

# UNDERWRITING BULLETIN

Stewart Title Insurance Company – 60 East 42<sup>nd</sup> Street, Suite 1260, New York, NY 10165  
Phone: (212) 922-0050 – Fax (212) 983-1133 – [NYLegal@stewart.com](mailto:NYLegal@stewart.com)

NY000656

**Date:** April 14, 2021

**To:** All New York State Agents

**From:** John A. Frates, President and General Counsel

**Re:** Title Insurance Rate Service Association, Inc. AGENT Data Call 2020

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**\*\*Please Note:** *this Data Call Bulletin is circulated using a limited marketing list. If there are associates in your offices that did not receive this bulletin yet requires this information, please let us know so we may provide them this bulletin and include them on all related communications going forward. \*\**

The Title Insurance Rate Service Association (TIRSA) has advised Stewart Title Insurance Company that the New York State Department of Financial Services (NYSDFS) has required all title insurance underwriters operating in New York State to collect income and expense data for 2020 from their independent Licensed Title Agents. **The information is due by May 26, 2021.** The NYSDFS has directed that the information contained in the [U-4 Schedule](#), be collected from licensed independent Agents for the period of January 1, 2020 through December 31, 2020. If you represent multiple underwriters, you will receive a similar request for data from your other underwriters and will be required to complete the U-4 schedule for each underwriter.

Stewart has created <https://www.nydatacall.com/> to collect this information. This web site will afford you a secure, confidential and efficient method to provide the requested data to TIRSA/NYSDFS. The secure web site will mirror the NYSDFS request for data in schedule U-4. All individual office information will be kept strictly confidential and only the aggregate of all lines on the U-4 will be reported to TIRSA for their report to the NYDFS.

If you were appointed by Stewart Title Insurance Company as a policy issuing agent in 2020, you must report the information to the DFS regardless of whether you wrote any premium on Stewart. Please note: the following regulations affecting the Data Call. Pursuant to NY Regulation 208:

*Section 228.3 (2) Every title insurance corporation and every title insurance agent, except as provided in subdivision (d) of this section, shall report all expenditures made for meals and beverages, entertainment, gifts, outings, parties, sponsorships, seminars and continuing education, charitable contributions, and political contributions as separate line items in supplemental expense schedules to the expense schedules submitted annually to the department's statistical agent. The statistical agent shall include the supplemental expense schedule data in the annual statistical report submitted to the superintendent.*

*Section 228.3 (d) (1) Every title insurance corporation shall provide the annual agent data call to every title insurance agent that it has appointed to act as an agent in this State, with the exception of those title insurance agents on whose behalf the title insurance corporation reports revenue and expenses. Every title insurance agent who receives the agent data call shall complete an expense schedule and a revenue schedule, including premium and all other operating income, for each title insurance corporation that appointed it as an agent and shall timely submit to each such title insurance corporation revenue and expense schedules associated with the issuance of that title insurance corporation's policies. The title insurance agent shall allocate expenses based upon premiums written for each title insurance corporation*

*unless a compelling reason exists to allocate in a different manner. If the title insurance agent allocates expenses on another basis, it shall specify the basis and the reason for doing so. Every title insurance agent whose revenue and expenses are not reported by another entity shall also prepare and maintain an expense schedule and a revenue schedule setting forth the title insurance agent's total annual revenue and expenses.*

228.3 (5) *Every title insurance corporation shall report to the superintendent, within 30 days after the title insurance agent was due to submit the revenue and expense schedules, the name and license number of any appointed title insurance agent that is required to submit the schedules but does not do so.*

To access the site, **you must use Internet Explorer** and direct your browser to <https://www.nydatacall.com/>. The process to complete this data call is as follows:

- Hit Login on the page <https://www.nydatacall.com/>
- **Username is your six digit Agent ID**
- **Password is your six digit Agent ID plus "Ny!" (ex: 123456Ny!)**
- The first time you log on it requests you change your password:
  - Current password is your six digit Agent ID plus "Ny!"
  - New Password - any password you like that meets the below requirements:
    - The minimum length required for a password is 8.
    - Password must match 3 of these 4 character categories:
      - at least 1 upper case character
      - at least 1 lower case character
      - at least 1 numerical character
      - at least 1 of these special characters @#!%&
  - Confirm new password - type new password again
  - Hit Continue
- Company Verification - You can edit address, phone, fax and website data but not Agent ID or Company Name
- Personal Verification - Enter the name, etc. of the person filling out the form
- Read the introduction and FAQ
- Begin Entering Data

Additional Information:

- If you cannot complete the questionnaire in one sitting, you can close Internet Explorer and access the site later. Some things to remember:
  - Your new password to access the site
  - The data is saved up to the point you hit the "next" button. If you want to leave the screen, and have already inputted data in that screen, make sure to click "next" so that the system saves the data
- If you have questions on a line item, you can click "Help" on the upper right hand side and scroll to the Line Item number in question.
- **Once you submit the data you cannot edit the form.**
- You can print out a worksheet to save.
- The final work sheet will list the data in all three parts to the submission.

**\*\*The data needs to be completed by May 26, 2021\*\***

**MULTIPLE UNDERWRITERS**

We understand that you may not keep track of your expenses by individual underwriter, except for the amount of premium remitted. You are to distribute all expenses allocated to New York among your underwriters in proportion to the dollars of premium written directly. The new section related to Non-Title related income should also be allocated to underwriter as needed using the proportion of dollars of premium written directly. You are to report premium remitted as actually remitted to each underwriter.

**CASH VS ACCRUAL ACCOUNTING**

All reporting should be done as if the reporting entity was a cash basis taxpayer. Only include revenue from transactions closed in 2020 and expenses actually paid in 2020.

**MUNICIPAL SEARCH INCOME AND EXPENSES**

Income derived from, and expenses related to, municipal searches should not be reported on lines 1 through 3 of this schedule. Such income and expenses should be included in lines 7 through 9 as appropriate.

**AGENTS OPERATING IN MULTIPLE STATES**

**This report covers only New York operations.** We understand that you may not keep track of all your expenses by individual state. If you have expenses that support operations in multiple states, allocate a portion of these expenses to New York by multiplying the total expenses by the ratio of New York total revenue to total revenue in all states in which you operate.

**AGENTS OPERATING AS PART OF A LAW FIRM OR OTHER BUSINESS**

***This report covers only expenses relating to title insurance operations which include policy production, as well as business-related expenses that are directly or indirectly related to title insurance policy production. At the request of the NYSDFS, we have added a section related to Non-title related income.*** Non-Title income is income related to closing and escrow activities, income related to section 2-G of the TIRSA manual and income derived from activities while acting as a New York State Title Agent and ancillary or discretionary charges related to the issuance of the insurance policy, as reflected on the title bill to the consumer or the insured.

We understand that agents may not maintain separate accounting for their title insurance operations. If you have direct or allocated New York expenses that support both title insurance operations and other operations, allocate a portion of your New York expenses to New York title insurance operations by multiplying the expense by the ratio of retained New York title insurance premium to total New York revenues for your operations.

**INSTRUCTIONS FOR COMPLETION**

The reporting Schedule is set forth in the separate work sheets provided on the web site. **The data needs to be completed by May 26, 2021.**

**NOTE THAT THERE ARE THREE PARTS TO THE SUBMISSION:**

**Instructions for completing all three parts are provided below.**

**Part 1 Instructions**

Enter amounts on each line as follows:

**INCOME SECTION**

This year, as requested by NYSDFS, we have added a section relating to non-title Insurance Income, see additional line instructions below:

**Title Insurance**

**Line 1 - Policy Charges** - Report premiums from policies priced under manual rates excluding endorsement premiums.

**Line 2 - Endorsements** - Report all endorsement premiums

**Line 3 - Special Charges** - Include charges for:

- Special Risks - Affirmative Coverage **Special risk charges pursuant to Section 1G are premium based charges and should be reported in Policy Charges.**
- Affirmative Covenant Insurance - Existing Construction Section 22 (Affirmative Covenant Insurance) of the 8/1/2015 manual
- Construction Loan Continuation Searches beyond 5
- Commercial Contract Vendee Continuation Searches beyond 5
- Option Insurance Continuation Searches
- Mortgage Foreclosure Guarantees
- Recorded Document Certificates with Open Order
- Recorded Document Certificates with No Open Order

**Line 4 - Gross Title Insurance Charges** - Sum of Lines 1, 2 and 3 (NOTE: Total is shown on Final Schedule)

**Line 5 - Amount Remitted to Underwriter** - Report the amount of premium remitted to the underwriter covered by this report. If you write for more than one underwriter, do not report the total remitted to all underwriters. The total must be broken down so that the amount remitted to each underwriter is reported only on the report for that underwriter.

**Line 6 - Retained Title Insurance Charges** - Line 4 less Line 5 (NOTE: Total is shown on Final Schedule)

**Non-Title Insurance Income**

**Line 7 - Closing and Escrow Income** - Report all income related to closing and escrow activities.

**Line 8 - Section 2-G Related Income** - Report all income related to Section 2G of the TIRSA Rate Manual 4/8/2018.

**Line 9 - Other Income** - This line is not limited to income derived from the issuance of a title insurance policy by a licensed New York State title agent. Income reported here should include:

- All income derived from the activities of acting as a licensed New York State title agent not shown in Lines 1 through 8.
- All income from ancillary or discretionary charges, related to the issuance of the title insurance policy, as reflected on the title bill to the consumer and or insured.
- NOTE: Any relevant income from a Paycheck protection program or Covid -19 assistance programs or CARES Act should be reported in this section.

**Line 10 - Total Non-Title Income** - Sum of lines 7, 8 and 9 (NOTE: Total is shown on Final Schedule)

**EXPENSE SECTION:**

Please note that the expenses in the below section pertain to title insurance operations within the state of New York. These should correspond to Lines 1 through 6 of the Income Section.

Insurance Regulation 208 (while in effect in 2019) has defined those expenses that should be included in the title insurance rates. Any non-permitted expenses, as detailed by this regulation, as well as other insurance law and financial services law, should not be entered in the data call schedules. These non-permitted expenses are shown in Section 228.2 of Regulation 208.

We understand that some agents do not keep track of all of their expenses according to the categories identified below. If you do not maintain separate accounting for these categories, we ask that you allocate expenses between these categories using your best professional judgment.

**Please note, the Expense section from prior data calls has been changed.** For the 2020 Call, the DFS has expanded the first section of expenses to include specific categories of payments to third parties/non-employees directly related to the production of title insurance. This would include purchases of public records, as well as payments to consultants that assist in writing title insurance policies related to those activities.

**Line 11 - Purchase of Copies of Public Records** - includes payments to government entities for paper copies of deeds, mortgages, judgments, etc., fees to government entities for online access to databases such as real estate tax records, etc. Do not include fees paid to private data providers, which are reported online 29.

**Line 12 - Legal counsel**

**Line 13 - Closer Fees**

**Line 14 - Abstract Fees**

**Line 15 - Recording/Recorder Fees**

**Line 16 - Survey Expenses**

**Line 17 - Reading Expenses**

**Line 18 - Typing Expenses**

**Line 19 - Notary Fees**

**Line 20 - Salaries** - Include:

- Salaries of both full-time and part-time personnel.
- Compensation paid on an hourly basis
- Bonuses
- Sales Commissions
- Partnership draws (if organized as a partnership)

**Note: Agents conducting business in multiple states are required to make a reasonable allocation of salaries for title insurance operations in New York State. Similar allocations need to be made for agents that are part of a law firm or have multiple underwriters.**

**Line 21 - Employee Benefits** include group insurance (life, health, dental, disability, etc.), company contributions to profit-sharing plans, company contributions to 401(k) plans, administration costs related to the payroll process, and 401(K) administration, etc.

**Line 22 - Payroll Taxes** include city, state, and federal levies on payroll (including company portion of Social Security, Medicare, unemployment, etc.)

**Line 23 - Rent and Rent Items** includes all utilities (i.e., heat, light, power, water), rental of main office, branch offices, and other offices; non-rental payments under net leases (utilities, taxes, etc.); maintenance expenses (janitorial supplies and services, repairs, etc.), etc.

**Line 24 - Real Estate Expenses** include expenses for real estate your agency owns, such as janitorial services, real property insurance, interest on mortgage loans, etc.

**Line 25 - Real Estate Taxes** include real estate taxes for real estate your agency owns.

**Line 26 - Taxes, Licenses, and Fees** include non-real estate related and non-payroll taxes EXCLUDING state and Federal income taxes.

**Line 27 – Advertising** includes advertising space purchased in Yellow Pages, advertising spots purchased online platforms, radio and television, billboards, advertising space purchased in trade or popular newspapers and magazines, etc. Additional details for this expense category are to be provided on Part 2. The specific category of expenses is set forth as lines 27.01 through 27.12 on the web site. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

**Line 28 - Marketing and Promotional Expenses** include the cost of all non-employee and non-officers gifts and entertainment, including those of a de minimis nature such as pens, pads, calendars, and similar materials distributed on a broad basis, and those of higher value such as event tickets, meals & beverages, etc. (NOTE: if meal, beverage and/or entertainment expenses were incurred for both employees and non-employees at the same time/event, the meal, beverage and/or entertainment expenses associated with all non-employees is to be reported on Line 28, while the meal, beverage and/or entertainment expenses associated with employees and officers are to be reported on Line 31); event sponsorships; company outings and parties other than those exclusively for employees (such as a holiday party); open houses; costs of providing training seminars to non-employees; costs of maintaining a website; costs of telemarketers; cost of newsletters and other marketing materials distributed to customers, charitable contributions, political contributions; dues and subscription s to social clubs, civic clubs, and related; etc. Additional details for this expense category are to be provided on Part 2. The specific category of expenses is set forth as lines 28.01 through 28.15 on the web site. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

**Line 29 - Title Plant Maintenance and Rental** includes the costs of maintenance of any daily takeoff title or abstract plant and/or back title plant; and payments for the right to access another company's title or abstract plant, back title files, and copies of the public record that are obtained from a private company.

**Line 30 – Policy Issuance** includes any loss of dollars paid by the agent that is not reimbursed, or expected to be reimbursed, quoted fee write-off amounts, etc. Additional details for this expense category are to be provided on Part 2. Part 2 must agree to the amount reported on Part 1.

**Line 31 Travel** includes cost of tickets for public transportation, including trains and airlines; all automobile expenses paid including cost of automobile lease or rental; depreciation of owned automobiles; cost of hotels and related meals; and entertainment; etc. **Only expenses relating to employees or officers are to be reported on line 31.** The specific category of expenses is set forth as lines 31.01 through 31.08 on the web site. Additional details for this expense category are to be provided on Part 2. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

**Line 32- Printing and Office Supplies** including copier expenses.

**Line 33 - Postage, Telephone and Freight** includes cost of stamps, local and long-distance telephone service, leased dedicated telephone lines (such as T1 or T3 lines), internet services, Federal Express, UPS, etc.

**Line 34 - Equipment Depreciation and Rental (Non-EDP)** includes rental or depreciation charges for furniture, copiers, fax machines, telecommunications equipment, and other non-computer office equipment.

**Line 35 - Cost or Depreciation of EDP Equipment and Software** includes cost of leasing or depreciation charges on computer equipment including laptops, desktops, servers, network attached storage, etc.; cost of purchased software; cost of software licensing and upgrade agreements; etc.

**Line 36 - Errors and Omissions Insurance**

**Line 37 - Other Insurance** includes property insurance, liability insurance, fidelity, and surety bonds, etc.

**Line 38 - Director's Fees**, including expense allowances for travel to Board meetings.

**Line 39 - Boards and Associations** includes dues paid by your agency for itself or for its employees to trade and professional associations (e.g., American Land Title Association, New York State Land Title Association, Chamber of Commerce, bar associations, etc.); fees to attend professional and trade association meetings; etc.

**Line 40- Legal and Auditing** includes fees paid to outside accounting firms and law firms

**Line 41 - Interest** includes interest paid to banks and/or suppliers. It excludes mortgage interest reported on Line 24.

**Line 42 - Other** includes all expenses not reported on Lines 20 to 41, such as employee educational expenses including training seminars and continuing education; gifts for employees and officers; company outings and parties held exclusively for employees (such as holiday parties), etc. Additional details for this expense category are to be provided on Part 2. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

**Line 43 - Total Expenses** is the sum of Lines 11 to 42

**Line 44 - Net** is Line 6 less Line 43

**Line 45 - Number of Employees** is the number of full-time equivalent personnel (i.e., report two half-time employees as one full-time equivalent employee)

### **Part 2 Instructions (General Expenses Additional Detail)**

The NYSDFS has requested that all agents provide additional detail for the amounts reported in the following expense categories:

- Advertising Expense (Part 1 Line 27)
- Marketing and Promotional Expenses (Part 1 Line 28)
- Policy Issuance Expenses (Part 1 Line 30)
- Travel (Part 1 Line 31)
- Other (Part 1 Line 42)

Please enter the amounts for each of these expense types on Part 2. Within each of the five main categories, there is also provided an "All Other" line to accommodate the entry of any amounts not covered by the expense types explicitly identified. It is expected that each agent will make every effort to ensure that "All Other" entries are minimized. In doing so, like items are to be grouped together, and the "All Other" line

is to be reserved only for unique expense items or those expense items that cannot otherwise be classified into one of the broader categories shown. It is further expected that each "All Other" entry will be accompanied by a thorough explanation of the particular expense item that could not otherwise be categorized into one of the listed expense types.

**Note: it is important that the sums of the detailed items in Part 2 for each category agree with the amounts reported on Part 1**

### **Part 3 Instructions**

Note that Part 3 of the agent's Data Call is found on a separate sheet within the Excel file. After receiving the responses to this agent Call, the underwriters will be required to submit Part 3 for each individual responding agent to Milliman.

**For the 2020 Data Call, a section has been included to provide additional detail for Salaries (20.00) in Part 1. For all Zones combined, please provide the Title and Salary amount for the five largest salary amounts included in Part 1. If there are fewer than 5 employees, include all, and verify that the total reconciles to the amount entered in Part 1 across both Zones.**

In the event that amounts have been entered in the "All Other" line for Advertising Expenses (27.12), Marketing and Promotional Expenses (28.15), Policy Issuance Expenses (30.03), Travel Expenses (31.08) or Other Expenses (42.08) in Part 2, enter a thorough description for each of the items that fall within these "All Other" lines. 10 lines have been provided for each of the 5 categories. Also, provide an overall amount for each item entered on Part 3 if possible.

Stewart and Milliman will review each Part 3 submission to ensure that sufficient detail has been provided by the responding agent and that none of the "All Other" entries are more appropriately categorized into one of the listed expense types on Part 2. If additional detail is required, you will be contacted to provide additional detail. Milliman will transmit these files to TIRSA and TIRSA will then provide these sheets to the Department of Financial Services. The individual agency name and other identifying information have been removed from Part 3. During the course of each annual Call, Milliman will review the Part 3 entries across agents to determine whether there are additional categories that warrant creation of new line items in Part 2, to be added in the following year's Data Call.

**Note: it is important that the sums of the detailed items for Advertising Expenses (27.12), Marketing and Promotional Expenses (28.15), Policy Issuance Expenses (30.03), Travel Expenses (31.08) or Other Expenses (42.08) in Part 3 for each category agree with the amounts reported on Part 2.**

We know that this data call may be difficult for each office to accomplish and we stand ready to assist you. We appreciate your best efforts to assist in the full compliance with the NYSID directive.

Attached is a sample of the [U-4 Schedule](#) for 2020. Please do not hesitate to contact company counsel at (212)-922-0050 with any questions you might have.

For on-line viewing of this and other bulletins, please log onto [www.vuwriter.com](http://www.vuwriter.com).

#### **References:**

Bulletins Replaced:	None
Related Bulletins:	None
Underwriting Manual:	None
Exceptions Manual:	None
Forms:	<a href="#">U-4 Schedule 2020 Excel Spreadsheet</a>
Attachments:	<a href="#">U-4 Agent Instructions: NYData Call-FAQ</a>



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