



Business and Regulatory Assurance

e-dealing Audit Methodology

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1. Introduction

This audit methodology is defined as a risk, system and controls-based method, which encourages continuous improvement of conveyancing practices and a higher level of audit coverage and assurance for the Registrar-General of Land.

A recent evaluation of the compliance review process revealed that there was an opportunity to use a more effective regulatory approach by encouraging law firms to develop their own internal *e-dealing* systems and controls.

As a result of the evaluation of the compliance review a pilot was planned to test the feasibility of introducing a new audit approach.

LINZ developed the pilot audit programme during 2006 with the agreement of the Registrar-General of Land and in consultation with the NZ Law Society Land Titles Committee. The results of the pilot indicate that introducing the new audit approach on a voluntary basis was feasible.

In a recent letter to the profession the New Zealand Law Society acknowledges the benefit to the profession of the new *e-dealing* audit methodology and supports LINZ intention to introduce the new approach during the next year.

Objective of Document

The objective of this document is to outline the audit methodology by:

- Discussing good audit practice
- Outlining the audit methodology
- Describing the timeframe for implementation.

2. Background

The Registrar-General of Land has responsibility for the integrity of the land titles registration system under the Land Transfer Act 1952.

The audit methodology is designed to provide the Registrar-General of Land with reasonable assurance that registered conveyancers are complying with regulatory requirements.

The present system approved to manage *e-dealing* compliance reviews was implemented by LINZ in 2003. It uses a targeted approach to select conveyancers. The principles used for the compliance review selection process include:

- A risk based audit approach (where the right level of effort is directed to the right area in proportion to the risk)
- A sampling process that represents reasonable assurance
- Recognition of a conveyancer’s first time compliance result.

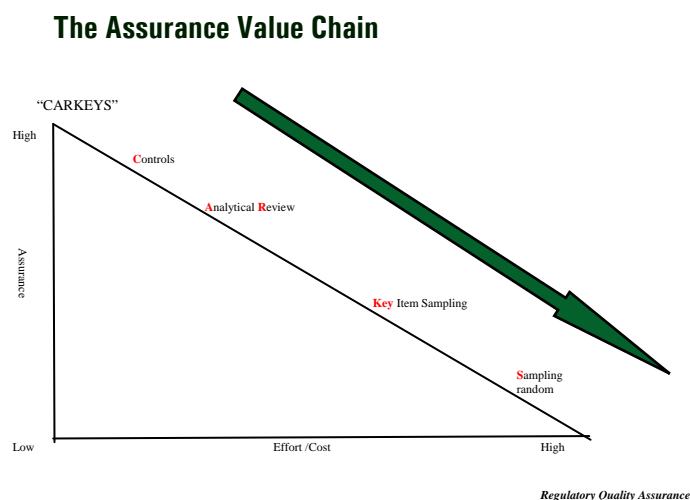
The evaluation of the compliance review process showed that while a risk based approach for the selection of conveyancers was used it is recognised as being a traditional assurance method and the level and coverage of assurance could be raised according to good practice by introducing the audit methodology.

The approach has a focus on strategic risk, risk identification, optimisation and assurance as well being based on a value-added premise and is upheld and recognised as good practice.

3. Best Audit Practice

The risk, system and controls-based audit approach is recognised internationally as good audit practice. This methodology has been shown to effect positive change in compliance practices and provide a greater level of regulatory assurance.

The Assurance Value Chain in the following diagram shows how this methodology should enable LINZ of assurance for the Registrar-General of Land to more effectively target its resources to provide a higher level.



4. Audit Methodology

The methodology sets out a framework of practices and related procedures that will guide the management and conduct of all *e-dealing*-related audit work within law firms and intends to provide direction to LINZ auditors and conveyancers.

The purpose of the audit methodology is to:

- Assist law firms to achieve the highest level of quality in audit
- Promote the highest possible level of professional and competent audit
- Provide a basis for measuring audit performance
- Allow the law profession to gain a better perspective and understanding of LINZ’s *e-dealing* assurance functions.

Key Risks

The audit will focus in particular on the adequacy of the systems and controls in place to manage the following risks:

- Requisite client authority not obtained
- Identity and capacity of client not adequately verified
- Specified statutory requirements not complied with
- Supporting evidence not held for the requisite period
- Digital certificates or passwords compromised.

Selection Process

Law firms invited to participate in an audit will be selected according to the following criteria:

- Engaged in mainly conveyancing
- Recorded as high users of *e-dealing*
- Recently registered as an *e-dealer*
- Past instances of non-compliance or qualified compliance reviews
- Geographic distribution
- Nature, type and status including ISO certified.

To provide adequate assurance coverage a five year audit model is shown in the table below. The information compiled is based on the number of electronic transactions completed in 2007. The data is presented according to groups including large firms (173) responsible for 61% of the transactional volume, medium firms (582) responsible for 30%, and the balance of firms (451) representing 9% of the transactional volume.

Registrar-General of Land Audit Model		
Large Firms	Medium Firms	Balance of Firms
Audit 173 firms representing 61% of transactions	Audit 582 firms representing 30% of transactions	Audit 451 firms representing 9% of transactions
↓	↓	↓
Selected law firms sampled over 5 years Risk, system and controls-based	Selected law firms sampled over 5 years Risk, system and controls-based	Reactive and as required Random and cause-driven audits

LINZ in consultation with the NZ Law Society Land Titles Committee will plan to audit an acceptable number of large and medium firms according to the risk, system and controls-based method over a five year period. Good practice principles will be

used to select from the large and medium conveyancing groups of firms to be covered including a risk analysis.

From the balance of law firms the number of audits will be selected according to an element of randomness or cause-driven audits. Those firms selected will be as a response to external complaints, requests from the Registrar-General of Land, Customer Services or as deemed necessary based on our analysis of the information.

Audit Team

The LINZ audit team will consist of land titles experts and auditors.

Audit Responsibilities

To ensure that the audit process is clear and that both law firms and LINZ have consistent expectations of the role of each party the following responsibilities have been identified:

Both parties need to:

- Attend to the pre-audit questionnaire
- Participate in the law firm visit
- Review the draft audit report.

LINZ has responsibility for the:

- Audit preparation
- Analysis of information including results from compliance reviews
- Visit to the law firm
- Preparation of the draft report
- Reporting to the law firm to receive comment and feedback.

Audit Opinion

At the conclusion of an audit the LINZ audit team will give a satisfactory or unsatisfactory opinion on the adequacy and effectiveness of those *e-dealing* systems and controls as assessed from the:

- Information provided on the questionnaire
- Compliance review analysis
- Evidence received during the on-site audit.

For a satisfactory opinion to be given the audit team will consider the following:

- Documented policy, risk analysis and key internal controls covering quality assurance processes
- Analysis of internal controls strengths and weaknesses
- Evidence of consistent regulatory compliance
- Monitoring of results of first time compliance
- Monitoring of password security policy
- Continuous improvement in regulatory compliant practice.

If the above controls are not in place or are considered inadequate this situation would be discussed together at the conclusion of the audit to seek agreement as to the content of the recommendation to be raised in the audit report. In such situations we would not be able to provide reasonable assurance to the Registrar-General of Land and hence our report would provide an unsatisfactory opinion.

To address this situation a further assessment will be required and may consist of one of the following:

- A follow-up desk audit after six months of a law firm’s newly developed documented evidence
- On-site follow-up audit after a period of time with the scope confined to the unsatisfactory area
- A series of compliance reviews where costs may potentially become the responsibility of the law firm.

The findings from the additional follow-up, desk audit or compliance review will be reported to the Registrar-General of Land in draft form for comment before it is finalised. The additional follow-up, desk audit or compliance review report when accepted by the Registrar-General of Land will then be completed and issued to the law firm’s Conveyancing Partner.

5. Compliance Reviews

LINZ will continue with the traditional compliance reviews by sampling a law firm’s *e-dealing* documentation but will consider scaling back the level of compliance reviews for law firms participating in an audit who have received a satisfactory report from an audit visit.

The timeframe for implementation of the audit methodology has an acknowledged period of consultation where law firms were encouraged to contact LINZ and provide comment, suggestions for improvement and feedback on the proposal.

6. Timeframe for Implementation

Action	Who	Date
Publish draft audit methodology on LINZ website to make available to law firms for comment	Law Firms LINZ	August 2007
Meet and discuss audit approach with District Law Societies and a selected cross –section of law firms	District Law Societies Law Firms LINZ	September – November 2007
Receive feedback on proposed audit methodology from NZLS Land Titles Committee, Inspectorate, District Law Societies and law firms	NZLS Land Titles Committee District Law Societies Law Firms LINZ	December 2007
Incorporate comments received and confirm proposed audit methodology with NZLS Land Titles Committee	NZLS Land Titles Committee LINZ	December 2007
Issue trial audit methodology to all law firms and commence transition period with no prejudice to audit outcomes Compliance reviews continue	NZLS Land Titles Committee LINZ	January 2008
Throughout the transition period LINZ will continue to meet to discuss and refine the audit approach with members of the profession including NZLS Land Titles Committee, Inspectorate, District Law Societies and law firms	NZLS Land Titles Committee Inspectorate District Law Societies Law Firms LINZ	January – October 2008
Implement final audit approach	NZLS Land Titles Committee Law Firms, LINZ	October 2008

Appendix 1 – Audit Process

Audit Objectives

The objectives of the review are to provide the Registrar-General of Land with assurance that law firms have systems, processes and controls in place to achieve compliance with regulatory requirements for *e-dealing*.

Terms of Reference

Before an audit commences terms of reference defining the scope of the on-site visit, objectives, risk, audit methodology and approach will be agreed with each law firm prior to the visit.

Audit Scope and Approach

The audit visit will generally extend over one day and will involve the review of relevant processes and documentation within each law firm. During the visit information would be requested including evidence of *e-dealing* conveyancing policy, procedures, key internal controls and indicators of continuous improvement.

This information will typically consist of:

- Documented policy, risk analysis and key internal controls including quality assurance processes
- Analysis of internal control strengths and weaknesses
- Evidence of consistent regulatory compliance
- Monitoring of results including first time compliance
- Monitoring of password security policy
- Continuous improvement in regulatory compliant practices.

Pre-Audit Questionnaire

When an audit visit is confirmed each law firm will be requested to complete an *e-dealing* questionnaire.

Responses to a series of questions will be sought covering the structure of the law firm, the names of conveyancing personnel, extent of *e-dealing* risk management practices and policy documentation covering systems and key internal controls. Other questions may be asked relative to the monitoring and results of first time compliance.

Compliance Reviews

The compliance review process is designed to provide assurance to the Registrar-General of Land that *e-dealing* certifications are valid and have assisted the conveyancer and the law firm to meet the requirements for collecting and retaining relevant authority and information.

Since *e-dealing* was introduced valuable information has been collated by LINZ concerning a law firm’s documentation including evidentiary requirements for each instrument type.

A history of a law firm’s performance over the last three years including first time compliance will be discussed during the audit visit. Significant evidence, observations

and relevant information from a law firm may reflect the extent of monitoring of first time compliance.

Law firm visit

The following table outlines the plan for each on-site audit visit:

Audit Step	Staff Required	What is involved
Opening Discussion	May include: Partners, Practice Manager, Conveyances, Primary Contact	<ul style="list-style-type: none"> • Introductions • Background • Overview of Terms of Reference <ul style="list-style-type: none"> ○ Review objectives ○ Scope ○ Approach
Review Policies and Procedures	Practice Manager / Managing Partner	<ul style="list-style-type: none"> • Review of policies and procedures documentation relating to the <i>e-dealing</i> process
Review Conveyancing Processes	Relevant staff involved in the conveyancing process	<ul style="list-style-type: none"> • Hold discussions with various staff to determine: <ul style="list-style-type: none"> ○ Processes for <i>e-dealing</i> transactions ○ Quality assurance processes ○ Methods for ensuring regulatory compliance including the use of checklists. • Where search agents are used: <ul style="list-style-type: none"> ○ Review existence of contract/service agreement. ○ Review processes in place to manage performance of search agents
Walkthrough of Process	Relevant staff involved in the conveyancing process	<ul style="list-style-type: none"> • Perform walkthrough of an entire <i>e-dealing</i> transaction sequence to confirm the process
Testing	Relevant staff involved in the conveyancing process	<ul style="list-style-type: none"> • Confirming that the <i>e-dealing</i> process is operating to ensure regulatory compliance. This will include reviewing key documents and the sampling of transactions, such as: <ul style="list-style-type: none"> ○ Signed A & I forms and relevant client identification ○ Letter of authority and/or letter of introduction from institutional chargeholders ○ Authorising discharge from relevant mortgagee ○ Power of Attorney and Certificate of Non Revocation if required ○ Other authorising documents

Audit Step	Staff Required	What is involved
Closing Discussion	Partner/Practice Manager	<ul style="list-style-type: none">• Discussion of preliminary findings• Reporting and recommendations