process. For further information regarding SSAE 16 reports, or to request a fee proposal from SSAE 16 Professionals, please visit their "Contact Us" page to submit an informational form or call 866.480.9485 today. Or, feel free to contact the SSAE 16 Practice Leader directly:

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