

# Money Transfer Policy Guide

Real Estate transactions are a top target for wire fraud. If you operate a title or escrow company, you must develop internal policies to keep your business, employees, and customers safe.

When it comes to the safe movement of money in and out of escrow, we suggest implementing a formal Incoming and Outgoing Money Transfer Policy.

## A comprehensive Money Transfer Policy should include:



Guidelines for securely sending buyers your wiring instructions



Prohibitions around certain forms of direction of funds requests



Instructions for confirming outgoing wire transfer details



Implementation of positive pay as a best practice in your banking system



A list of prohibited outgoing wire transfers



Recommendations for educating buyers on the risk of wire fraud



Disbursement Authorization Form and usage requirements



Rules for confirming mortgage payoff information from trusted sources



Protocols for sending money to payees other than the legal title holder



Best practices required to meet the standard of care for all transaction participants

**Want to learn how CertifID can protect you and your company?**

Contact [sales@certifid.com](mailto:sales@certifid.com) today.

## LEGAL DISCLAIMER

The information provided in this Incoming and Outgoing Funds Transfer Policy (FTP) does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available in this FTP are for general informational purposes only. Information in this FTP may not constitute the most up-to-date legal or other information and the applicability of the information stated herein may vary state-to-state. The information provided herein is intended for educational and training purposes and is in no way meant to be a fully reflective or exhaustive analysis of the topics discussed herein. Nor is this FTP intended to be operationalized as an independent means of lowering risk, avoiding or mitigating liability or expense relating to any of the topic covered herein.

Recipients of this FTP should contact their attorney to obtain advice with respect to any topic covered herein. No reader of this FTP should act or refrain from acting based on this information without first seeking legal advice from counsel in the relevant jurisdiction. Only your individual attorney can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your situation.

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## Incoming and Outgoing Funds Transfer Policy

This policy is designed to reduce and mitigate the risk of fraud in connection with securely receiving and disbursing funds in connection with a real estate closing. These guidelines should be followed in every instance, unless approval is received by the owners or the Controller\* to deviate (and the file is appropriately noted). It is understood that exceptional circumstances arise, but they should be the exception not the rule.

\*Reference to “Controller” in this FTP may be replaced with the applicable position within the organization responsible for the escrow account and the overall disbursement process.

**Availability of Incoming Funds** – The availability of funds falls into three categories:

- **Immediately Available** – These are funds that we consider “good funds” and any related disbursements can be made by certified check or wire transfer without further inquiry into the validity of the funds. NOTE: this may vary depending on the requirements for good funds on a state-by-state basis.
- **Restricted Until Verified** – These funds are not available for disbursement until we verify the funds using an independently obtained phone number (i.e. never use the phone number on the check).
- **Restricted Until Cleared** – These funds are not available for disbursement until they completely clear our escrow account, which can be up to ten days (this should not be confused with the “cleared date” in the escrow software, which is not the same as fully clearing our account – only the Controller can confirm whether funds have cleared our account).

## Incoming and Outgoing Funds Transfer Policy

<b>Funds Available for Disbursement (NOTE: THIS MAY VARY STATE-BY-STATE)</b>		
<b>Immediately Available</b>	<b>Restricted Until Verified</b>	<b>Restricted Until Cleared</b>
<b>Wire Transfers</b>		
<b>Cash (no more than \$1,000)</b>		
Certified Bank Check / Title Company Check (Payable to <u>Company</u> ) <ul style="list-style-type: none"> <li>• Check represents <u>less</u> than 25% of the purchase price; <i>AND</i></li> <li>• Bank/Co. is well-known and trusted by Company</li> </ul>	Certified Bank Check / Title Company Check (Payable to <u>Company</u> ) <ul style="list-style-type: none"> <li>• Check represents <u>more</u> than 25% of the purchase price; <i>AND</i></li> <li>• Bank/Co. is well-known and trusted by Company</li> </ul>	Certified Bank Check / Title Company Check (Payable to <u>Company</u> ) <ul style="list-style-type: none"> <li>• Any unknown bank or company (\$1,000 or more), <i>OR</i></li> <li>• Check received with Mail-Away package</li> </ul>
Certified Bank Check / Title Company Check (Payable to <u>Third Party</u> ) <ul style="list-style-type: none"> <li>• Check represents <u>less</u> than 25% of the purchase price <i>AND</i></li> <li>• Bank/Co. is well-known and trusted by Company <i>AND</i></li> <li>• Never in possession of Third Party</li> </ul>	Certified Bank Check / Title Company Check (Payable to <u>Third Party</u> ) <ul style="list-style-type: none"> <li>• Check represents <u>more</u> than 25% of the purchase price <i>AND</i></li> <li>• Bank/Co. is well-known and trusted by Company <i>AND</i></li> <li>• Never in possession of Third Party</li> </ul>	Certified Bank Check / Title Company Check (Payable to <u>Third Party</u> ) <ul style="list-style-type: none"> <li>• Any unknown bank or company (\$1,000 or more); <i>OR</i></li> <li>• Check received with Mail-Away package</li> </ul>
Business or Personal Checks <ul style="list-style-type: none"> <li>• Less than \$1,000</li> </ul>		Business or Personal Checks <ul style="list-style-type: none"> <li>• \$1,000 or more</li> <li>• Requires approval from owners or Controller</li> </ul>

*Third-Party Checks* – We expect all checks to be made payable to the Company. However, we will make exceptions for certain third-party checks (e.g. checks payable to our buyer or seller that are being signed over to the Company). As explained above, we can ONLY accept third-party checks when they are received DIRECTLY from the bank or title company. If the third-party check was ever in the possession of the third-party, we must wait until the check completely clears our account (which may take up to ten business days).

## Incoming and Outgoing Funds Transfer Policy

*Mail-Away Transactions* – If the transaction involves a mail-away closing package and the incoming funds are received by mail or overnight, we can NEVER send an outgoing wire transfer for any disbursements (e.g. seller proceeds, payoffs, etc.).

*Checks “Clearing” Our Account* – Do not confuse “deposited into the escrow account” with “cleared the account”. An incoming funds entry may be posted to the title software file, but until the deposit actually clears (i.e. the money is actually deposited into our escrow account from the other bank), the funds have not cleared the account. In addition, the “Cleared Date” in the title software does not indicate that the funds from a deposited check are good. This simply means that the transaction appears in our account. You must still wait up to **ten** days before we know for certain that a check had good funds.

**Outgoing Wire Transfers** – See attached Exhibit A for details on confirming outgoing wire transfer instructions.

**Prohibited Outgoing Wires** – The following outgoing wire transfers are NOT permitted:

*Returning Incoming Wires to Different Account* – We periodically receive incoming funds via wire transfers, followed by a request to return the funds. Only the Controller is authorized to return an incoming wire. No funds can be returned until 24 hours after the original funds were received (Controller can make an exception to return lender funds back to the lender in the case of a postponed closing). The outgoing wire transfer to return the funds must ALWAYS be back to the same party (beneficiary), account number, and routing number.

*Any Funding Not Related to a Closed Transaction* – If we are holding funds for any reason and are asked to return the funds by wire transfer prior to completion of a closing, no wire transfer can be initiated until it is confirmed that all funds have cleared the bank and all applicable parties have agreed in writing to the release of funds (see “Return of Earnest Money” below).

*Return of Earnest Money (EMD)* – Earnest money can only be returned by regular check and ONLY after the incoming earnest money funds have cleared our account (which can only be confirmed by the Controller). EMD can be wired out of the escrow account only with the approval of the Controller.

*When a Check Has Already Been Issued* – If a check has already been issued to a payee and leaves our possession, it CANNOT be voided and turned into a wire. The Controller may grant an exception, however, no wire can be sent until 24 hours after the original check was voided (to be sure the check does not clear our account).

*Replacement Wiring Instructions* – Replacement wiring instructions should almost NEVER be accepted (this is a HUGE “red flag”). The only exceptions are new wiring instructions received in person from the recipient (with a new “Disbursement Authorization Form” – see Exhibit B) and it is approved by the Controller.

## Incoming and Outgoing Funds Transfer Policy

### Disbursement Authorization Form

All proceeds **MUST** be payable to the party identified in the closing statement and title commitment. If payment is being made by standard escrow check and is payable exactly as set forth on the closing statement and title commitment, then no further documents are required.

A **Disbursement Authorization Form** is required if:

- **Wire Requested** – A wire transfer is requested (see below).
- **Different Payee** – There is any deviation of the payee compared to the closing statement or title commitment subject to the following:
  - You must obtain approval by the owners or Controller
  - Revocable Trust Exception – Prior approval is not required if the recipient is a revocable trust and the proceeds will be disbursed to the original grantors who are also the current trustees signing the closing documents.
  - We can **NEVER** permit a recipient to direct the funds to another party in these circumstances:
    - From a limited liability company to its Members, managers or officers
    - From a corporation to its Shareholders, directors or officers
    - From a partnership to its Partners or officers
    - From a trust to its Trustees (unless the trustees are also the original grantors of the trust AND the trust is a revocable trust).
    - From an individual to his/her guardian (unless the Order of Guardianship permits it)
    - From an estate to a personal representative or heir
    - From an individual to a person acting as that individual’s attorney-in-fact (i.e. power of attorney)

The Disbursements Authorization Form must be filled out completely, signed by the person (or entity) to whom the funds are owed, and notarized. An example of a Disbursement Authorization Form that includes a wire fraud advisory and reference to the use of CertifID is attached as Exhibit B.

### Company’s Positive Pay System

“Positive Pay” is a fraud prevention system that most title companies and banks have implemented as a “Best Practice.”

When a check is entered and printed out of title software, it cannot be “cashed” at our bank until the check information is electronically uploaded to our bank’s “Positive Pay” system. Approximately every hour our title software system automatically transmits detailed information about the checks that were entered and printed in title software (check number and amount). When one of our checks is presented to the bank, the bank compares the check to the information it received from our electronic system to confirm it is a validly issued check.

In most instances, the system is imperceptible to all involved, since most of our checks are deposited in a recipients account. However, if someone rushes out of a closing and brings the check to our bank to cash, there is a chance that the positive pay information has not been received and the check could be flagged as invalid. However, since our positive pay information is automatically uploaded throughout the day, any check we issue will likely be valid and “cashable” almost immediately after a closing.

## Incoming and Outgoing Funds Transfer Policy

Do not confuse “deposited into the account” with “cleared the account”. A payment may be posted to the title software account, but until the deposit actually clears (i.e. the money is actually deposited from the other bank), the funds have not cleared the account.

### **Sending Company’s Wiring Instructions**

The two primary recipients of our wiring instructions are lenders (sending loan proceeds for a buyer’s purchase or a borrower’s refinance) and buyers (sending their cash-to-close). Our wiring instructions are automatically included with our title commitment when it is sent to a lender. When sending our wiring instructions to a buyer, we use the CertifID system to securely transmit the wiring instructions and receive confirmation (through CertifID) that the wiring instructions were received and acknowledged.

In most cases, we recognize that we do not receive a buyer’s email address until after the order has been received, the title commitment is delivered, and additional communications are exchanged with the real estate agent or lender. Our initial message to the real estate agent and/or lender (the “Introduction” email) includes a request to send us the buyer’s email address and explains that we need the email address so we can send the CertifID request (as a warning about wire fraud).

Our wiring instructions should be sent by [INSERT POSITION DESCRIPTION SUCH AS “ESCROW OFFICER”] to every buyer as soon as we receive their email address, regardless of whether we expect the buyer to send their proceeds by wire transfer. This is necessary because buyers could be defrauded prior to the closing by receiving fraudulent messages that suggest that they must wire funds. Before the buyer receives these deceiving messages, we hope to send the CertifID message that will warn them of the potential for wire fraud, explain that our wiring instructions will never change, and receive their acknowledgement that they received the message.

## Incoming and Outgoing Funds Transfer Policy

### EXHIBIT A Confirming Outgoing Wire Transfer Instructions

When sending outgoing wires, it is imperative to obtain clear instructions from the intended recipient of the funds and confirm both the identity of the recipient and the bank account information. This is accomplished by using:

- Disbursement Authorization Form – This form is completed and signed by the recipient, which includes the bank account information where the funds are to be sent. See Exhibit B for a sample Disbursement Authorization Form.
- Payoff Letter (from large institutional lender) – This form is received after a payoff is ordered for a seller’s mortgage. It may also be received from a split title company. Our online banking system contains templates for bank payoff funds we have used in the past. As long as the payoff letter matches one of these templates, no further action is required. If no template exists, the information in the payoff letter must be independently confirmed.
- CertifID Approval – The CertifID software platform is used to confirm the identity of the recipient and confirm the accuracy of the bank account information. When the recipient’s identity is successfully confirmed and the bank account information is approved, CertifID will provide an “Approval” which guarantees the transmission of the wire against fraud.
- Additional Best Practices – In some cases (including a recipient who cannot get approved by CertifID), it is necessary to rely on additional best practices to confirm wiring instructions. This is often the case with mortgage payoffs being made to larger institutional lenders. These may include, without limitation:
  - Confirm the identity of the recipient of the funds through independent means.
  - Document the date, time and contact person of the person who verified the wiring instructions.
  - Never rely on the information contained in an email or mortgage payoff when verifying wiring instructions.
  - Verify the wire transfer was received by the intended recipient. Most wire transfers are completed within a few hours but should not take more than one business day.
  - If wiring instructions cannot be verified, consider delaying the wire transfer or sending a check via express mail in lieu of sending a wire.

#### Disbursement Authorization Form/Payoff Letter

Before any outgoing wire can be sent, we must have a signed and completed Disbursement Authorization Form (see Exhibit B) signed by the recipient (or mortgage payoff letter in the case of an institutional lender receiving a mortgage payoff).

- Disbursement Authorization Form (See Exhibit B)
  - Must be filled out completely, including account name, account number, banking institution, routing number, email, and phone number (must be mobile phone or direct dial – no extensions).
  - Must be signed by the person (or entity) to whom the funds are owed.
  - Should be notarized.
  - The name on the bank account must match the name of the recipient who is owed the funds. There are no exceptions for entities. Limited exceptions may be granted if funds are being directed to another title company in connection with a simultaneous real estate transaction that requires the proceeds from our transaction.
  - If possible, a voided check (not a deposit ticket) or written account information from the recipient’s bank should be obtained and attached to the form.



## Incoming and Outgoing Funds Transfer Policy

- Mortgage Payoff Letter from Institutional Bank – The online banking system we utilize includes wire transfer templates for many of the lenders that we regularly send payoffs. Only the Controller can create a new wire transfer template.
  - *Wiring Instructions Match Online Template.* If a lender payoff includes wiring instructions that match the lender’s corresponding wire transfer template in our online banking system, then no further investigation is needed regarding the validity of the wire transfer instructions.
  - *Lender Has a Template in Our System BUT Wiring Instructions do NOT Match Online Template.* If a lender payoff includes wiring instructions that DO NOT match the lender’s corresponding wire transfer template in our online banking system, you must notify the Controller. This is a HUGE “red flag”. In this case, the alternate wiring instructions must be independently verified by the Controller in person with the lender or using separately verified telephone contact information (never email). Confirmation should never be made using the contact information on the wiring instructions.
  - *No Online Template for Wiring Instructions.* If a lender payoff includes wiring instructions and there is no corresponding wire transfer template in our online banking system, then the wiring instructions must be independently verified by the [INSERT POSITION SUCH AS “DISBURSEMENTS OFFICER”] with the lender by using separately verified telephone contact information (never email). Confirmation should never be made using the contact information on the wiring instructions.

### CertifID Approval

With the exception of Mortgage Payoff Letters from Institutional Banks (described above), any recipient of an outgoing wire transfer must utilize the CertifID system to confirm their identity and the bank account information, including:

- Seller (sale proceeds)
- Buyer (excess proceeds)
- Builders/Developers (sale proceeds, construction draw proceeds)
- Land contract payoffs
- Loan payoffs to small or local banks
- Lien holder payoffs
- Loan payoffs to individuals or companies for private mortgages
- Another title company (unless previously CertifID and template is in online banking system)
- 1031 Exchange proceeds (unless previously CertifID and template is in online banking system)

## Incoming and Outgoing Funds Transfer Policy

A CertifID request must be initiated by Company to the person whose funds are being sent by wire transfer. The information required for the CertifID request is as follows:

- Individual's Full Name (no entities)
- Email Address (cannot be taken from emailed wiring instructions)
- Phone Number to Receive Confirmation Code (should be cell phone or direct dial; no extensions). Cannot be taken from emailed wiring instructions.
- Name on Bank Account (may be other than person being CertifID)
- Account Number
- Name of Bank
- Bank Routing Number

Once initiated, the person receiving the request will be required to provide the following:

- Personal Address (not a work address)
- Date of Birth (optional, but recommended)
- Social Security Number (only requested if person cannot be found online)

After the person receiving the request is found online, they will be requested to:

- Receive a one-time code (either a text message or a phone call to the number we initially entered)
- Answer a series of personal questions to validate their identity (several attempts may be allowed)
- Review and approve the bank account information where the funds will be wired

If the person is successful, they will receive a CertifID Approval that will also be sent to us. If the person is not successful (anywhere along the process), they will receive a notice that they cannot be CertifID and we will receive a notice of that Rejection from CertifID. If rejected, we will make the payment using a standard escrow check or, if granted an exception by the owners or Controller, we will fall back to our Additional Best Practices (below) prior to sending funds via wire transfer.

## Incoming and Outgoing Funds Transfer Policy

### Funds Directed to Third Party

In general, it is our policy that we do NOT pay or wire funds to any party other than the party to whom the funds are due. However, in some limited circumstances (e.g., a back-to-back closing where we are asked to wire funds to another title company), we may make an exception. In that event, we must obtain a Disbursements Authorization Form and a CertifID Approval must be obtained for the party to whom the funds are due AND the party to whom the funds are to be sent (e.g., the other title company).

There are certain circumstances when we CANNOT permit a recipient to direct the funds to another party, including:

- From a limited liability company to its Members, managers or officers
- From a corporation to its shareholders, directors or officers
- From a partnership to its partners or officers
- From a trust to its trustees (unless the trustees are also the original grantors of the trust AND the trust is a revocable trust)
- From an individual to his/her guardian (unless the Order of Guardianship permits it)
- From an estate to a personal representative or heir
- From an individual to a person acting as that individual's attorney-in-fact (i.e. power of attorney)

### Additional Best Practices

If we are unable to obtain a CertifID approval for wired funds, we may still be able to send the funds by wire transfer by following additional best practices:

1. Use reliable, alternative methods to confirm a phone number associated with the person to whom the funds are owed.
2. Call the person to whom the funds are owed to confirm that they intended to provide the wiring instructions and also confirm the bank account and routing number.
3. NOTE:
  - a. NEVER use information received by email (including emailed wiring instructions) to confirm the identity of individuals or the validity of wiring instructions.
  - b. NEVER accept wiring instructions received by email unless the parties can be CertifID. If no CertifID Approval, then we must receive a Disbursements Authorization Form that has been completed by one of our approved notaries or received in the original document package from a split title company.
  - c. ALL outgoing wire transfers must be accompanied by a Disbursements Authorization Form (see above).

# Incoming and Outgoing Funds Transfer Policy

## EXHIBIT B Disbursement Authorization Form

[INSERT YOUR COMPANY NAME HERE]  
DISBURSEMENT AUTHORIZATION  
(All parties entitled to these proceeds must sign)

Commitment No.: \_\_\_\_\_  
Property Address: \_\_\_\_\_

I/we hereby direct and authorize the above title agency to disburse my/our funds as follows:

**Check** Payable to: \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

**Wire Transfer (Requires CertifID Approval – see below\*) – MUST BE COMPLETED (No “see attached”)**  
Name on Account: \_\_\_\_\_ Account No.: \_\_\_\_\_  
Bank Name: \_\_\_\_\_ Routing No.: \_\_\_\_\_

**Investment Accounts:** If this is an investment account, you must also provide your actual investment account number (different from the account number above): \_\_\_\_\_

**\*CertifID Anti-Fraud Solution:** The above title agency utilizes **CertifID**, an identity and bank account confirmation system that prevents wire fraud. ***Before the wire can be sent***, you will receive an email and/or text message with a link to the **CertifID** platform. Using your computer, phone or tablet, you will be required to verify your identity and confirm these wiring instructions. The process should take less than two minutes and requires only minimal information (which is not retained). If your identity is not confirmed or if you do not approve the bank information, the wire transfer will not be “**CertifID**” and, as a result, a wire transfer may not be possible, and you will be contacted to discuss alternative payment transfer options. For more information on **CertifID**, please see the attached brochure or visit: [www.certifid.com](http://www.certifid.com).

**Alternate Routing No.:** Some banks and credit unions use a routing number for wire transfers which is different than the routing number for the account. In that case, you authorize the use of the wire transfer routing number.

I/we release the above title agency and its members, officers, employees, agents, underwriters and insurers, from any and all rights, claims, actions, liabilities, damages or causes of action relating to this Disbursement Authorization.

Signature(s): \_\_\_\_\_

Company (if app): \_\_\_\_\_

Printed Name: \_\_\_\_\_

Email: \_\_\_\_\_

Cell/Home Phone: \_\_\_\_\_

STATE OF \_\_\_\_\_  
\_\_\_\_\_ COUNTY

Subscribed and sworn to before me on \_\_\_\_\_, 20\_\_.

/s/ \_\_\_\_\_  
Name: \_\_\_\_\_  
Notary public, State of \_\_\_\_\_  
County of \_\_\_\_\_ (Acting in \_\_\_\_\_ County).  
My commission expires \_\_\_\_\_.

**FOR ENTITIES ONLY**  
**Alternate Designee for CertifID Confirmation:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Cell/Home Phone: \_\_\_\_\_

**DO NOT SIGN BLANK FORM!**