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Market Intelligence for the Title Insurance Industry

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2011 outlook for the title industry

The Title Report asked experts from around the industry for their insight into what title and settlement service professionals need to prepare for in the year ahead

2010 was a year of turmoil and transition: RESPA implementation, foreclosure freezes and a slowly stabilizing housing market and economy — emphasis on slowly. The homebuyer tax credit came and went, as did a boom of refinance work. All of it laid the foundation for 2011. How will this year play out? What will the storylines be? We spoke with experts from throughout the real estate, financial and settlement service communities to discover what the hot-button issues will be in the coming year.

Business environment

Prudent businesses often staff back up just before the economy takes off in order to grab market share before their competitors. Is 2011 one of those years for the title industry? **Joseph Petrelli**, president of DemoTech, said title agents and title companies will probably be standing pat in 2011.

"In terms of getting ready, staffing up and getting aggressive — I see that as a mid-2012 concept," he said. "We're not far away from it, but I don't see anyone really in position to step up yet. The companies are still concerned about getting their arms around losses."

Mary O'Donnell, president and chief executive officer of Westcor Land Title Insurance Co., made note of the opportunity that does exist for ambitious agents because of the talent available in the market as a result of industry cutbacks.

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> — **Stewart Morris, Jr.,**
> *President, co-chief executive officer, Stewart Information Services Corp.*

If companies can stand pat in 2011, it still might be considered a victory. In its title industry report, Fitch Ratings maintained a negative outlook for the sector because there's "no clear catalyst for change in the near term," which is consistent with the firm's 2010 rating. **Gerry Glombicki**, director at Fitch, said his company's biggest concern about the title sector is the negative mortgage origination forecasts.

"Companies already have been in a retreat mode with expenses. They've done the simple stuff, like limit travel. They've certainly reduced staffing. But now the question is do you have to do level three or four cuts? And how do you cut without cutting the bone? You have to reduce expenses in line with your revenues — not so deep that it's irreversible, but so deep that you can match the revenue fall. And that is going to be a challenge for industry players in the near term," Glombicki said.

Fitch also believes that continued negativity in the market could ultimately lead to industry consolidation among small underwriters in order to create cost efficiency.

From the underwriter perspective, **Stewart Morris, Jr.**, president and co-chief executive officer for Stewart Information Services Corp., said his biggest concerns heading into the year are closing out legacy claims from the robust years and changes brought about by large pieces of legislation like the Dodd-Frank Wall Street Reform and Consumer Protection Act.

O'Donnell and the team at Westcor also noted that 2011 should bring business opportunities for "agent-focused underwriters to forge new relationships with well-capitalized agents," and opportunities for agents that provide superior service and respond more quickly to market needs.

The market

So, what's out there now? The story that developed after the homebuyer tax credit expired was the boom of refinance activity. That activity might remain, but it's more likely refis will drop in 2011 because of rising rates. That isn't necessarily terrible news for the title industry, considering the modest premiums refis generate.

There is one chance for a "mini-spike" in refinance activity though, according to **David Townsend**, president and chief executive officer of Agents National Title Insurance Co. The reason is five- and seven-year ARMs that were popular during 2001 to 2006 are due to be reset.

"A lot of those people did not refinance because they were paying a lower rate than when they originated the loan," he said. "With rates ticking back up, I could see a lot of those people hoping to refinance or lock in a permanent rate."

Morris said REO, short sales and foreclosure work will continue to make up large portions of the market for the title business.

"Having competitive solutions for customers in those areas are important, but not new at this point," he said. "The industry goes into 2011 with a good inventory of deals to close and without the challenge of the new good faith estimate (GFE). So, we generally expect a much better first quarter for the industry."

Anne Anastasi, president of Genesis Abstract LLC and current president of the American Land Title Association, agreed.

"With about 11 million households underwater, REO and short sale volume will remain strong in 2011," she said. She also said there's the possibility for an uptick in purchase originations, which would be driven by modest increases in home sales and stabilizing home prices.

Whether it's refis, REO sales or purchases leading the way, Petrelli said title agents shouldn't be pursuing short searches in these market conditions.

"You're either getting less premium to do the same job, or you're getting the appropriate premium but the real property is likely to have more problems associated with it than is typical. Those are things that indicate the industry can't be doing short searches because there's not enough money on the refinance side, and there's more problems than ever on the foreclosure and REO side," he said.

Ken Trepeta, director of real estate services for the National Association of Realtors, said the 2011 prediction for existing home sales is projected at 5.2 million. 2010 existing homes sales came in at about 4.7 million which exceeded NAR's revised prediction of 4.5 million.

"We're not going to return to the days of the easy sale anytime soon. People are walking a tight rope already with deals, and I think that's going to continue a bit," he said. "If the economy rapidly improves, there will be an improvement, but I still think there's a lot to get used to and each transaction is going to seem like it's harder than what people were used to, even in prior normal markets," he said.

"I think [our brokers] have accepted or planned for a 5 million sales market — in fact, they look forward to it if it happens. That's a good thing at this point, whereas it was a horrible thing a couple of years ago — going from 7 million to 4.5 million. That took some getting used to."

Regulation

There is a greater emphasis on how new regulation will affect future mortgage business during this recovery, everything from the ongoing implementation of the Dodd-Frank Act to additional fallout from the robo-signing controversy. Anne Anastasi, president of Genesis Abstract LLC and current president of the American Land Title Association (ALTA), highlighted two important movements to pay attention to in 2011: federal land recording and the reform of the government-sponsored enterprises (GSEs).

Many believe The Transparency and Security in Mortgage Registration Act, introduced by Rep. **Marcy Kaptur**, D-Ohio, is the gateway to a federal land title recordation system.

Anastasi said the title industry needs "to continue to make a forceful case about why our land recording and property rights system is the envy of the world," this year.

Talk about the GSEs has cooled recently, but reform of Fannie Mae and Freddie Mac is still a story of intrigue in 2011. "The GSEs command around 90 percent of the lending market, and if not done thoughtfully, changes could pose unintended consequences to fragile housing markets," Anastasi said.

And of course, everyone still has an eye on the future of the HUD-1 and the Truth in Lending Act (TILA) forms. **Kevin Breeland**, general manager of Residential Mortgage of South Carolina LLC, said the concerns about proposed changes to TILA are centered around these issues: Will the new TILA be aligned more with the new GFE; what will be the practical implementation of this proposed change; and what is the cost, especially considering the cost associated with the GFE and HUD-1 changes 12 months ago.

On the positive side, Stewart Morris, Jr., president and co-chief executive officer for Stewart Information Services, sees one piece of legislation as a benefit for title agents. HR 2449, if passed, will require the lender to deliver closing documents to the settlement service provider four days before closing and require the provider to deliver the documents to the consumer three days before closing.

"This opportunity would allow consumers to see their documents ahead of the closing and to review such things as whether their name is spelled correctly, the [annual percentage rate] is what they expect, the property description and address are right and more," Morris said. "The title industry can help their lender customers comply with the new requirements. I also think that the early delivery opens the door to e-signing at least some of the documents, if the title company delivers the documents to the consumer online and in a system that allows e-signature. That would be a nice step forward."

Glimpse at mortgage origination activity

Contrary to many forecasts, Breeland believes there will be a slight increase in the mortgage origination market in 2011. However, he named the following impediments that will continue to put pressure on the market:

- QE2, the Fed's "quantitative easing" efforts
- Fear of inflation
- European debt concerns
- Inflation in China
- Unemployment
- Overwhelming U.S. debt

"Let's not forget about ongoing foreclosures and new foreclosures putting pricing pressures on communities around the country," Breeland said. "Interest rates appear to be pointing higher for 2011, and regardless if they only move up to 5.5 percent, that is still 1.5 percent higher than the summer of 2010. There will be borrowers who will not qualify because of the higher rates. We have an entire generation of homebuyers who never had to produce any documentation, haven't seen rates above 7.5 percent, and now have a hard time understanding why they don't qualify. Continued credit tightening will disqualify additional borrowers. Higher rates, continued real estate pricing pressures and overall consumer sentiment will dictate mortgage originations in 2011."

Ken Trepeta, director of real estate services for the National Association of Realtors, labeled the approach of regulators in their handling of market activity as "schizophrenic," causing there to be fewer qualified buyers in a buyers market.

"On one hand, you have people in the government talking about the need for banks to lend, and on the other hand they're telling us you can't do anything risky. Well, there's a line there, and to lend more you have to cross the risk line a little. You can't really do both. You can't lend more and be safer," he said.