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10th annual

Voice of the Title Agent

Special Report

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THE TITLE REPORT
20 YEARS

ABOUT US

The Title Report is a production of October Research, LLC specializing in business news and analysis for the settlement services industry and is published 24 times a year.

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EDITOR'S NOTE

THE TITLE REPORT • 20 YEARS •

Following the news and trends vital to you

Dear Readers,

Surveys reflect what respondents are thinking when they're polled.

With the exception of this column, you will not find the word "coronavirus" anywhere else in this year's Voice of The Title Agent. That's because there had not been a single case of the virus in the U.S during the period in which we surveyed title and settlement agents, and it had not yet been declared a pandemic.

I suspect if we conducted our survey today it would be the top concern cited by respondents. My early guess is that recovering from the coronavirus market will be next year's top concern.

Nobody can say for sure what impact the coronavirus will have. Undoubtedly, it will have an impact. Already, we have seen the Fed take extraordinary measures in an attempt to ward off recession.

Having said that, it's worth noting that an increasing percentage of respondents in this year's survey said the industry is in better shape now than when they entered it. We suspect that also will be the case at the other end of this crisis.

One thing is for sure: You can continue to look to *The Title Report* and October Research, LLC's other publications to learn how industry's participants are rallying together to support each other.

With the help of our sponsor, Adeptive Software, who along with title agents made this report possible, we will continue to bring vital information to the industry's many players.

Mark Lowery
Editor
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OCTOBER RESEARCH LLC KNOWLEDGE... THE COMPETITIVE ADVANTAGE

Growing economy, low interest rates spurred successful 2019

Respondents in this year's Voice of the Title Agent survey added words to what earnings reports previously have demonstrated — low interest rates and historically high home prices made 2019 one of the industry's most profitable.

The Mortgage Bankers Association (MBA) estimates that the origination market in 2019 totaled more than $2.1 trillion, the best year for mortgage originations since 2007.

As interest rates plummeted even further to start 2020, as the Voice of the Title Agent survey was being conducted, MBA revised its expectations for 2020 originations to reach $2.6 trillion, which would be the biggest year for originations since the years leading up to the housing crash.

Title agents credited numerous factors for the prosperous business environment, ranging from the policies of President **Donald Trump** to consumer confidence and a surge of refinances.

"The economy is on fire," one agent told us.

"We experienced a large amount of growth in 2019 and have increased our market share."

Indeed, eight out of 10 title agents in this year's survey said their business in 2019 improved either a lot or a little.

And although low rates spurred refinance activity, that was not the only reason for stronger business.

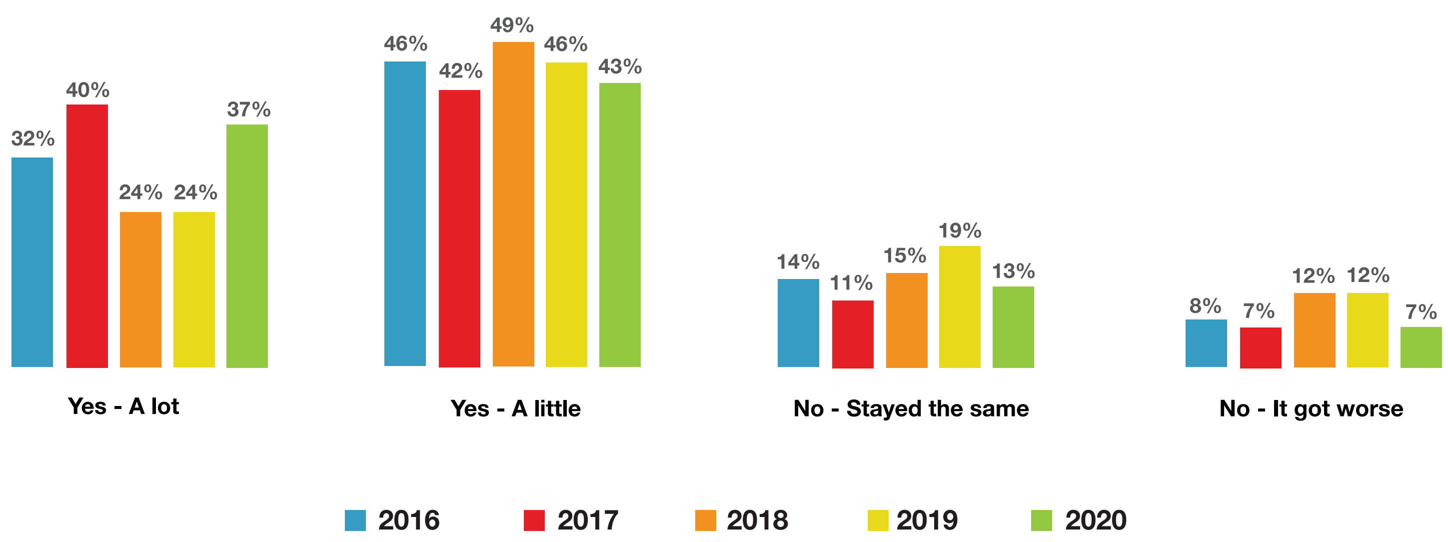
"Increase in new jobs and home purchases," one agent told us. "Some refinance increase as well."

By contrast, slightly less than 70 percent of respondents in last year's survey said their business had improved either a lot or a little.

"Consumer confidence and more inventory in our market," one respondent offered as an explanation for improved business in 2019.

Yet another added, "Changes in lending climate. More seller-financed transactions. Pent-up buyers taking the plunge."

Did your business improve last year from the year before?



The percentage of title agents who said their business levels stayed the same last year decreased by 6 percent. Additionally, those who said business got worse in 2019 dipped below single digits.

That doesn't, however, mean everyone shared in the largesse.

"Lenders using large, national companies for much cheaper fees and the transactions not getting filtered down to local regional agents," one respondent offered as a reason some in the industry did not prosper in 2019. "Underwriters not using their agents for title or closings."

"We have many new-home buildings going on," another agent said. "We do not have any builders, so we are missing out on those closings."

Title agents also are excited about this year's prospects. The percentage of respondents who anticipate substantial growth this year more than doubled; and the percentage who expect some growth this year also increased.

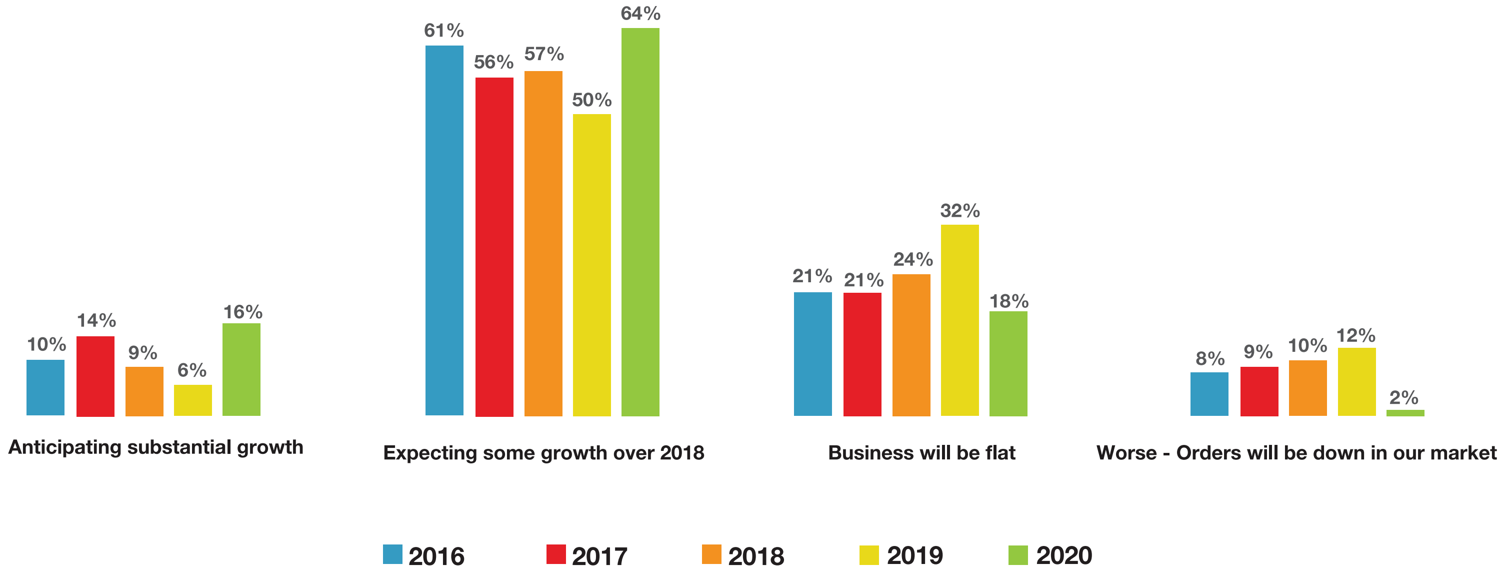
"If President Trump gets re-elected the growth will continue, if he does not, the faith in the economy will fall and so will the business," one agent predicted. "This is a fact even the blind can see."

At least one respondent agreed, adding "re-election of Trump ensures continued growth."

Another agent said his business has benefitted from people being priced out of the market in some cities.

"Home prices in our area are still reasonable compared to surrounding cities," that agent said.

How do you feel about your business this year?



Business opportunities and concerns

The title industry has not stood still as both the sophisticated nature of and frequency of cyberthreats have increased.

In fact, last year the American Land Title Association launched the Coalition to Stop Real Estate Wire Fraud.

That effort included a digital advertising campaign in nine markets designed to educate potential homebuyers.

Still, respondents in our survey said cyberthreats concern them more than any other business problem.

The percentage of respondents who said cyberthreats are the industry's top problem (52 percent) was only slightly higher than last year, but respondents said it was more concerning than staffing or the economy.

That's a change from last year's survey when title agents told us the economy, cyberthreats and operating costs were their top concerns.

Respondents to the survey identified a range of things they found concerning.

"Business [arrangements] designed to prevent consumers from shopping for settlement services decreased the number of transactions available to independent agents," one agent pointed out.

Another respondent said "real estate companies becoming title agents" was a concern.

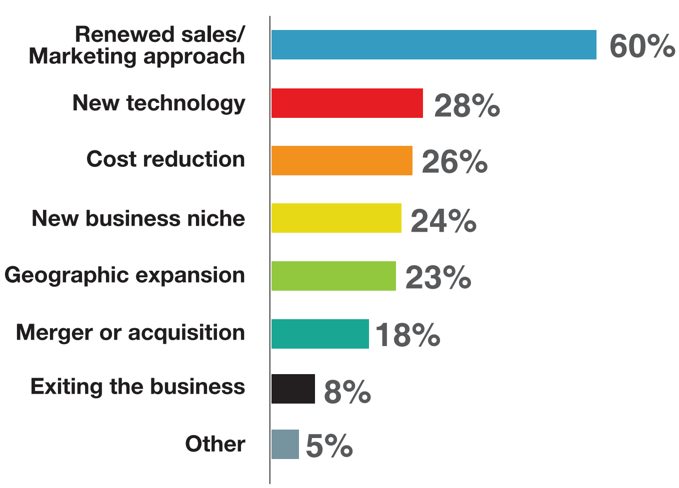
As they have in recent Voice of the Title Agent surveys, respondents said renewed sales/marketing approaches, new technology, and cost reductions represented the best opportunities for gaining more business this year.

One respondent said "advancing commercial opportunities statewide" represented his company's best opportunity in the next year; another cited "more connections for increased commercial business."

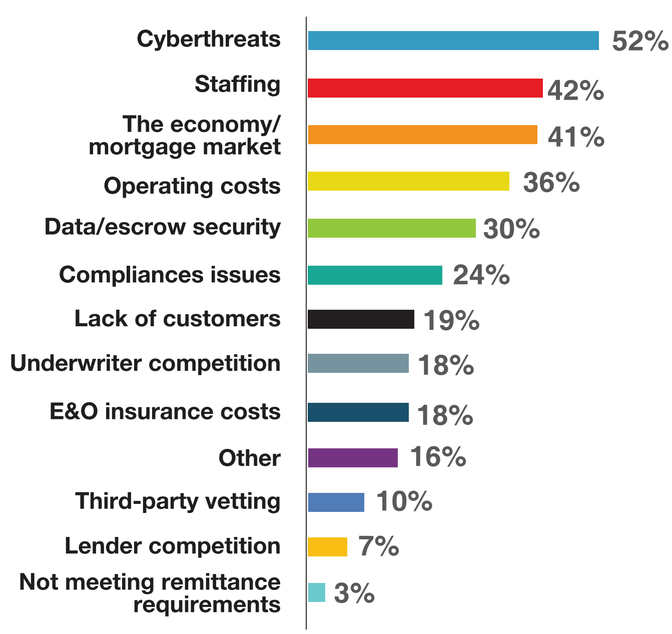
Another optimistic agent said "offering innovation and enhanced customer experience like no other" would offer the best opportunity in the next 12 months.

Perhaps a sign that the title consolidation seen in previous

What is your best opportunity in the next 12 months?



What concerns you most in the next 12 months?



years has stalled, the percentage of respondents who said they'd either merged, acquired or sold a business was practically the same as one year ago.

Additionally, a smaller percentage of respondents (7 percent) in this year's survey joined an agency network or partnered with other agencies in 2019.

A nearly identical percentage of independents considered exploring affiliated relationships; and there was a small increase in those considering marketing services agreements.

In the wake of recent oversight of marketing services agreements, one agent told us that joint ventures would be their best opportunity in the next 12 months.

Even fewer title agents (48 percent versus 55 one year ago) reported marketing directly to consumers last year.

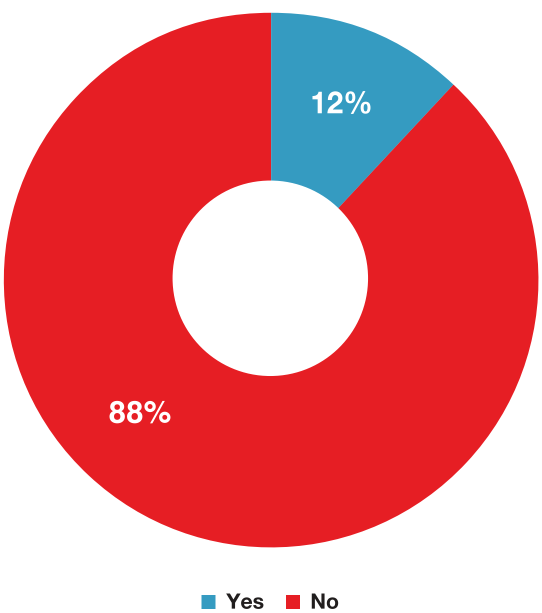
The percentage of respondents who said they market directly to consumers has declined throughout the history of our survey.

Looking back to the first Voice of the Title Agent survey in 2011, more than half of the survey respondents were marketing directly to consumers. Although that percentage has dropped, it consistently has hovered near 46 percent. When discussing affiliated agreements, one agent in this year's survey said "[I] prefer not to at all, however may be the new normal."

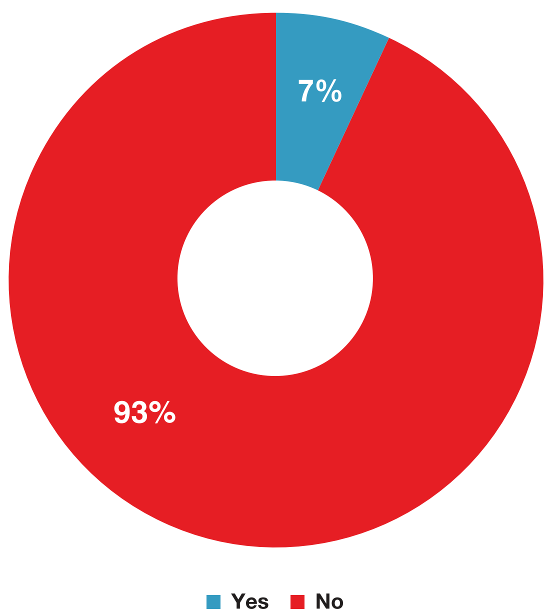
Another said they spread the word about their services by "attending seminars, vendor fairs and any other educational venues where investors, lenders and consumers meet."

"Business [arrangements] designed to prevent consumers from shopping for settlement services decreased the number of transactions available to independent agents (concerns me)."

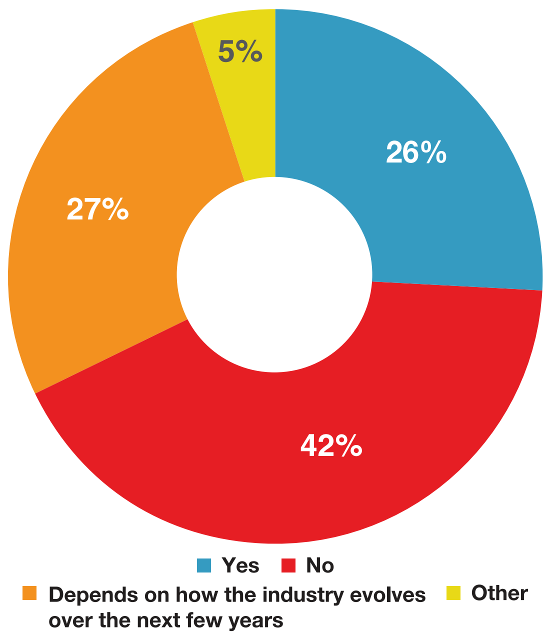
Have you merged, acquired or sold a business in the past 12 months?



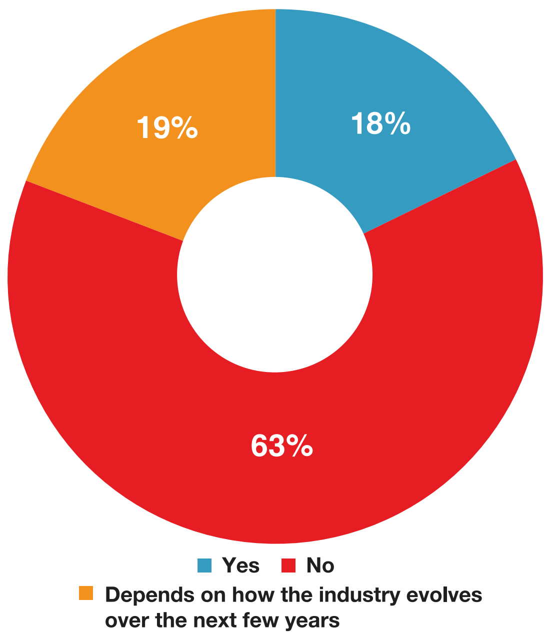
Have you joined an agency network or partnered with other agencies?



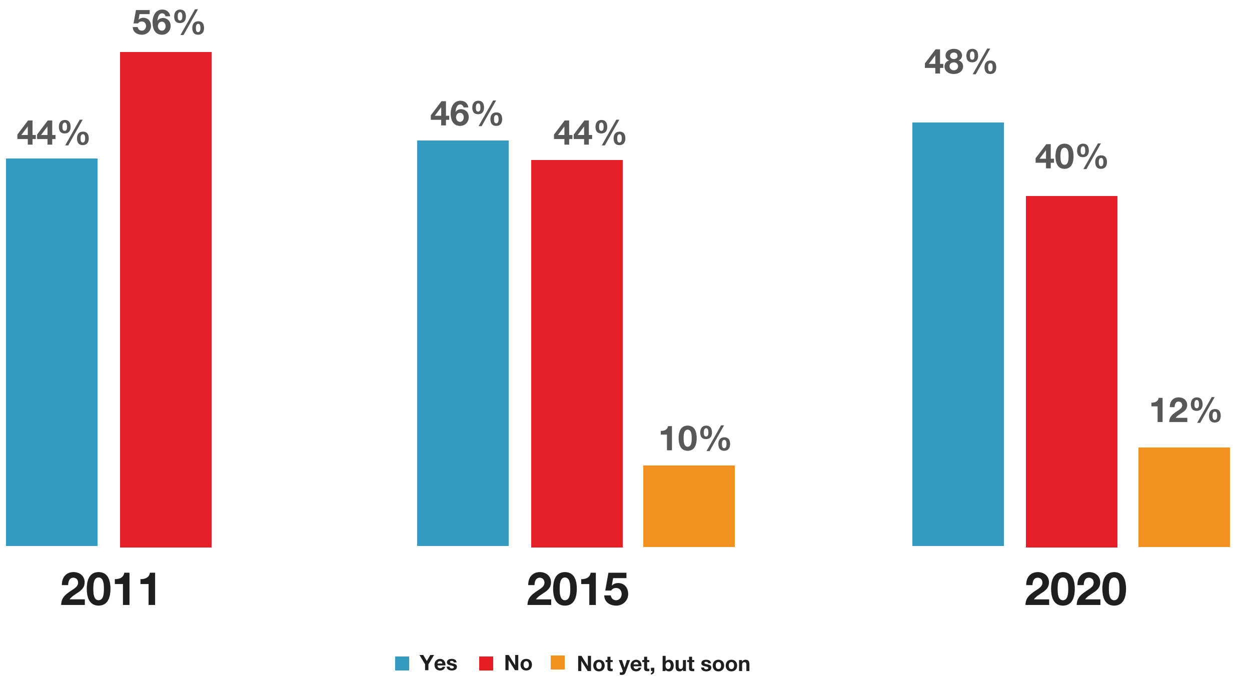
If independent, have you considered exploring any affiliated relationships?



Have you considered exploring a marketing services agreement?



Do you market to consumers?



Certifications, standards and vetting

Cyberthreats now are the top concern of title agents.

A breach that exposes consumer information or funds can spell doom for a title agency.

Despite such concern, there was not an increase in the percentage of survey respondents who said they had implemented SSAE 16 or SOC standards last year, or plan to do so this year.

More than half of our survey respondents (slightly more than last year) said they did not implement SSAE 16 or SOC standards last year and did not plan to do so this year.

That could be because many title agencies already have adopted these rigorous standards, or because many trust the rigid guidelines required by lenders.

More than half of our respondents said they had not experienced any new form of agent vetting in the past year.

Nonetheless, the vetting of agents was no less tedious when it was required.

"We're being asked to show Best Practices. It's a pain," one agent said.

"We're a licensed title agency and attorneys, so obviously we're in good standing or we wouldn't be in business."

Another survey respondent said some lenders are creating more and more hoops for title agents to jump through.

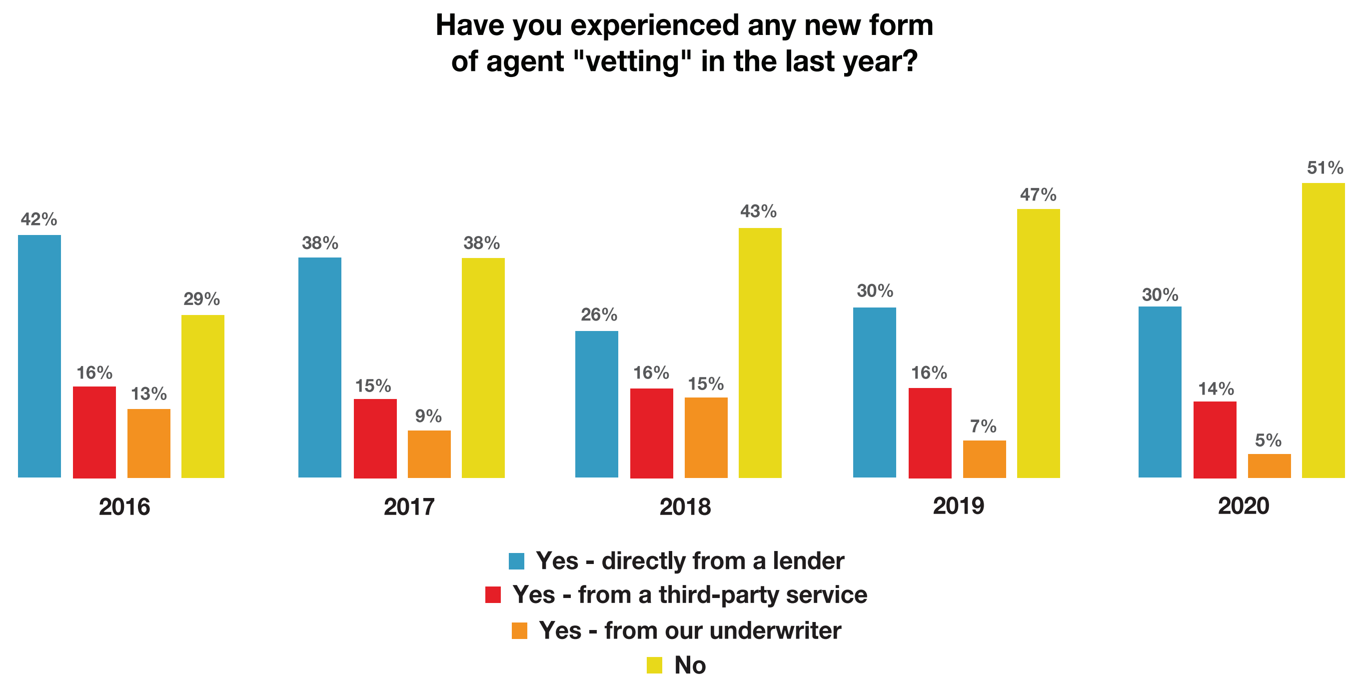
"They want title agents to register individual employees, and we're having to battle them accepting the ALTA Best Practices certifications," an agent said.

ALTA and MBA have been working on standardized forms for lender instructions, a progress which has taken some years but appeared to be making up ground in 2019.

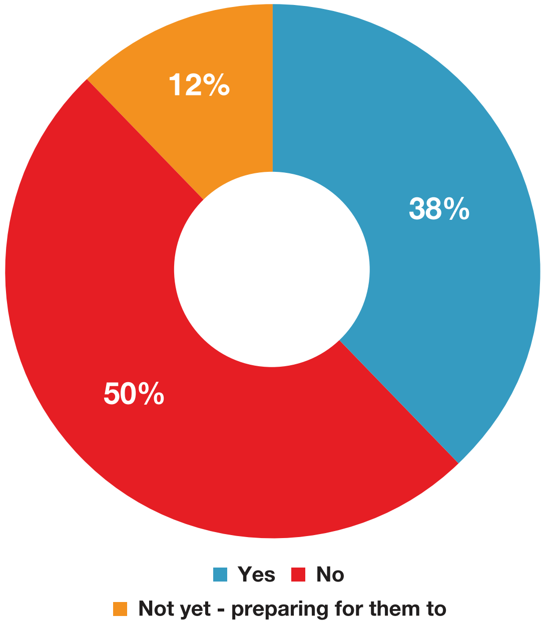
MISMO released templates for review in October.

Many title agents are skeptical, though, and note a lack of standardization for vetting requirements.

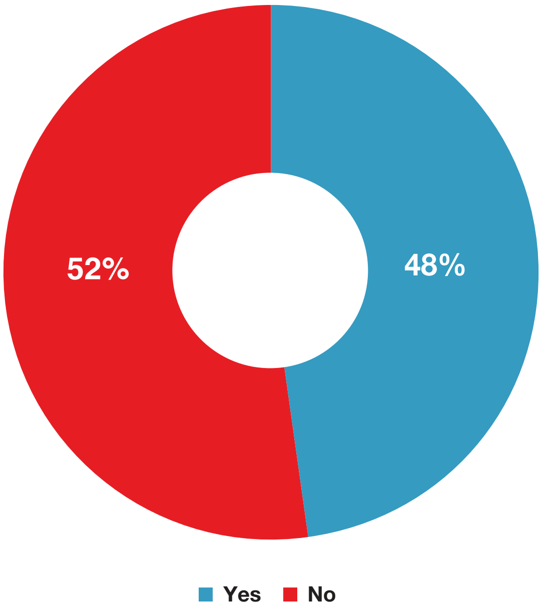
"Each lender has their own interpretation of regulation



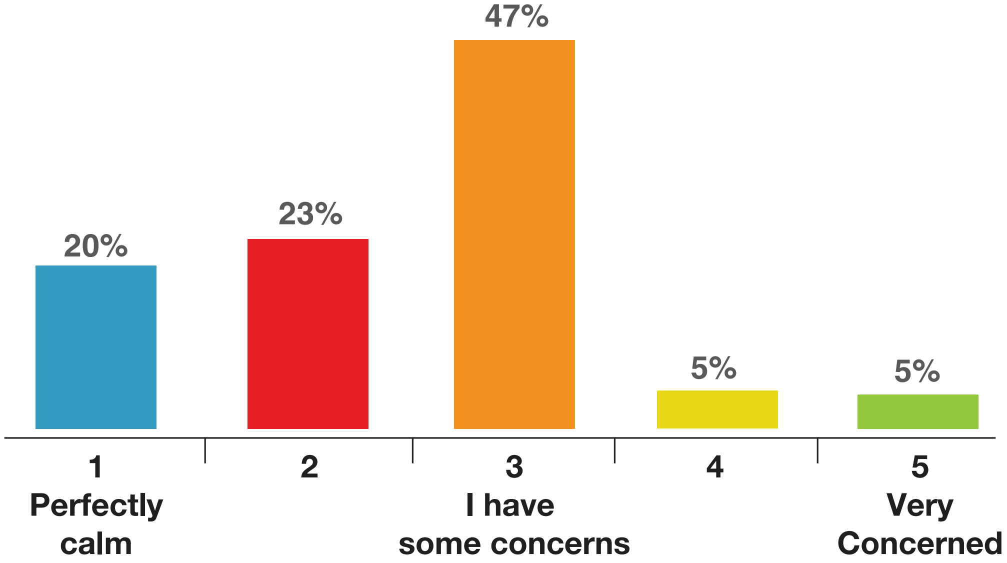
Have your lender contracts or instructions changed in the last year?



Have you implemented SSAE 16 or SOC standards or do you intend to within the next year?



On a scale of 1-5, how nervous are you about agent vetting and lender oversight of third-party service providers?



requirements and writes their own instructions, continues to be inconsistent," one agent told us.

Added another agent, "I was hoping that standardized instructions would come into play, but based on the templates I have reviewed they are not really going to help."

There was a significant increase this year in the percentage of respondents who said their lender contracts or instructions had changed.

"[There were] various changes," one respondent replied. "Have to read them all and watch for the shift of liability for things that are not in our control."

"Lender is requiring specific outside counsel to vet our operation and are requiring we retain outside compliance attorneys," another respondent said.

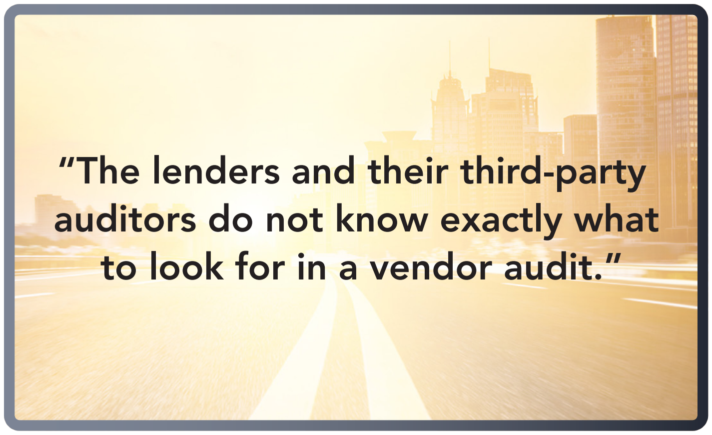
Perhaps the ever-changing requirements from lenders helps explain why there was an increase in the percentage of title agents who this year said they either had some concerns or were very concerned about agent vetting and lender oversight of third-party service providers.

"The lenders and their third-party auditors do not know exactly what to look for in a vendor audit," one title agent commented.

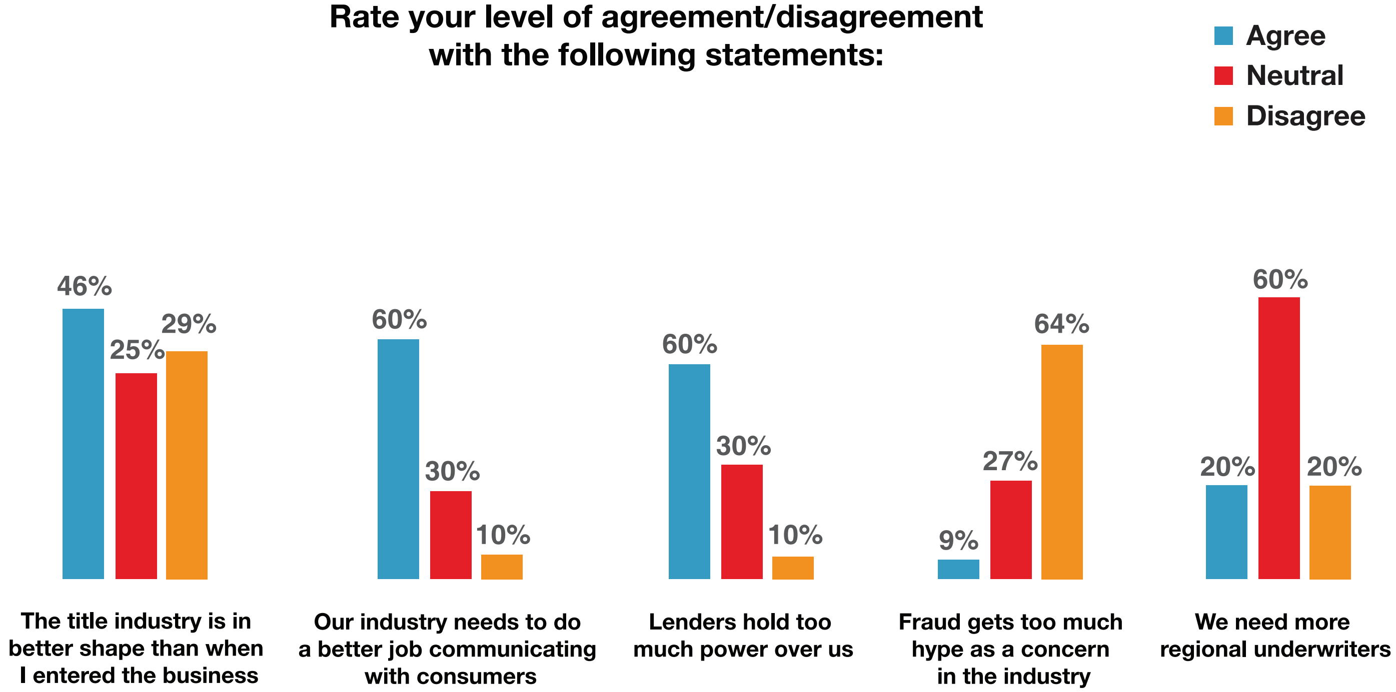
"The result is that they are overly burdensome and costly, and in most cases, do not achieve the objective of vetting out vendors that do not know what they are doing."

"Again, this system-wide reliance upon cookie-cutter compliance documents is worthless," another respondent offered.

"Either you know and trust the third party or you don't hire them."



Rate your level of agreement/disagreement with the following statements:



Compliance

With perhaps the exception of its action against Wells Fargo, there has been an eerie silence from the Consumer Financial Protection Bureau (CFPB) in the years since President Donald Trump placed his appointees in charge.

As the CFPB has drastically slowed its pace of major enforcement actions against industry players, states such as New York and California have stepped up efforts to eliminate inducements.

Are those state efforts having any impact on the industry?

An increasing percentage of survey respondents said they are.

More than half of the respondents in this year's survey said efforts by individual states to eliminate inducements either have affected business somewhat or a lot.

Many title and settlement agents said they welcome the enforcement efforts as a way to level the playing field.

"The regulators need to be more active in preventing kickbacks," one agent said.

"Our state has regulations but does not enforce them," another commented.

More than 40 percent of respondents said state efforts to eliminate inducements have not affected business.

"We have very specific rules but many companies still do not comply," an agent told us. "So it takes someone to turn them in, which we don't do."

Others believe state regulators are too tough on the industry.

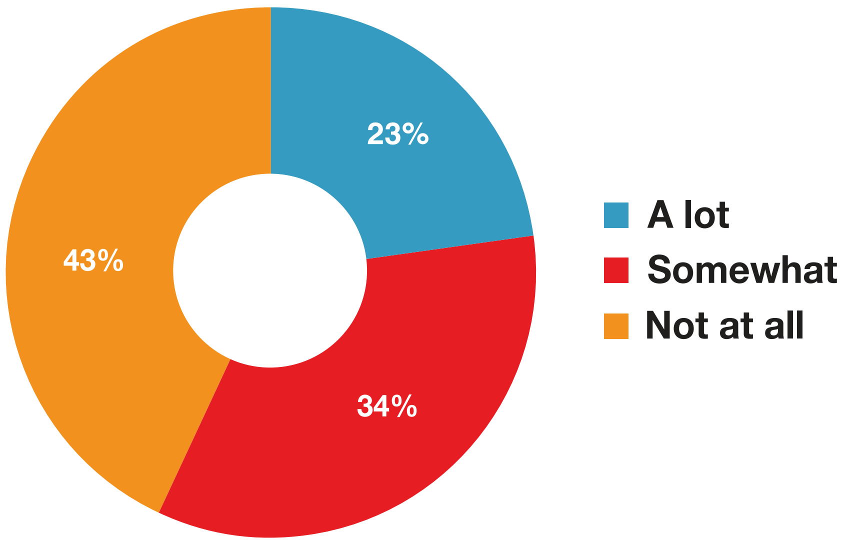
"They make it difficult for the average person to make a living and pay bills," an agent said.

"It's almost not worth being in the business in the state of New York."

At least one other respondent said the focus of regulators should be elsewhere.

"Lenders can do anything for customers, title can't, and they focus on title, not mortgage," that agent added.

How will state efforts to eliminate inducements affect business?



Security

Ask several hundred title and settlement agents what must be done to better secure real estate transactions, and you're likely to get several hundred different answers.

In this year's survey, there was a huge increase in the percentage of title and settlement agents who do not believe enough is being done to prevent fraud and ensure data/escrow security. Many conclude that the problem is bigger than the title insurance industry, and must become a priority of the federal government and others.

"FBI should be involved and prosecuting fully, so this can be put to an end, or at least the thieves will think twice, if penalties are life in prison," one agent said.

"Seems like the more we depend on technology the more risk of a data breach. We may get to the point that we require the principals and their agents to physically appear and be identified in the title and escrow offices," another agent said.

"Additionally, the real estate and/or loan agents should be required to explain and help the consumer sign their documents."

Others suggested returning to old-school methods of doing business.

"Cashier's checks should be accepted as good funds," one agent commented. "Seems they are safer than wires."

"Bring back the options of certified checks," yet another agent suggested.

Still others said banks and Realtors must shoulder more responsibility of keeping consumers safe.

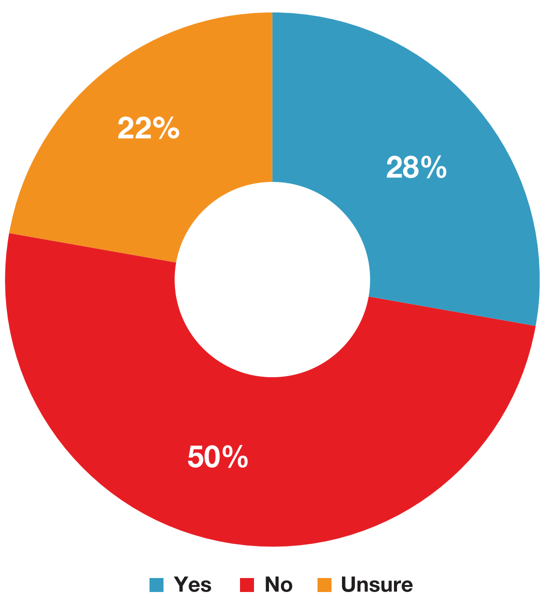
"Realtors need to be held to our standards, i.e. secure email – they are the problem," an agent said.

"Banks need to have some culpability in reviewing wiring instructions," another respondent said.

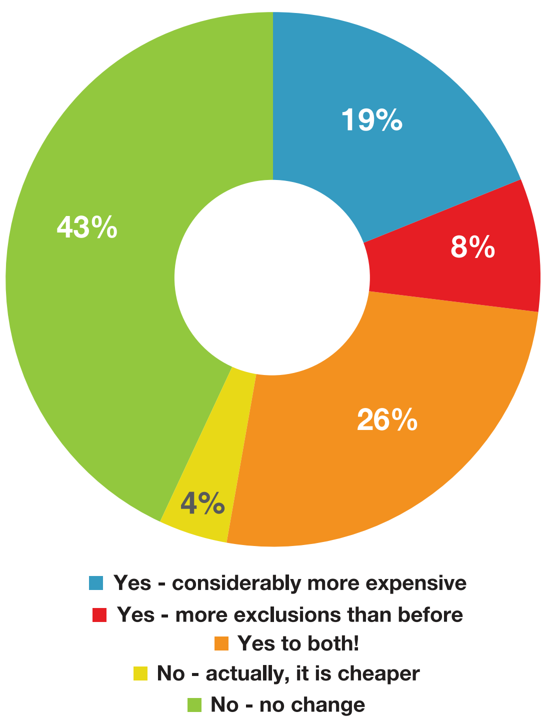
Others believe some criminals always will stay one step ahead of detection.

"The more we do, the harder the bad guys work," one agent explained. "More bank vetting needed before they release

Is enough being done to prevent fraud and ensure data/escrow security?



Has your E&O insurance policy changed in the last 12 months?



wires. Need more lender help in verifying their information."

Another concluded, "I think our industry has done a good job getting the word out. I don't think you can ever do 'enough' as it is ever-changing and advancing."

Whether related or not, an increasing percentage of title agents told us their E&O insurance was more expensive last year. "[There are] more exclusions, more expensive and more additional polices that have to be purchased," one agent told us.

Another added, "Cyber [coverage] has skyrocketed, and the coverage is diminishing."

"Strangely my E&O was cheaper at my last renewal but the coverage was reworked, adding some level of cyber protection in one way, but taking away certain cyber coverage," an agent said.

In this year's survey, there was virtually no change in how often survey respondents said they are pressured by customers to insure over certain items they normally would not.

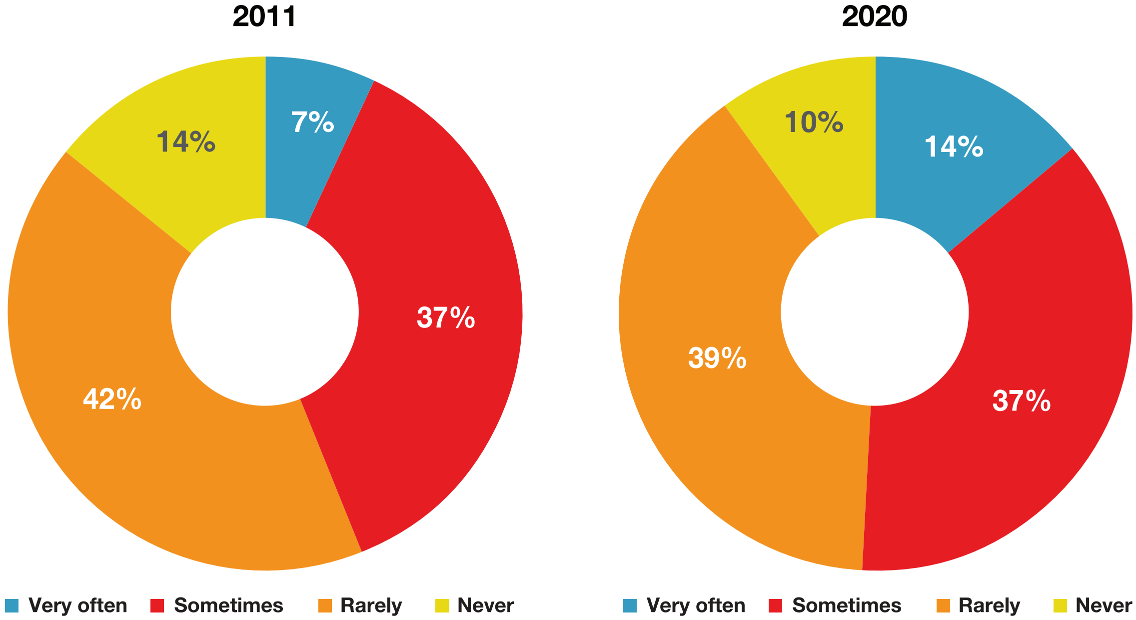
Although the percentage of those who said they are pressured by customers to insure over certain items remains relatively small, it has more than doubled since we first asked that question in 2011. "In our state there are specific statutes regarding a deed upon death and timeframes that proceeds can be attached by Medicare or other lien claimants," an agent told us. "The attorneys have sold this as a form of estate planning, but fail to let the parties know about this timeframe. We are asked to insure over the time, which we rarely can do."

A solution was offered by at least one agent.

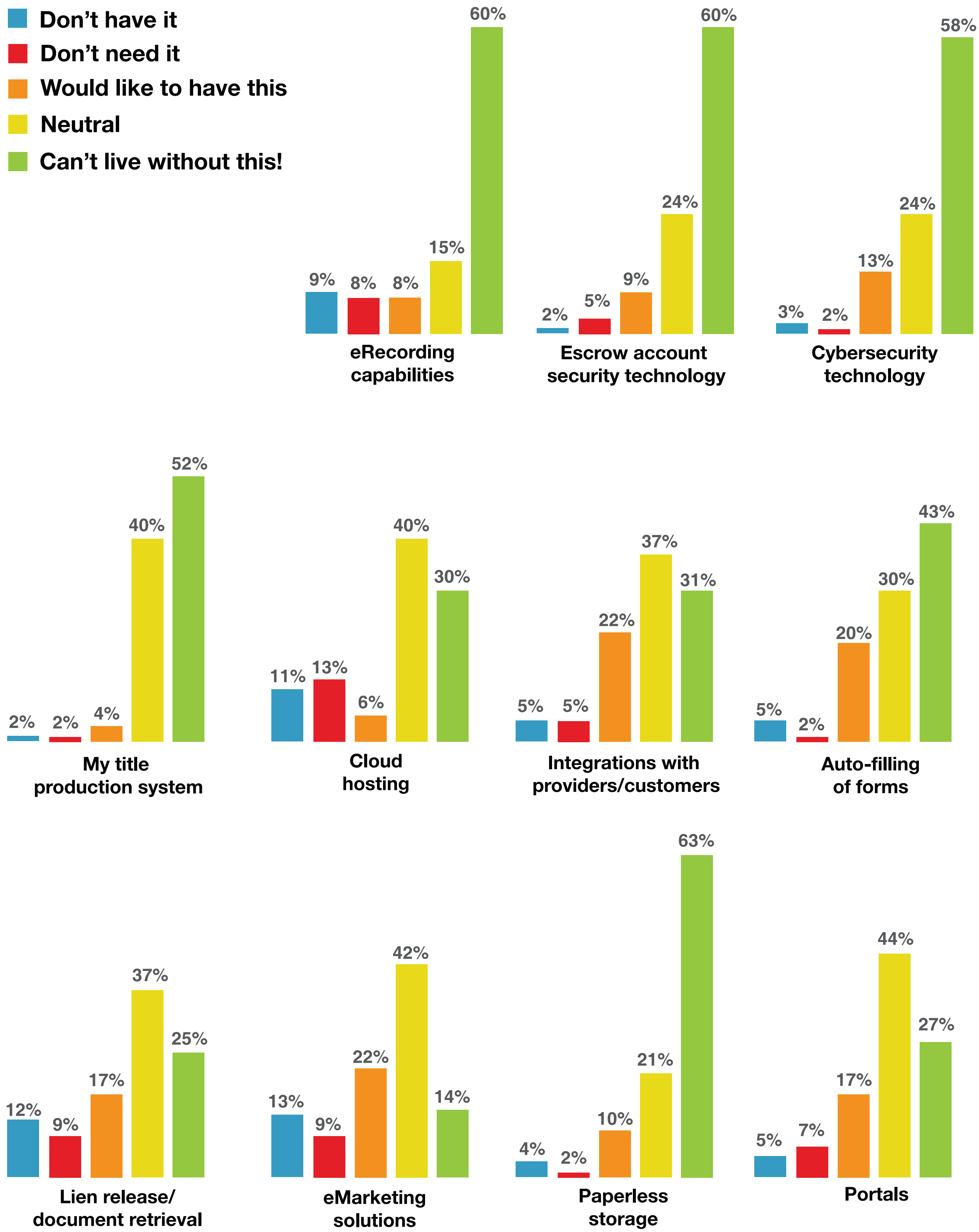
"I still check with my underwriter and sometimes convince them to authorize the transaction," that agent said. "I would not do it on my own."

"Seems like the more we depend on technology the more risk of a data breach. We may get to the point that we require the principals and their agents to physically appear and be identified in the title and escrow offices."

How often are you pressured by customers to insure over certain items you normally would not?



Rate your attitude about these title technology attributes/solutions.



Technology

For years, eClosings have been billed as the next great thing in the title industry. However, this year's survey indicates the inevitable march toward widespread industry acceptance of eClosings is a slow one at best, in some cases hampered by state laws not yet in place.

Forty-six percent of our survey respondents said they already are doing eClosings or are pretty close to doing them. That's only slightly higher than the percentage who said they were doing eClosings or close to doing them one year ago.

"I'm ready but no lenders in our area are requesting them," an agent told us.

Another agent said there's no huge consumer demand for eClosings. "The only ones pushing for eClosings are the software providers," that agent suggested.

Still other title and settlement agents said legislation authoring eClosings in some states have lagged behind the technology. "Missouri has yet to pass [an eClosing] law, so it's worthless to implement," another agent said.

A little more than seven out of 10 agents told us their companies in 2019 conducted the same amount of eClosings as the year before. A mere 18 percent said their companies did more eClosings in 2019 than in 2018.

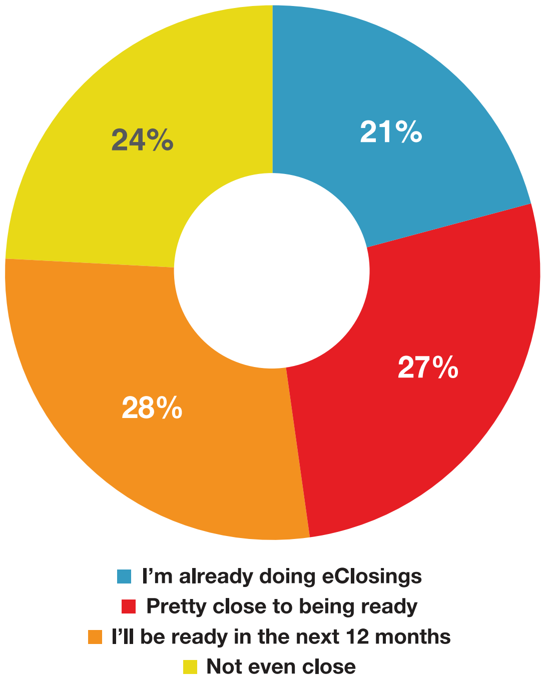
"I'm ready [for eClosings] but not in favor of them," one respondent said.

"eSigning needs to be more secure," another added. "The eSigning companies need to offer indemnification against data breach, instead of asking the consumer to indemnify the eSigning company."

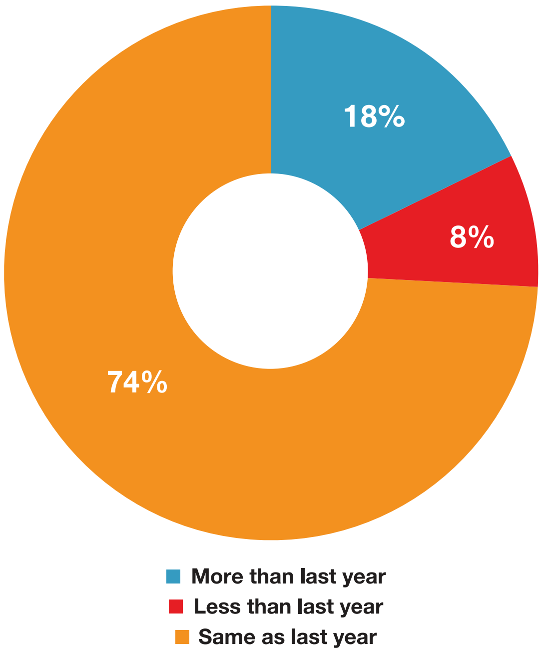
Many agents may not be in a hurry to usher in eClosings as the standard way of doing business, but that does not mean most don't embrace technology solutions. In fact, six out of 10 survey respondents said they couldn't live without paperless storage, eRecording capabilities or escrow account security.

There also were favorable views of many other solutions that modernized the closing process. "Too much good stuff out there and once you pick a software vendor, you are just stuck unless you have real money to bring extra to the table," an agent said.

How prepared are you to handle eClosings?



How often do you conduct eClosings?



Underwriters

When it comes to working with underwriters, nearly one-third of survey respondents said they were willing to work with any underwriter that helps them get the job done.

As they did last year, more than four-out-of-10 stated a preference for big and national underwriters.

"We have multiple underwriters," one agent told us.

"My customers prefer the big and national but we have one regional and they have flexibility that nationals don't offer. Their balance sheet is a problem though."

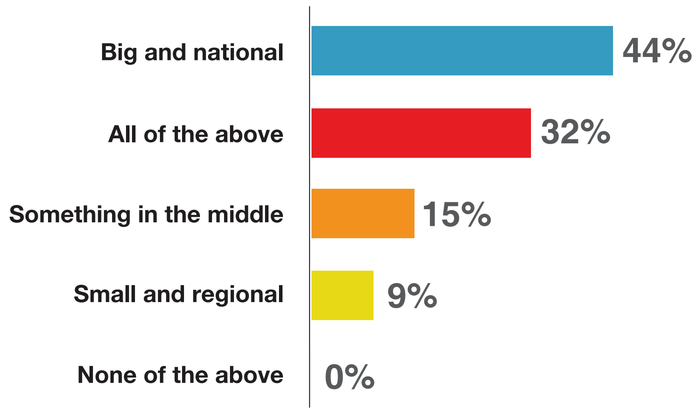
Some respondents indicated that small and regional underwriters often offered more flexibility.

"Big tends to use the 'check the box' format and you need to be flexible," another agent said.

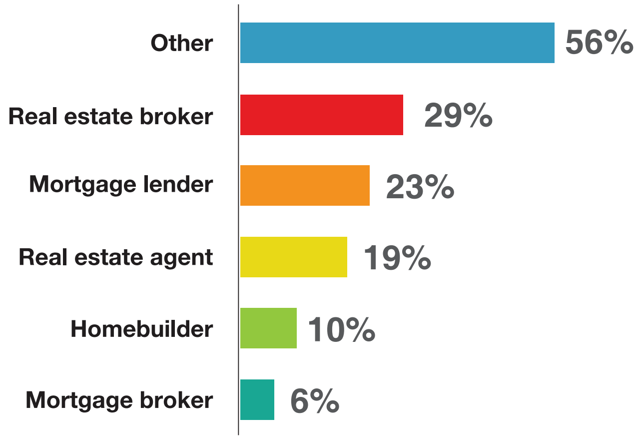
"Regional [underwriters] seem to listen and be open to creative thinking," one agent commented.

Added another, "They are all the same ... just a little different."

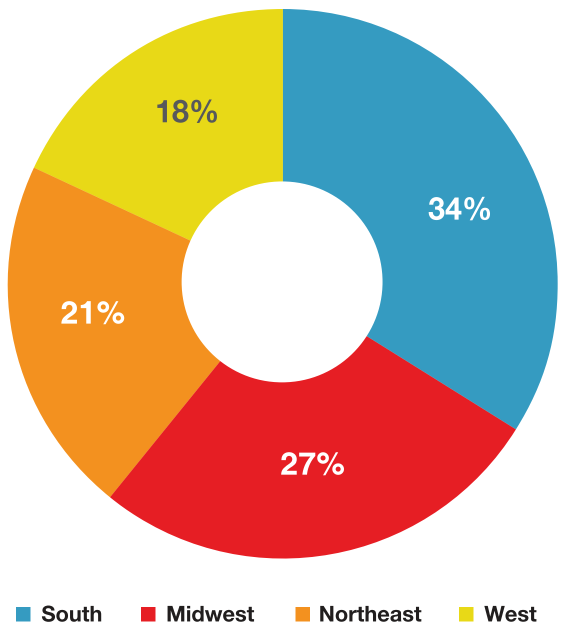
What type of underwriter do you prefer to work with?



If affiliated, with what type of companies?



Where are you located?



Demographics

Our annual survey gives a voice to big and small title agents across the country. This year was no different.

More than seven-out-of-10 survey respondents self-identified as independent agents.

Nearly 17 percent are affiliated agents and slightly less than 11 percent are direct agents.

Nearly 30 percent of the affiliated agents are linked with real estate brokers. Slightly more than 22 percent are connected to mortgage lenders; and one-fifth said they are directly associated with real estate agents.

About half of all of this year's respondents work in the South or Midwest, but title and settlement agents in the Northeast (21 percent) and the West (17 percent) also are well represented.

Perhaps reflecting the aging of the title industry, as well as the continuing need to attract younger employees, nearly six-out-of-10 survey respondents have been in the industry for at least two decades; nearly 30 percent said they've been in the industry between 11 years and 20 years.

Apparently, our audience has grown along with our survey.

Back in our first survey in 2011, slightly less than 40 percent of survey respondents had been in the business for more than two decades. Nearly 60 percent of this year's respondents have earned their 20-year badge.

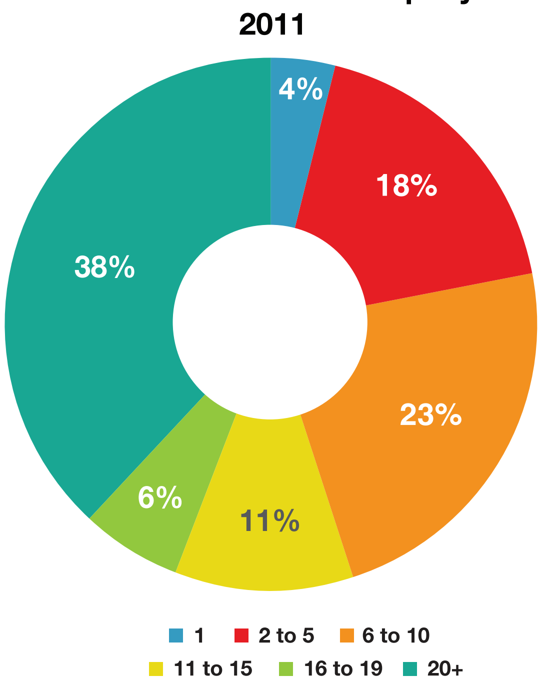
The largest share of respondents (nearly 40 percent) in this year's survey said they work at companies with one office.

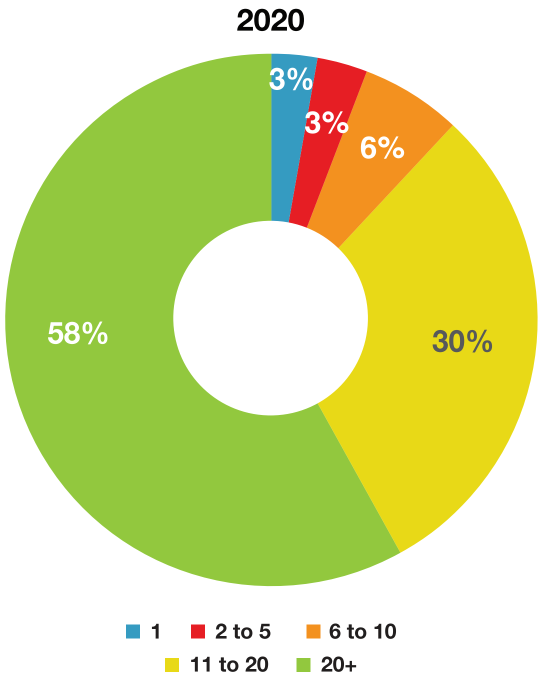
Our pool of knowledgeable-and-experienced title agents told us that residential loan closers have the toughest job in the industry, followed by sales associates and title closers.

Residential loan closers have been the top positions chosen as the hardest jobs in the title business in each of the eight years the question has been asked. Sales has been second in all but one year, when it was displaced by compliance officer in the 2016 survey, right after the implementation of TRID.

At least one agent told us there isn't a "toughest" job in the industry because "all jobs in the title business are hard. This can be a difficult way to earn a living."

How many years has your company been in business?





Another agent pointed to affiliated arrangements that make it difficult for some to compete.

"Getting clients that are not looking for money out of my pocket in exchange for business," that agent said was the toughest job.

Others urged regulators to take a closer look at the impact of lenders and real estate companies owning title companies.

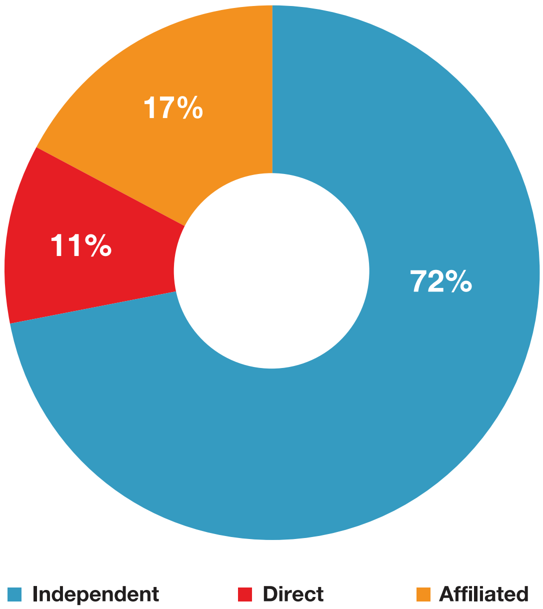
"How can this be a benefit or fair to the consumer?" that agent asked.

While they're at it, some title agents would like to see Realtors and loan agents held accountable for not explaining documents to their clients.

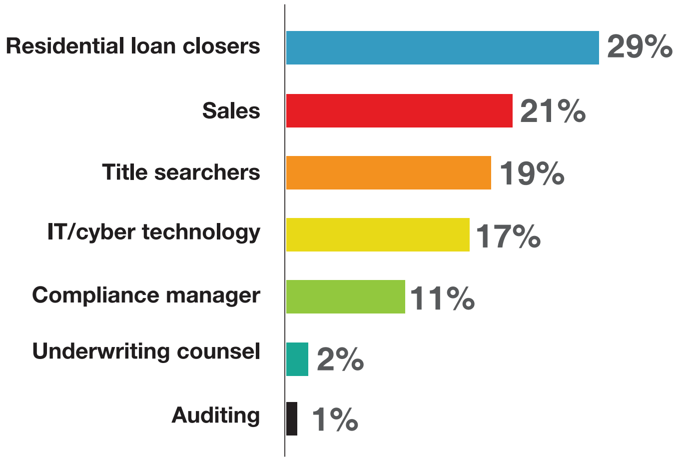
Many continue to express concerns about the impact of technology on jobs in the industry.

"How [will] the eClosing industry affect local closers and the loss of jobs and/or job security?" that agent asked.

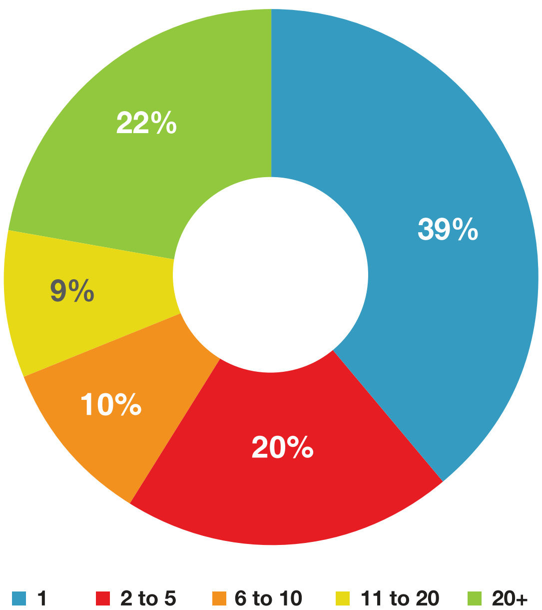
How would you describe your title agency?



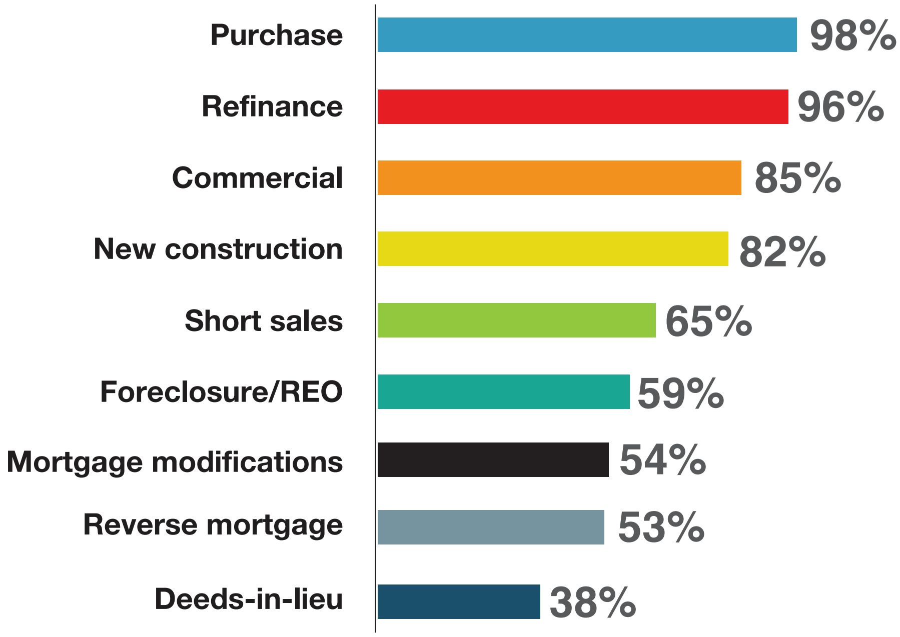
What is the hardest job in the title business?



How many offices does your title company operate?



Which types of deals does your company handle?



Thank you to all those who participated in the survey and everyone who read this special report. For information year-round on the pressing topics in the title industry, be sure to subscribe to The Title Report.

If you have input or suggestions on areas we should cover, contact editor **Mark Lowery** at mlowery@octoberresearch.com.

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