



NMLS Ombudsman Virtual Meeting

Our biannual meeting to address the issues that matter to you

[Click here to register.](#)

April 1, 2021, 2:00 p.m. to 4:00 p.m. ET

Agenda

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| 1. <i>Ombudsman Update</i> | Jim Payne, NMLS Ombudsman & Director of Examinations/Assistant Deputy, Consumer and Mortgage Lending Division, Kansas Office of the State Bank Commissioner |
| 2. <i>Comments on Proposed Prudential Standards for State Oversight of Nonbank Mortgage Servicers</i> | Krista Cooley, Mayer Brown |
| 3. <i>Advance Change Notice Challenges</i> | Robin Gieseke, Mayer Brown |
| 4. <i>The Future of Remote Notarization</i> | Kobie Pruitt, Mortgage Bankers Association |
| 5. <i>Return to Office Protocol & Agency Guidance</i> | Cindy Corsaro, Promontory MortgagePath LLC |
| 6. <i>Notice of the expiration of the Relief from Branch Office Licensing</i> | Gus Avrakotos, Miles & Stockbridge |
| 7. <i>Mortgage Loan Originator Remote Work Licensing Flexibility</i> | Melissa Koupal, Loan Depot, on behalf of the Mortgage Banker Association |

Additional Panelists

- Jedd Bellman, Assistant Commissioner for Non-Depository Supervision, Maryland Office of the Commissioner of Financial Regulation
- Nicole Chamblee, Assistant Commissioner of Compliance, Tennessee Department of Financial Institutions
- Chuck Cross, Senior VP, Consumer Protection & NonBank Supervision, CSBS
- Steven Fromholtz, Division Manager, Arizona Department of Insurance and Financial Institutions
- Rhoshunda Kelly, Interim Commissioner, Mississippi Department of Banking & Consumer Finance
- Rholda Ricketts, Deputy Superintendent, New York Department of Financial Services
- K.C. Schaler, CFB Supervising Examiner/Investigator 4 - Regulated Lenders, Idaho Department of Finance



Ombudsman Exhibit Submissions

Krista Cooley, Mayer Brown	Exhibit 1
<i>Comments on Proposed Prudential Standards for State Oversight of Nonbank Mortgage Servicers</i>	
Robin Gieseke & Jeffrey Prost, Mayer Brown	Exhibit 2
<i>Advance Change Notice Challenges</i>	
Kobie Pruitt, Mortgage Bankers Association	Exhibit 3
<i>The Future of Remote Notarization</i>	
Cindy Corsaro, Promontory MortgagePath LLC	Exhibit 4
<i>Return to Office Protocol & Agency Guidance</i>	
Gus Avrakotos, Miles & Stockbridge	Exhibit 5
<i>Notice of the expiration of the Relief from Branch Office Licensing</i>	
Kobie Pruitt, Mortgage Bankers Association	Exhibit 6
<i>Mortgage Loan Originator Remote Work Licensing Flexibility</i>	
Kobie Pruitt, Mortgage Bankers Association	Exhibit 7
<i>Proposed Statutory Language</i>	



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March 5, 2021

BY EMAIL

Jim Payne
NMLS Ombudsman
c/o Conference of State Bank Supervisors
1129 20th Street, N.W., 9th Floor
Washington, DC 20036

Re: 2021 Ombudsman Discussion Topic

Dear Mr. Payne:

Thank you for the opportunity to submit topics for the 2021 NMLS Ombudsman meeting. As you know, in September of 2020, the Conference of State Bank Supervisors (“CSBS”) released proposed prudential standards for state oversight of nonbank mortgage servicers (the “Proposal”) and requested comments from interested parties, which were due by December 31, 2020.

With this letter, we identify certain questions and concerns that have been raised by commenters to the Proposal during and after the comment period for the Proposal. These topics merit discussion among the CSBS, state regulators, and industry participants that would be impacted by the adoption of any aspect of the Proposal. We hope the Ombudsman will consider this topic for discussion at the meeting on April 1, 2021.

While by no means is this an exhaustive list, below is a high-level list of certain important questions and considerations that have been raised regarding the Proposal and its potential finalization by the CSBS and adoption by states.

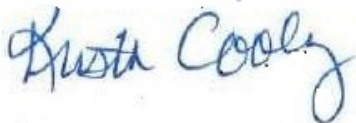
- Uniformity of the Proposal’s Prudential Standards: Will states act consistently in adopting, implementing, and enforcing any prudential standards for oversight of nonbank mortgage servicers? Will states consistently interpret any such prudential standards? How would such uniformity be achieved? Inconsistencies in any of these three areas would impose additional and unnecessary complexity and compliance costs for nonbank mortgage servicers.
- The Proposal’s Financial Standards: The financial strength requirements detailed in the Proposal align with the Eligibility Requirements for Enterprise Single-Family Seller/Servicers established by the Federal Housing Finance Agency (“FHFA”) in many respects, but also include non-agency servicing in the Proposal’s liquidity calculations.

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- The Proposal, however, includes a “higher of” construct that may increase the financial strength requirements applicable to nonbank mortgage servicers. Questions have been raised regarding why such deviations should be adopted, particularly given the efforts of the FHFA and Ginnie Mae in recent years to amend their guidelines and increase counterparty oversight of nonbank servicers.
- The Proposal does not address whether, or to what extent, states would have discretion to waive or modify the financial strength or other requirements if individual circumstances might warrant such discretion. The FHFA standards referenced in the Proposal are not regulatory in nature and, thus, the GSEs can, and often do, exercise discretion in evaluating seller/servicer compliance with such requirements.
- The Proposal’s “one size fits all” financial strength requirements could make it very difficult for smaller non-agency mortgage servicers to maintain such standards.
- Change in Ownership Proposal: The Proposal includes a requirement for all nonbank mortgage servicers to provide 30 business days prior notification of change in ownership of 10% or more of a mortgage servicer. Many state licensing laws already require prior notice or prior approval of such changes. How would the Proposal’s standard be incorporated into existing state laws and/or regulations governing changes in ownership?
- Servicing Transfer Requirement Proposal: The Proposal states that the prudential standards would “align” with the CFPB’s Compliance Bulletin and Policy Guidance: Mortgage Servicing Transfers.” How will the Proposal accomplish this alignment and adopt the referenced guidance?

Thank you for your consideration, and for the opportunity to participate in the upcoming Ombudsman meeting.

Sincerely,



Krista Cooley
Partner



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March 5, 2021

BY EMAIL

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Robin Gieseke
Regulatory Compliance Analyst
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Re: 2021 Ombudsman Discussion Topic

Dear Mr. Payne:

Thank you for the opportunity to submit topics for the 2021 NMLS Ombudsman meeting. With this letter, we discuss problems our clients have experienced with the processing of a company name change, and hope the Ombudsman will consider this topic for discussion at the meeting on April 1, 2021.

In the NMLS, submission of an Advance Change Notification ("ACN") to change a company name is rather straightforward: (i) submit an MU1 with the new name and effective date; (ii) submit evidence of the amendment from the applicable Secretary of State office ("SOS Office"); and (iii) upload any surety, fidelity or E&O riders that may be required. The NMLS is an extremely effective tool for both state regulators and industry to facilitate this process. However complications arise when certain states require evidence from their SOS Office to issue an approval prior to the company commencing business under its new legal name in their state.

Unfortunately the various SOS Offices do not have a system as user friendly as the NMLS, and do not offer the ability to make one filing, in advance, to notify several states at once of company updates. The company can pre-file where available, and submit name reservations in advance, however most times the filings to amend a company name must be completed on or after the effective date. Many SOS Offices do not have an online application platform, requiring the submission of actual paper documentation in order to process the name amendment. Over the past year, office closures and remote operations due to COVID have drastically affected the timelines in getting this process completed, with some processing times running in excess of 60 days.

State regulators withholding approval of a name change pursuant to receipt of the amended registration certificate from the SOS Office put a licensee in a difficult position. Delaying use of

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the new name is often not an option, especially in cases where the name change is a result of a corporate conversion. In corporate conversions, the company's name has changed and its Articles have been amended in its state of formation. To force a company to continue to operate under a name in the state that is no longer its legal name while it waits for the SOS Office to process the name change is not realistic from a business perspective. It has been our experience that regulators have advised that licensees should suspend activities, or in some cases will allow licensees to close out their existing pipeline, but cannot take any new applications until the new name is approved.

Preventing licensees from engaging in their full range of activities negatively affects the licensee, its mortgage loan originators and consumers. We would welcome a conversation with state regulators on this topic to discuss alternatives, such as temporary approvals, so that company activities are not affected by delays resulting from the SOS Offices. This topic is especially important as the effects of the global pandemic continue to jeopardize our health and financial stability.

On a separate but related note, we would like to take a moment to address a deficiency item automatically generated by the NMLS when an ACN for a name change is processed. Each Control Person automatically receives a deficiency to remind them to change their employer name, or the company name in the Other Business Section of their Form MU2. Making the suggested update usually clears the deficiency item automatically. However there are a few circumstances where the deficiency item cannot be addressed in the Form MU2, and there is no method for a licensee to cure the outstanding deficiency item. Examples include Control Persons that have updated their Form MU2 in advance of the change, and individuals who are no longer Control Persons immediately following the ACN effective date, and the Company no longer has access to their record.

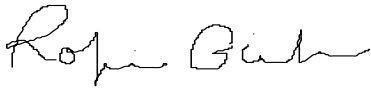
The NMLS Call Center is unable to clear deficiency items and will advise you to call the state regulator. The state regulator will advise that they are unable to clear system set deficiency items, and that you should call the NMLS Call Center. This circle of communication is frustrating. In fact, we understand that state regulators do have the ability to clear system set deficiency items, and it is our hope that by including this issue in the Ombudsman session, more state regulators will understand the authorities provided to them in the system.

Finally, there is one additional item we wish to address. This item has been presented to the NMLS Ombudsman in the past, and we find it prudent to offer this item for consideration again. The NMLS Call Center will not respond to any questions to users without an NMLS User Id for an individual or the Company. As a third-party service provider, our office often contacts the NMLS Call Center with general questions that do not affect one specific client, but several clients generally. We respectfully request a review of the existing policy, to allow for non-identifying information to be provided in connection with certain general questions.

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Thank you for your consideration, and for the opportunity to participate in the upcoming Ombudsman meeting.

Kind Regards,

A handwritten signature in cursive script, appearing to read "Robin Gieseke".

Robin Gieseke
Regulatory Compliance Analyst

A handwritten signature in cursive script, appearing to read "Jeffrey Prost".

Jeffrey Prost
Senior Regulatory Compliance Analyst



The Future of Remote Notarization

Why RIN is Not as Safe as RON

Background

Notarial acts are a necessary component of the residential loan closing process. As the industry continues to serve consumers' needs by using online, mobile and other electronic means, it became clear that state notarial laws and regulations needed to be updated to address a shift in consumer preference for how they desired to complete financial transactions.

In an effort to create greater legal certainty and consistency in how real estate finance documents were signed remotely using audio-visual technology, MBA and ALTA collaborated with each other and their member companies to produce a model for remote online notarization (RON) in 2018. The principles of RON include but are not limited to the following:

- The recognition of consumer choice in using RON or traditional notarization (wet ink);
- RON transactions should receive the same legal status as traditional notarization;
- RON transactions must include robust provisions for ID proofing and credential analysis; and
- Acknowledgements performed online can be readily identified and distinguished from those done in person; that technology requirements should not be so specific as to favor one vendor over another, nor should they be so restrictive that they impede evolution of new ways to improve security over time.

At the beginning of 2020, the COVID-19 health crisis caused a paradigm shift where in-person financial transactions were severely restricted and prevented documents from being notarized in a traditional manner. In response, many states issued temporary executive orders to authorize the suspension of the state's statutory requirement that the principal physically appear before a notary. Many states allowed notaries to view the signing of a paper document through an unsecured audiovisual communication tool (e.g., Zoom, Microsoft Teams, and WebEx). The paper documents were then signed and transmitted electronically or through postal mail by the principal to the notary. Remote ink notarizations (RIN) transactions were convenient for traditional notaries during the crisis, allowing them to continue notarizing documents. However, RIN transactions do not provide the level of anti-fraud protections the notary process is

intended to solve for, especially when it comes to identity verification when compared to RON.

Currently, 30 states have passed legislation embracing the principles of RON. This expanding policy landscape is the result of key non-partisan developments that argue for greater consistency in RON authorization statutes: the work to produce implementation standards by the Mortgage Industry Standards Maintenance Organization (MISMO); the release of RON standards by the National Association of Secretaries of State (NASS) for use by their elected and appointed members; and, the publication of RON legislative language by the Uniform Law Commission (ULC) to update Revised Uniform Law on Notarial Act (RULONA).

Goals and Next Steps

Due to the ease in which RIN transactions were completed during the pandemic, many state policymakers are starting to believe that RIN represents a viable way to remotely notarize documents long term. Some states have already introduced or enacted legislation that would codify temporary state executive orders to allow RIN into state statute. However, enabling RIN as method of notarization long-term could potentially create confusion in the market. The GSEs only provided guidance to allow RIN transactions during the pandemic but did not necessarily foresee the guidance lasting once the health emergency had passed. The GSEs could likely put a sunset date on their guidance and states could be left without a way to remotely notarize documents that could then be purchased on the secondary market. Moreover, because RIN transactions do not require multifactor identification or credential analysis software, it could avail state consumers to fraud and identity theft. Therefore, MBA believes that RIN should only be viewed as a short-term solution to address the pandemic and RON should be considered the safer and more secure way to notarize documents remotely.

It is likely that regulators will be asked to express their position on remote notarization as states continue to introduce legislation or promulgate rules that enable its use. However, it is important state regulators are aware of the robust standards that already exist for RON and why it is a proven standard for remote notarization. MBA welcomes the opportunity to engage with state regulators to help educate staff about RON and its ability to help facilitate financial transactions in a way that the protects consumer data and personal information.

March 5, 2021

NMLS Ombudsman
Conference of State Bank Supervisors (CSBS)
1129 20th Street NW
Washington, DC 20036

Re: NMLS 2021 Ombudsman Meeting topics – Cindy Corsaro

Dear NMLS Ombudsman:

Thank you for your request for discussion topics for the 2021 Ombudsman Meeting. These are the issues I would like to address:

Return to Office Protocol:

- 1) As the vaccine is more widely rolled out and states begin to resume routine operations by lifting COVID-19 restrictions, it is important for regulators and industry to address a smooth return to the office. On the mortgage side, most regulators did an amazing job of pivoting with executive rules and exceptions to allow industry to work safely and remotely from unlicensed locations. These exceptions are set to expire at different times throughout the coming months, some as early as June while other states have extended the exceptions to the end of the year. The issue becomes how do we determine the guidelines for licensed entities and their MLOs to transition back to the office and normal operations. Here are some of my questions and concerns:
 - a. Once one state requires an in-office presence, will that mean everyone has to return to work in a licensed location (if mandated by that state) even if the company is not currently doing any business in that state despite holding a license?
 - b. When one state requires an in-office presence, will all other states expect that location to be fully staffed for their state's activities as well, even if their state's return date is later in the year, or will there be flexibility to work from both the licensed office and/or remotely?
 - c. Has the CSBS/NMLS conducted a survey to determine how many states are considering extending remote access on a permanent basis? Some information was shared at this year's virtual NMLS Annual Conference, but more information would be greatly appreciated by industry.
 - d. How will regulators address individuals who are not comfortable returning to routine operations for various reasons (i.e., they do not yet qualify for a vaccine, have underlying health issues which may preclude them from a vaccine, have a general fear regarding contracting the disease by working in a shared space environment, etc.)? Is an "all or nothing" approach anticipated or even advisable?
 - e. While associations such as the MBA and AFSA may be addressing this issue on a more global scale, if not already in the planning stages, perhaps regulators and industry should form a working group, similar to the IDWG and KIWI working groups, to discuss a more uniform transition to routine operations. There are dangers in



having a staggered approach for companies licensed in multiple states. A more uniform transition and more uniform guidance would be helpful for all. I, for one, would be happy to participate in this type of working group!

2) I understand from counterparts in the Consumer Finance and MSB arenas that there are gaps in agency guidance and differences in the rules and regs related to COVID-19 between mortgage and other regulated industries (the NMLS "expanded industries"). Some state agencies passed executive orders as to the mortgage industry, while staying silent as to other financial services. Some states in the Consumer Finance industry did not allow remote operations even during the COVID shutdown:

- a. How will state regulators address this disparity when it comes to return to work mandates?
- b. Will different requirements be imposed for each related industry?

I feel strongly that these issues should be addressed as soon as possible to allow for a safe, compliant, and smooth transition back to routine operations in 2021 when this becomes a viable option for all of our industries.

Thank you as always for the opportunity to present these observations, questions, and concerns.

Sincerely,

A handwritten signature in blue ink that reads "Cindy Corsaro".

Cindy Corsaro
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March 5, 2021

Jim Payne
Ombudsman
Conference of State Bank Supervisors
1129 20th St., N.W., 9th Floor
Washington, DC. 20036

Re: Notice of the expiration of the Relief from Branch Office Licensing

Dear Jim,

I want bring a unique and novel issue to your attention as the Ombudsman for the Conference of State Bank Supervisors (CSBS”), and trust we can gain your support.

Last year, given the many disruptions caused by the COVID-19 pandemic, most state mortgage finance regulators acted reasonably and responsibly to allow licensed mortgage companies and their licensed mortgage loans originators (“MLOs”) to originate residential mortgage loans from the MLO’s unlicensed home. Regulators in some state also allowed licensed mortgage companies and licensed MLOs to originate residential mortgage loans from a remote unlicensed location other than the MLO’s home. A number of our clients asked us if any states were providing such relief from branch office licensing. To respond to those requests and provide guidance, we reviewed the mortgage finance licensing laws of each state, the District of Columbia, and Puerto Rico, called or emailed key licensing regulators in each [of those jurisdictions](#), and documented our findings in a chart for our clients that examined: (i) whether the jurisdiction will allow a licensed MLO to work from home and/or another unlicensed remote location; (ii) whether the home or other remote location will need to be licensed as branch office of the licensed company; (iii) if branch licensing is not needed, whether some other approval of the regulators is needed for the licensed MLO to work from such an unlicensed location; (iv) if a branch license or other approval is not needed, whether notice must be provided to regulators that a licensed MLO is working from an unlicensed location; and (v) whether the jurisdiction extended this “relief from branch licensing period” into 2021. From what we have heard from a number of clients for whom we have addressed this issue, I can well attest that the action taken by state regulators was very welcome relief from the branch office licensing obligation typically required under state mortgage financing licensing laws. Given the work we had done in reviewing this issue in each jurisdiction, we were asked by CSBS and some state regulators to share our findings with them, which we have done.

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Now with the possibility of COVID-19 waning, and before a new strain of the virus is upon us, a new question has been raised that requires the attention of the Ombudsman - - - what should licensed mortgage companies and licensed MLOs do once this “relief from branch license expires.” In some states, this “relief from branch licensing” expires as early as March 31, 2021, or as late as December 31, 2021, or somewhere in between in a few states. In many states, there is no expiration date for this “relief from branch licensing period.” In these states, it would appear that state regulators can terminate this “relief from branch licensing” at their discretion, without any notice being provided to licensed companies and licensed MLOs that they are no longer authorized to originate mortgage loans from their home or other remote location without a branch office license. From the research we have done, we found that regulators in only a handful of states indicated that they would provide advance notice to licensees of the expiration of this “relief from branch licensing period.” In most states, regulators were not preparing to notify licensees that the relief from branch licensing would be expiring, but rather seemed to have an expectation that licensees would return to licensed branch operations immediately upon the expiration of the branch license relief period. We find this to be surprising and alarming. We believe that state regulators, should not “pull the rug out” from under licensed companies or MLOs who have made accommodations to their operations over the past year in reliance on the state allowing them to originate residential mortgage loans from their home or other location without a license. We ask-- should regulators not provide advance notice of the expiration of the “relief from branch licensing period,” after licensees geared up, allocating capital and resources, to originate mortgage loans from an MLO’s unlicensed home or other unlicensed location. Without sufficient advance notice, licensed companies doing business from unlicensed locations could find that their authority to do so in many states had suddenly and unexpectedly been extinguished. On one day, a licensee could be originating mortgage loans from an unlicensed location in accordance with the conditions required by the state to do so, and the next day, without any advance notice, the licensee could find that it was originating mortgage loans from an unauthorized, unlicensed location, in violation of the licensing statute, subject to penalties or other sanctions, and possibly holding an unenforceable and unsaleable mortgage loan. This would be counter-productive, and undermine the efforts undertaken over the last year to continue with the origination of mortgage loans, and maintain employment of many MLOs. We believe that four actions must be undertaken, and for these actions, we request the Ombudsman’s support.

- 1) Each state that, as of March 1, 2021, had allowed a licensed mortgage company or MLO to originate mortgage loans from the MLO’s home or other location should issue a branch license for that location, upon (i) the request of the licensed mortgage company and (ii) the condition that any requisite bond,(other insurance coverage) required for a branch office license be submitted to the responsible state agency within 60 days of the branch office license being issued.
- 2) If a state is not willing to issue a branch license as set forth above, then each state that had authorized the conduct of licensable activities from an unlicensed home or other unlicensed location must provide notice to the licensed company

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or MLO at least 60 days in advance of the precise date of when the licensable activity from an unlicensed home or other unlicensed location would no longer be authorized.

- 3) Each state that, as of March 1, 2021, had allowed a license mortgage company or MLO to originate mortgage loans from the MLO's unlicensed home or other unlicensed location should issue some form of official public guidance that the mortgage loans originated from an unlicensed, but otherwise authorized location, were originated in accordance with the authority of the state and the [named state licensing law] [and that the mortgage loans are enforceable as if the location had been licensed].
- 4) Each state whose mortgage finance licensing law imposes a branch office licensing obligation should seek the repeal of such a provision from the mortgage finance licensing statute.

We are not asking of something completely foreign to state regulators. Several state regulators with whom we have spoken or emailed have advised that much has been learned from this period of "relief from branch licensing," and regulators in a number of states have taken the position, or are favorably considering, that branch office licenses should no longer be needed once COVID-19 has run its course. As I understand, the Office of the State Bank Commissioner ("OSBC") in Kansas allows licensed MLOs to work from home or to relocate to another location without the home or location being licensed as a branch, provided that the MLO did not meet with existing or prospective borrowers at the unlicensed location. In addition the OSBC also offers certain best practices to ensure that the security of the borrower's information is maintained. Among others, Washington regulators are supportive of legislation to amend their mortgage finance licensing law to no longer require branch licensing. Some states have never licensed branch offices, or do not license branch offices outside the state, so the issue of branch licensing has never been a great concern in these states, but they have much to offer their colleagues in other state as to their experience. It would be good to hear from regulators in those states as to their experience. With advances in technology, if there ever is a time to seriously consider dispensing with branch office licensing, this is the time. We ask the Ombudsman to support these efforts. Thank you for allowing me to speak to this issue, and for your consideration.

Sincerely,



Gus Avrakotos



Mortgage Loan Originator Remote Work Licensing Flexibility
Continuing Current Guidance and Updating State Licensing Laws and Rules

Background

The onset of the COVID-19 pandemic led to many states issuing mandatory shelter-in-place requirements, which required all, except those deemed “essential,” to work from home. These orders presented a challenge for state licensed mortgage lenders in states which require licensed staff to work from a licensed location, such as a branch office. Regulator flexibility was critical in states where licensed staff was, and continues to be, needed to assist consumers with urgent pandemic-related forbearance needs. MBA appreciates the speed with which state regulators moved to issue temporary remote work guidance and “no action” statements to provide clarity and legal certainty to the real estate finance industry. However, given the uncertain trajectory of virus and newly emerging strains as well as the uncertain long-term effectiveness of vaccines, additional flexibility and legal certainty is necessary to protect consumer and employee health as well as proved customer assistance most impacted by the economic upheaval created by the health crisis. This is also an opportunity to reflect on lessons learned in the last year and apply them to state licensing laws to benefit consumers, regulators, and industry.

Short Term Needs

In states where regulatory licensing flexibility was provided, MBA believes remote work guidance should:

- be uncoupled from any time frames in state or national shelter-in-place declarations or emergency executive orders;
- be extended without sunset dates, but at least through the end of 2021;
- include a 120-day transition period to provide the industry adequate time to return to licensed locations.

In this regard, MBA thanks the Non-Depository Supervisory Committee of the Conference of State Bank Supervisors for their thoughtful August 25, 2020 memorandum encouraging all state regulators to issue guidance documents if they hadn’t already done so, and to make sure their guidance documents are up to date.

Longer Term Change

MBA also urges state policymakers to collaborate with industry to update their state licensing laws and regulations to permanently allow licensed staff to have the flexibility to

work remotely. Updating state licensing laws will allow industry and policymakers alike to apply the lessons learned from pandemic to a post-pandemic economy and help prepare all stakeholders for any future national emergencies or regional natural disasters. MBA is grateful that this process has already begun in some state states that are considering legislation and regulations (i.e. Washington, Arkansas, Maryland) and in other states that have eliminated sunset dates from the guidance documents.

To help advance the dialogue at this meeting and other regulator-industry gatherings, MBA has released model state legislative and regulatory language (Exhibit 1). This model recognizes the evolution in work location changes happening in the economy and would in no way weaken vital state laws and rules necessary to protect borrowers while they work with mortgage lenders or servicers. Nor would it impede the ability of state regulators to examine and supervise companies servicing borrowers in their state.

MBA welcomes the opportunity to engage with state regulators help to develop legislation or regulations that would help facilitate the ability to work from a remote location in a safe and secure manner.

PROPOSED STATUTORY LANGUAGE

AN ACT permitting state licensees to work from Remote Locations, under certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF [STATE]:

Section 1. Chapter X of Title X of the Official Code of [STATE], relating to financial institutions, is amended as follows:

“[New Code Section]. (a) Notwithstanding anything to the contrary under the laws of the state of [STATE] including subsection (b), nothing in [this chapter] shall be interpreted to prohibit employees of a Licensee performing licensable activities at their residence or another Remote Location in accordance with Licensee’s written supervisory policies and procedures.

(b) The Commissioner of the [Regulatory Agency] shall have the authority to promulgate rules to establish requirements and standards relating to Remote Locations.”

Section 2. Chapter X of Title X of the Official Code of [STATE], relating to financial institutions, is amended as follows:

“Remote Location” means a location at which the employees of a Licensee may conduct business other than the principal place of business or a registered Branch Office. Licensable activities from a Remote Location shall be permitted when under the supervision of the Licensee and when all of the following apply:

- (1) the Licensee has written policies and procedures for supervision of employees working from their residence or a location other than a licensed location;
- (2) access to company platforms and customer information shall be in accordance with the Licensee’s comprehensive written information security plan;
- (3) no in-person customer interaction will occur at an employee’s residence unless such residence is a licensed location; and
- (4) physical records shall not be maintained at a Remote Location.

PROPOSED ADMINISTRATIVE REGULATION LANGUAGE

Notice of Intent to Adopt a Proposed Amendment to the [NAME OF REGULATION]
Chapter XXX
Rule XXX

XXX.XXX. Standards for Permissible Actions from a Remote Location.

A Licensee may permit its employees to work at Remote Locations under the supervision and in compliance with Licensee's written policies and procedures subject to the following conditions:

- (a) Customer interactions and conversations about consumers will be in compliance with federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established under the Federal Trade Commission, set forth at 16 CFR Part 314;
- (b) Employees working at a Remote Location must access the company's secure systems (including a cloud-based system) directly from any out-of-office device such employee uses (laptop, phone, desktop computer, tablet, etc.) via a virtual private network (VPN) or comparable system that ensures secure connectivity and requires passwords or other forms of authentication to access;
- (c) Licensee shall ensure that appropriate security updates, patches, or other alterations to the security of all devices used at Remote Locations are installed and maintained;
- (d) Licensee must have an ability to remotely lock or erase company-related contents of any device or otherwise remotely limit all access to a company's secure systems;
- (e) Licensee shall employ appropriate risk-based monitoring and oversight processes and any employee that will work from a Remote Location agrees to comply with the Licensee's established processes;
- (f) Licensee shall, at least once annually, certify that all employees engaging in remote activity meet the appropriate standards and safeguards to continue such activity;
- (g) The NMLS record of a Mortgage Loan Originator that works from a Remote Location shall designate the Corporate Headquarters as their Registered Location unless such Mortgage Loan Originator elects to choose a licensed branch location as a Registered Location.