

Aircraft Escrow Closings – Necessary Steps to Secure the Process



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When closing an aircraft transaction, just like any other major purchase, an escrow agent should be used to hold documents and funds until both parties are ready to close. Because the FAA Registry is located in Oklahoma City, the escrow agents used for closing aircraft transactions are also in Oklahoma City. The FAA Registry has a filing window (although it has been closed with COVID precautions and is now currently just a filing bin) where the closing documents, including, the FAA Bill of Sale, FAA Registration Application, lender documents, and other relevant documents can be filed by the escrow agent as part of the aircraft closing process. The escrow agent will also hold and release upon closing non-FAA closing documents, such as the warranty bill of sale, assignment of warranties, and delivery receipt.

In addition to filing the documents with the FAA Registry, the escrow agent also handles the title searches at both the FAA Registry and on the International Registry. The title searches should be run immediately upon receipt of the deposit into escrow so that if there are any title issues they can be resolved so that the issues don't impact the closing timeline.

Finally, the escrow agent handles the funds associated with the closing. Typically, a letter of intent is signed and a deposit is required under the letter of intent. Then the purchase agreement is executed which outlines the terms of the sale, including the payment terms. The escrow agent receives a copy of the purchase agreement which should outline the closing process and distribution of funds process.

If you speak to any escrow agent that handles aircraft transactions, they will all tell you that they are constantly working to make sure there are no security breaches in their systems and that they are making constant improvements to secure the closing process. However, recently there have been several issues where nefarious parties have tried, and in some cases been successful, in breaching the established processes. There have been examples of incorrect wire instructions being distributed and verbally confirmed by bad actors. Additionally, there have been examples of funds going to one escrow agent and then a request made for the funds to be sent to another escrow agent and then eventually a request to return the funds to a different party, an obvious attempt to launder money. As a result, every party involved in an aircraft transaction must take steps to ensure the integrity of the closing process. These steps should be followed in every aircraft closing:

1. Select a reputable and established escrow agent who specializes in aircraft transactions.
2. Each escrow agent will require know your customer information for any party sending or receiving money as part of the closing process. Make sure all of the requested information is available to the escrow agent early in the process to ensure that all parties are vetted and approved by the escrow agent before any money is distributed on the transaction.
3. Wire instructions for any party who receives funds from the transaction should only be sent through secure methods and should be verbally confirmed. A party that knows both the escrow agent and the person sending the instructions should coordinate the verbal confirmation process and when possible be on the call to make sure all parties confirming the wire instructions are the real and the true parties involved in the transaction.
4. If a deal does not materialize, then any funds received into escrow should be returned to the same account they were received from.
5. Closing documents should be prepared in advance of closing. While the FAA Registry

accepts DocuSigned documents that does not mean that closing documents should be prepared and signed the day of closing. Preparing the closing documents and sending them into escrow well in advance of closing will make the process more manageable for the escrow agent and all parties will feel less stress. Further, this will provide the escrow agent time to review and correct any errors in the documents before they are filed with the FAA.

6. Title reports should be reviewed early in the transaction so if there are any title issues those can be worked and resolved so that the closing timeline is not impacted.
7. On the day of closing, the parties should decide on a closing method they are comfortable with. This can be a conference call or email exchange. In either case, it is important to make sure closing statements have been reviewed and approved by the correct party, the wire instructions have been confirmed, and that authorization to close is obtained from all of the correct parties.

Given the growing sophistication of fraudulent parties trying to infiltrate aircraft closings, buyers, sellers, aircraft consultants/brokers, attorneys, lenders and all other parties involved must discard old practices of emailing around wire instructions, skipping know your customer requirements, and last minute closing document preparation. Working on the closing documents, title issues, and confirmation of wire instructions well in advance of closing will allow the escrow agents to review documents in advance, organize their files and focus on completing a secure aircraft closing. Allowing ample time for the escrow agent to do a thorough job is important and will benefit all parties involved in a transaction. ■



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