

## **Guidance on Sample Size in the Performance of Independent Accountant's Annual Escrow Compliance Procedures**

New Mexico Office of Superintendent of Insurance  
Title Insurance Bureau  
PO Box 1689  
Santa Fe, NM 87504-1689

Date of Issue: January 20, 2019

### **BACKGROUND**

All title insurance agents licensed to operate in the State of New Mexico are required to have an independent certified public accountant annually perform the procedures enumerated in 13.14.4.11 NMAC to help to ensure compliance with the laws and regulations associated with escrow services. Pursuant to 13.14.4.11(A)(2), the Accountant may use sampling procedures to examine the contents of escrow files.

### **PURPOSE**

The purpose of this guide is to provide guidance on sample size for the purposes of the compliance procedures described above. Any accountant who follows this guidance will be deemed to have complied with the requirements of 13.14.4.11 NMAC with respect to sample size.

### **GUIDANCE**

#### Closed files

Agencies with 10,000 or more policy closings during the year under review shall have a sample size of 50 files. Agencies with less than 10,000 policy closings during the year under review shall have a sample size of 20 files.

#### Cancelled checks and wire transfers closed files

The accountant should select a sample which includes all significant items as defined below and an additional sample of 5 disbursements chosen randomly.

#### Dormant files

The accountant should select a sample of 10% of dormant files or 10 dormant files, whichever is less.

#### Disbursements – escrow to escrow

The accountant should select a sample that includes all significant disbursements as defined below and should select an additional sample, of 5 disbursements, chosen randomly.

### Disbursements – escrow to operating

The accountant should select a sample that includes all significant disbursements as defined below and should select an additional sample, of 5 disbursements, chosen randomly.

### **SIGNIFICANT ITEMS**

- Transfers from escrow to escrow – items over \$1,000
- Transfers from escrow to operating account – items over \$1,000
- Deposits in transit – items over \$10,000 over 3 business days old.
- Outstanding checks items in excess of \$5,000, over 180 days old, mortgage payoffs
- Cancelled checks – items over \$10,000
- Wire transfers – items over \$10,000
- Individual transactions/file balances over \$10,000 over 10 business days old.
- Shortages-Aggregate transactions over \$10,000 for shortages over 10 business days old.

### **FINDINGS**

All instances of non-compliance with the requirements of 13.14.4.11 NMAC or other exceptions should be listed in the appropriate schedule in the accountant's report on applying agreed-upon procedures. The Bureau may request additional procedures be performed (at the Agent's expense) or take other action based upon the results of the accountant's report on applying agreed-upon procedures.

**The report shall be addressed to the Office of Superintendent of Insurance, Title Insurance Bureau. No exceptions, penalties will be imposed.**