



NMLS Ombudsman Meeting
2018 AARMR Annual Regulatory Conference
Boston Park Plaza Hotel, Boston, Massachusetts
Georgian Room
July 31, 2018, 9:00 a.m. to 12:00 p.m. ET

Agenda

1. **Scott Corscadden, *NMLS Ombudsman & Supervisor, Bureau of Loans, Alabama State Banking Department***
 - Welcome, Ombudsman Update & Issue Review
2. **William Kooper, *Mortgage Bankers Association*** Exhibit 1
 - Implementation of MLO Temporary Authority
3. **Kathryn Goodman, *Buckley Sandler*** Exhibit 2
 - NMLS Add/Delete Company Account Administrator Form & Account Creation Policy
4. **Costos Avrakotos, *Mayer Brown LLP*** Exhibit 3
 - State-Specific Information Reporting in NMLS
5. **Cindy Corsaro, *Promontory Fulfillment Services LLC*** Exhibit 4
 - Streamlining Applications & NMLS 2.0 Recommendations
6. **Open Discussion**
7. **Janine Bjorn, Rich Madison, Sue Clark, *CSBS***
 - **Finally! A Call for Regulators and Industry to Work Together to Redefine the Meaning of “Control” in Licensing**
 - i. *The definition and reporting of “control persons” in NMLS has been an ongoing issue for years. Following-up on the February ombudsman meeting, CSBS has initiated an effort to work with regulator and industry to redefine the traditional definition of “control persons” and how they are reported in NMLS in a way that better meets the need of all stakeholders.*

Implementation of MLO Temporary Authority

The Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (S. 2155) amended the federal Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act of 2008 to provide for a 120-day temporary transitional authority period for a bank mortgage loan originator (MLO) moving to a non-bank lender, or for MLOs already working for a non-bank lender seeking licensure in another state. The law mandates that states implement transitional authority by November 24, 2019. However, many states have already taken action and could be ready much sooner. The Bureau of Consumer Financial Protection (BCFP) should issue expedited written guidance to make clear that while all states must implement transitional authority in 18 months, states may implement the law sooner if they choose to do so.

OVERVIEW

- Since 2008, the SAFE Act required MLOs employed by non-bank lenders to be *licensed*, which includes pre-licensing and annual continuing education requirements, passage of a comprehensive test, and criminal and financial background reviews conducted by state regulators. These MLOs are also registered in the Nationwide Mortgage Licensing System and Registry (NMLS). By contrast, MLOs employed by federally insured depositories or their affiliates only have to be *registered* in the NMLS – they do not have to pass a test or meet standardized pre- and post-licensing education requirements.
- In Bulletin 2012-05, the BCFP responded to inquiries from state regulators regarding whether states may permit MLO transitions. MBA also submitted a legal opinion to the BCFP arguing that the SAFE Act did not prohibit states from issuing transitional licenses. While the Bulletin made clear that the SAFE Act did allow states to provide a transitional license to an MLO with a valid license in another state, the Bureau asserted that the Act did not allow states to provide a transitional license for a registered MLO who leaves a federally regulated company to act as a loan originator while they are obtaining a state license.
- To mitigate these challenges faced by MLOs and their employers, several states have taken action – either independently or through collaborative efforts facilitated by the National Mortgage Licensing System (NMLS) and the Conference of State Bank Supervisors (CSBS):
 - All 58 state regulators (includes, DC, Puerto Rico, Guam and the Virgin Islands) have adopted the NMLS's MLO National Test Component with Uniform State Content (also known as the Uniform State Test, or UST).
 - Ohio, Virginia and North Carolina enacted laws to allow state-to-state MLO transitions. These state laws also included provisions to permit transitions from federally regulated to state regulated companies, provided the federal SAFE Act was amended to authorize such actions.

For more information, visit mba.org
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- New Hampshire and South Carolina have also enacted laws permitting state-to-state transitions and New Mexico and Colorado enacted similar provisions through rule making.
- In light of the fact Congress has now enacted legislation to require transitional authority for both state-to-state and bank-to-nonbank activity, MBA urges the BCFP to rescind Bulletin 2012 -05 and allow states the option to operationalize the new transitional authority law earlier than 18 months if they are prepared to do so.

IMPACT

- State licensing of MLOs can be a slow and burdensome process, which creates a disincentive for MLOs already employed at bank and bank affiliated lenders from moving to non-bank lenders. Under the current process, an MLO making the move from bank to non-bank is required to sacrifice their income for several weeks or months. Alternatively, the lender is required to pay the MLO even though the MLO cannot originate loans or meet with prospective borrowers or referral sources. Neither option is tenable or appropriate for a competitive or mobile labor market.
- Congress and the President have now resolved this issue and created a fair and competitive labor market by eliminating barriers to:
 - The ability of non-bank lenders—especially small lenders—to compete for talented MLOs; and
 - The ability for MLOs to work for any employer—bank or non-bank—that offers them the best chance to earn income and succeed in their career.
- By breaking down artificial employment barriers, the new law will also result in more MLOs completing pre-licensing education and taking a standardized test—leading to a better-qualified MLO workforce, a larger number of test-takers and therefore greater compliance with lending laws.

MBA'S POSITION / NEXT STEPS

- The BCFP should consult with the CSBS and others to discuss transitional authority implementation and the NMLS system.
- BCFP should rescind Bulletin 2012-05 and issue expedited written guidance that:
 - Notes that federal law now supports all MLO transitions for a period of 120 days;
 - Clarifies that all states must implement the law in 18 months;
 - Offers a clear path for states to adopt transitional authority sooner than 18 months if they able to do so.
- State policy makers should review their laws to identify any changes needed to their statutes or regulations that could impeded the implementation of the new law, and if necessary seek amendments as expeditiously as possible.
- MBA will continue to work with the NMLS to ensure expedited implementation to the greatest extent possible. MBA will also work with its state association partners to urge their regulators to prepare for timely implementation, and early adoption wherever possible.

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July 16, 2018

Via Electronic Mail to ombusdman@nmls.org

Scott Corscadden, NMLS Ombudsman
Conference of State Bank Supervisors
1129 20th Street NW, 9th Floor
Washington, DC 20036

Re: Topics for July 31, 2018 NMLS Ombudsman Meeting

Dear Mr. Corscadden:

We appreciate the opportunity to provide topics for discussion during the July 31, 2018 NMLS Ombudsman Meeting in Boston, Massachusetts. We would like to discuss the following two topics: (1) the NMLS Add/Delete Company Account Administrator Form (the "Form"); and (2) the NMLS Account Creation Process. We encourage state regulators and NMLS representatives to review and update the Form and Account Creation Process in the near future, and to ensure that NMLS 2.0 aligns with any such changes.

NMLS Add/Delete Company Account Administrator Form

We recommend that an amendment be made to the Form and the NMLS' policy surrounding who may be designated as a company account administrator. Currently, the Form includes the following instruction: "Administrators must be employees of the company. Third party users should be created as an Organizational User by an existing administrator." The Form also requires the individual executing the Form to check a box attesting that the new company account administrator is an employee of the company.

We recommend amending the foregoing instruction and attestation to also permit a non-employee officer, director, manager, or authorized signatory to serve as the company account administrator. We make this recommendation because some companies that utilize the NMLS do not have employees (i.e., they only have officers, directors, managers, and/or authorized signatories) and have seen their Forms rejected by NMLS representatives because they cannot complete the Form's attestation. The officers, directors, managers, and/or authorized signatories of these companies are typically employees of a parent or affiliate of the company and it would be burdensome and costly to make them employees of the company solely for this purpose.

Permitting non-employee officers, directors, managers, or authorized signatories to serve as company account administrators would not contravene any access, authorization, security, or other concerns state regulators and NMLS representatives may have. Indeed, in most cases, it may be more appropriate for such persons to serve as company account administrators over mere employees (considering such persons' roles and responsibilities).

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Also, a company should not be required to take official action – i.e. execute a resolution – or produce a formal document to appoint a non-employee officer, director, manager, or authorized signatory as company account administrator. This would be akin to requiring an employee appointed as a company account administrator to provide evidence of employment, which, is not currently required.

NMLS Account Creation Process

On a related note, we encourage review of the NMLS Account Creation process to allow an officer, director, manager, or authorized signatory of the company to submit the account request and be designated as an account administrator. Many entities required to hold a license do not have employees but do have officers, directors, managers, or authorized signatories to serve in this capacity.

We are aware of the NMLS rejecting account requests because the name of the company seeking the account in NMLS does not match the email address associated with the individual requesting the account. For example, representatives from wholly-owned subsidiaries such as “123 Entity Needs a License” may have an email address that is `anyname@parentcompany.com`. Ostensibly, this “check” was put in place to prevent third parties from controlling accounts in NMLS on behalf of their clients. While we understand that third parties should not control NMLS accounts, the email address is not a true test and should only be reason for possible escalation to CSBS employees for review. An outright rejection causes unnecessary delays for legitimate companies to comply with regulatory requirements to be licensed. We encourage state regulators and NMLS representatives to review and update the current account creation process to ensure the validation process provides sufficient assurance these account requests are legitimate without undue burden on compliant companies.

Our proposals are consistent with the changes made in the NMLS attestation that originally required an employee to attest and submit, but, after productive discussion with state regulators and the NMLS Ombudsman was amended to allow employees or officers of the company to attest and submit filings in NMLS.

Thank you for your consideration of these topics. We look forward to presenting them during the NMLS Ombudsman meeting and to contributing to a practical solution that adheres to NMLS security policies, achieves regulatory oversight goals, and provides an efficient path for our clients eager to comply with state licensing requirements.

Sincerely,



Kathryn Goodman

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July 16, 2018

VIA ELECTRONIC MAIL

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RE: Ombudsman Session at the AARMR Conference

Dear Mr. Corscadden:

In my letter to the Ombudsman on January 22, 2018, in connection with the CSBS NMLS Conference in New Orleans, I addressed a growing concern with the licensing process in the Nationwide Multistate Licensing System (NMLS).

From "Day One" a major goal of the states in creating the NMLS was to strive toward greater uniformity in the application process. This was the refrain we heard from CSBS and state regulators whenever the benefits of the NMLS were discussed. However, 10 years after the NMLS was created, we are starting to see a growing number of state regulators who are mandating that information specific to his or her state be entered into or uploaded in the NMLS. As a few state regulators have begun to demand that state-specific information be uploaded in the NMLS, we are increasingly concerned that the stated goal of uniformity in the licensing process, which CSBS and the state regulators have touted, would be undermined. In my presentation to the Ombudsman, I offered a number of reasons as to why this would be a problem. Entering information in the NMLS or uploading documents in the NMLS required by one or a small number of states:

- 1) Results in confusion and uncertainty as to what is expected and will be required in applying for state licenses nationwide;
- 2) Creates unnecessary additional expense in other states to satisfy non-MLS requirements;

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- 3) Leads to the imposition of fines or penalties in certain states as the reporting of additional ownership interests is mistaken for a change in ownership;
- 4) Subjects person to being labeled as control persons, when the do not control the management or policies of a licensee or license applicant;
- 5) Triggers MU2 or other filings in states that otherwise would not be required by that state;
- 6) Causes a false attestation, as regulators may compel inaccurate information to be entered into the NMLS;
- 7) Provides a justification for regulators in other states to require their own state-specific information to be entered in the NMLS;
- 8) Renders the NMLS Policy Guidebook false and inaccurate in representing what is required.

In my February presentation to the Ombudsman, I also suggested that CSBS and the State Policy Committee should strongly re-affirm that the intent of the NMLS is to strive for uniformity, and strongly discourage state regulators from compelling that state-specific information be added to MU1 Account Record or uploaded in the NMLS. I thought, perhaps, as part of the CSBS Accreditation Program for "State Mortgage Agencies," CSBS should evaluate a "State Mortgage Agency's" efforts toward achieving uniformity in the state licensing process. I also indicated that I thought CSBS is giving serious consideration to establishing a functionality in NMLS 2.0 that would enable a regulator to obtain information his or her state required, without the information being entered with the common NMLS information. I further stated that I have mixed feelings about this change in functionality, but begrudgingly believed it is a more favorable alternative than enabling states to force applicants and licensees to enter or upload information in the NMLS that is not required by the NMLS or other states.

Well, in the 6 months or so that have elapsed since the CSBS NMLS conference, the situation has not gotten better. More states are beginning to require information to be entered or uploaded in the NMLS that is only required for that state, and we have heard nothing substantive from CSBS as to efforts to encourage the states to accept the NMLS requirements for licensing mortgage finance companies, or to create a functionality in the NMLS as part of NMLS 2.0 in which an entity can submit information required by one state where only regulators in that state can see and evaluate the information. As this issue is getting worse, I am re-submitting my comments to the Ombudsman from the February conference so this matter can be more fully discussed. Those remarks are attached. In addition, I have attached an Exhibit where we seen regulators in the last year require that information required by his or her state be entered or uploaded in the NMLS.

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In my Ombudsman presentation from February I had indicated that a few states had abandoned the goal of uniformity. I see that I was mistaken. I was wrong to characterize this as an abandonment of uniformity by these states. It appears that uniformity is still a goal of these states, but they want uniformity to be applied on their terms and with the application-related information that they demand for their state be the application information that all states should read and consider in evaluating an entity's application for a license. Therefore, if it is truly the position of CSBS and the Policy Committee to create a functionality in the NMLS where information can be entered or uploaded that is required by one state, then I strongly urge CSBS create a mechanism whereby only the state whose law requires that such information to be considered see that information. CSBS should separate state-specific information or uploads from the common information entered into the NMLS or the general document uploads. States whose state mortgage financing law does not require information to be considered that is required by another state's law should not view another state's specific documents in passing judgment as to whether an applicant should be issued a license. Doing so renders that state's mortgage financing law as irrelevant. If the state's legislature has not considered a particular requirement necessary to license an entity in the state, the information should not be evaluated because it is considered relevant in another state.

We thank you for your patience and willingness to hear our concerns, and trust that they will be given full and fair consideration as CSBS and the State Policy Committee go forward in creating NMLS 2.0.

Sincerely,



Costas A. Avrakotos

Exhibit A

In connection with licensing filings made in the NMLS, a numbers of states have (i) required information to be entered in the NMLS when it is not required for purposes of creating the MU1 record, or (ii) demanded that documents be uploaded in the NMLS when the Guidebook provides that such documents should not be uploaded in the NMLS. Here are a few examples:

Alaska required a certain Mortgage Broker/Lender Affidavit to be uploaded in the NMLS.

Georgia required a less than 25 percent indirect corporate owner (actually less than 11 percent) to be entered into the NMLS.

Louisiana required the upload of a Certificate of Resolution for each control person. Per the NMLS Louisiana Mortgage Broker/Lender Servicer new applicant checklist, the applicant is to “upload a certificate of corporate resolution for each individual that has authority to act on behalf of the licensee in issues dealing with the Office of Financial Institutions.

In connection with a change of control, **Maryland** required a copy of the purchase agreement to be uploaded in the NMLS. Specifically, Maryland required a licensee in a change in control transaction to “upload to the NMLS a Purchase Agreement, Sale Agreement, or similar documentation (with all required signatures) that speaks to the transaction described in the change in control filing.”

In connection with 2018 renewals, **Maryland** also required a volume of business report to be uploaded in the NMLS. Specifically, Maryland noted in the NMLS Renewal Checklist the following: “For 2018 Renewal Purposes, please be advised: The licensee must provide a sworn statement of the volume of business, specifically the aggregate principal amount of Maryland mortgage loans secured or to be secured by property located in Maryland that were applied for and accepted for the period of November 1, 2016 – October 31, 2017. Please upload this statement to your NMLS account under Document Samples.”

Three states, **Maryland, Michigan, and North Carolina** wanted less than 10 percent owners to be identified to the states. For now, Michigan and North Carolina regulators are willing to accept this information outside the NMLS. Maryland regulators have indicated that they want the less than 10 percent owners to be entered in the NMLS.

Massachusetts wanted less than 10 percent indirect owners to be entered in the NMLS, and be vetted, because it was believed that this is required by the Bank Secrecy Act.

Nevada, based on a management chart that another state required to be uploaded in the NMLS, required a number of non-control-level persons to be added to the Direct Owners and Executive Officers section of the MU1; which automatically required those individuals to complete and submit MU2s.

Both **Nevada** and **Massachusetts**, in connection with the review of a licensee during a change in control transaction required an Organizational chart, which was to be designated state-specific, to be uploaded in the NMLS.

Ohio, in connection with its Residential Mortgage Lending Act Certificate of Registration new application checklist, required an applicant to upload in NMLS a (i) copy of the Main Office Deed/Lease/Sublease, or (ii) if a residence, proof that the business can be conducted at that location (i.e., that there are no deed restrictions and the location is properly zoned.)

Earlier this year, **Oregon** required a client to upload a document that provided details on the ultimate equitable owner of the licensee that are not items entered in the indirect ownership section of NMLS. Specifically, Oregon directed the client to “upload to the Document Upload section of your company’s MU1 in the NMLS the following for the [Ultimate Equitable Owner]: Phone number, fax number, e-mail address, physical / mailing address, and formation date.

Pennsylvania required the upload of a business plan entitled, per the new applicant checklist, the “**Pennsylvania Business Plan.**”

Utah, required a notarized letter on company letterhead be uploaded in the NMLS, in which the owner or vice president authorized the Qualifying Individual to use the company name and associated d/b/as.

Requiring different versions of the same information, such as a business plan, creates confusion.

The uploading of documents in the NMLS that should not be uploaded prompted regulators in one state to post several deficiencies asking the client to remove something from the document uploads because it “doesn’t belong”, or explain why it needs to be there. Among other comments, the regulators noted the following:

Custom License Item - Document Uploads – Business Plan - Duplicative/Incorrect. It is noted multiple (similar) business plans have been uploaded. A single most current business plan outlining marketing strategy, products, target markets, and operating structure the applicant intends to employ should be universal to all jurisdictions involved. Please explain multiple (similar) business plans. As applicable, provide an amended filing through the NMLS to remove outdated and/or superseded information. Note: Uploaded files that are superseded by subsequent filings should be removed from the category; the removed information remains in the category history for reference.

It is noted multiple (similar) management charts have been uploaded. Please explain multiple (similar) management charts. Upload a single, current Management Chart displaying the applicant’s directors, officers and managers (individual name and title) of the applicant to the Management Chart section of the Form MU1 Document Uploads. The chart must also identify compliance reporting and internal audit structure. As applicable, provide an amended filing through the NMLS to remove outdated and/or superseded information. Note: Uploaded files that are superseded by subsequent filings should be removed from the category; the removed information remains in the category history for reference.

It is noted multiple (similar) organizational charts have been uploaded. Please explain multiple (similar) organizational charts. Please upload an Ownership/Organization Chart displaying the percentage of ownership of: Direct Owners (total direct ownership percentage must equate to 100%); Indirect Owners; and Subsidiaries and Affiliates of the applicant to the Organizational Chart/Description section of the Form MU1 Document Uploads. Continue up the chain of ownership until a publicly traded company or individual(s) is reached.

If there are situations or filings other than the ones identified in Exhibit A where a company has been compelled to enter information in the NMLS, or to upload documents in the NMLS, that are not required for NMLS purpose, but are specific to one or a couple of states, please let me know, and we will add those items to the Exhibit presented for consideration to the Ombudsman.

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January 22, 2018

VIA ELECTRONIC MAIL

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RE: Ombudsman Issue, CSBS NMLS Conference, February 2018

Dear Mr. Corscadden:

The Conference of State Bank Supervisors ("CSBS") had some lofty goals when the Nationwide Mortgage Licensing System ("NMLS") was created 10 years ago. There were many naysayers who did not think it could work, that regulators were kidding themselves to think that a nationwide, on-line system for obtaining and maintaining mortgage finance licenses in each state through some organized and agreed to structure that promoted uniformity among the states could work. Despite the doubt and hurdles that had to be overcome, countless individuals among state regulators and those in the mortgage finance industry work hard to establish, refine and adjust to the NMLS, and the NMLS took hold and began to flourish. Quite an accomplishment and much credit goes to those individuals at CSBS and with the states for the inspiration to create and the determination to see this through and firmly establish the NMLS.

But now, ten years later, after what industry and state regulators could point to as a significant accomplishment, some fissures are beginning to show.

From "Day One," a major goal of the states in creating the NMLS was to work toward uniformity. No doubt there would be trade-offs. In some states, licensing was a relatively easy paperwork filing process. The NMLS, however, required significantly more of an effort to obtain, maintain, and renew a license. The paper filings would largely fall by the wayside, but in exchange, the industry would have one, nationwide, uniform system by which licenses could be managed. The industry fell in line, learned and re-learned what they needed to know, and together with state regulators, collaborated on making the NMLS work.

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Today, 10 years after the NMLS was created, we are starting to see some cracks in how the licensing process is handled, as a few states seem to have reverted to their old ways, and abandon their efforts to uniformity.

As set forth in the NMLS Policy Guidebook, "the goal of NMLS is to improve mortgage, consumer finance, debt, and money services industry supervision, heighten communication across states, **increase consistency in licensing requirements**, and automate processes to the greatest degree possible." State regulators signed on to this goal when the NMLS was created. Some state mortgage finance licensing laws were amended with this goal in mind, with some expressly providing for this goal. For 10 years, at every one of the CSBS Conferences, we have heard the mantra that the NMLS was promoting uniformity, and that ongoing efforts were being pursued to standardize the licensing process. This goal has been elusive, but it still seemed that state regulators were striving toward greater uniformity.

Today, however an increasing number of state regulators are mandating that information specific to their state be entered in the MU1 Record, or uploaded in the NMLS. Not since the early years of the NMLS, have we seen as many regulators insist that their state's unique information be entered into the MU1 Record of an applicant or licensee as we do today. Compelling applicants and licensees to make filings in the NMLS that are not required by the NMLS, but specific to a state statute or regulation, thwarts the shared goal of uniformity. If regulators in each state compelled licensees to enter unique state information in the NMLS, the standardization that the states have attempted to achieve would be lost.

Recent events suggest that this is happening. For purposes of what is filed in the NMLS, we recently were told by one state regulator that "the strictest state in which an entity wishes to be licensed controls." Where did that come from? That simply is wrong. If the regulator's position was correct, it would have gutted the NMLS long before it got off the ground. No one would be working toward a goal of uniformity and standardization, and licensees and regulators would be sifting through scores of different filings that one state or another believed must be in the NMLS for all states. Nevertheless, this fever to compel state-specific information to be entered in the NMLS, regardless of the NMLS requirements, or what it means for applications before other state regulators, seems to be spreading.

The NMLS policy has always required that natural person 10% or more indirect owners of an applicant or licensee be reported in the NMLS, but the NMLS policy has never required the reporting of business entities with a less than 25% interest at the indirect level. Now, however, regulators in a couple of states are requiring that all 10% or more indirect owners, including those entities with a less than 25% interest at the indirect level, be reported in the NMLS.

In a couple of states, regulators want the ownership interest to total to 100%, despite not being required by the NMLS.

Regulators in another state want all branch managers to be listed as Qualified Individuals in the MU1, despite the branch manager having no control over the operations of the licensee.

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Regulators in a couple of other states have signaled that all owners, even those with a less than 10% ownership, should be reported in the NMLS or set out in an organizational chart that is uploaded in the NMLS.

Regulators in a state or two want an organizational chart, consistent with what the state requires to be shown on the chart, uploaded in the NMLS, and are not content to receive it outside the System.

Regulators in other states have required all control persons to be listed as employees of the licensee, regardless of whether the person is employed by the licensee, its parent company or an affiliate.

We have tried to understand why this is the case, and why some regulators must have state-specific information entered in the NMLS, rather than accept it outside the System. Why? - because it is convenient, we are told. Why? - because the NMLS is based on a One Record Concept. Why? - because we need it and it "will not be a heavy lift to do so." Why? - because our state law expressly requires that we consider such information.

We recognize that there may be an inefficiency for a state in managing some information outside the NMLS, but more inefficiencies and deficiencies arise in other states if information not otherwise required for NMLS purposes is entered in the NMLS.

We recognize the "ONE RECORD" concept of the NMLS, but regulators do damage to this concept if they increasingly continue to require that their state-specific information be entered or uploaded in the NMLS. If this keeps up, perhaps the concept should be called the "50 State Record Concept of the NMLS, plus the District of Columbia, Puerto Rico, the US Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands."

As to whether entering information in the NMLS is a "heavy lift," the regulator fails to recognize the implications of entering non-NMLS required, state-specific information into the NMLS. Entering such state-specific information:

- 1) results in confusion and uncertainty as to what is expected and will be required in applying for state licenses nationwide;
- 2) triggers MU2 or other filings in other states that would not be required by that state;
- 3) creates unnecessary additional expense in other states to satisfy non-NMLS requirements;
- 4) leads to the imposition of fines or penalties in certain states as the reporting of additional ownership interests is mistaken for a change in ownership;
- 5) could lead to a false attestation, as regulators may compel inaccurate information to be entered into the NMLS;

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6) provides a justification for regulators in other states to no longer accept state-specific information outside the NMLS;

7) renders the NMLS Policy Guidebook false and inaccurate in representing what is expected.

As for the state law requirements, we know that the state law controls, and the NMLS provides as much. We are not suggesting that the NMLS policy takes precedence over any state law, but rather we recognize that the state law prevails. We understand that the NMLS has no authority to make laws or rules that impact the state regulation of any business that is licensed through the NMLS. We are not asking a regulator to dismiss any state requirement. We are not asking a regulator in any state to waive any requirement that is needed to pass muster on whether an applicant can be approved. We recognize and respect that state regulators must hold fast to the requirements that must to be reviewed for a license or a change in control approval. No doubt, a state regulator must consider the information required by the statute she or he administers, but we do not believe that state-specific information must be forced into the NMLS, and made available to regulators in all states, to meet the requirements of one state.

In creating the NMLS, state regulators recognized that some states may have unique filing requirements, and therefore, the NMLS provided that such state-specific information should be submitted outside the NMLS. The NMLS Guidebook provides that “[i]n addition to using their One Record in NMLS to apply for, amend, surrender, or renew their license, applicants and licensees may be required by a state to submit additional items outside the system.” The NMLS, therefore, provides a mechanism by which applicants or licensees can provide information to meet state requirements that exceed that which must be submitted for NMLS purposes. Submitting state-specific information outside the NMLS is recognized and endorsed by CSBS, and we do not believe it is prohibited by any state mortgage finance licensing statute. This has been the acceptable practice since the inception of the NMLS, and regulators generally have been prepared to accept the state-specific filings outside of the NMLS, as provided in the Guidebook. Now we are finding that this is no longer the case, and we have no idea as to why this practice is no longer acceptable in a few states. In 2017, for more than one filing, in more than one state, we have asked that state regulators accept a state-specific filing outside the NMLS and our request was denied, under threat that a license or renewal filing would not be approved.

We have not made these requests arbitrarily, but rather, looked to the state laws and their express language that recognizes the NMLS, and efforts toward achieving greater standardization. Many state mortgage finance licensing laws expressly recognize this goal of the NMLS. For example, the mortgage finance licensing law of one state provides that the state regulators are authorized to, among other things, (1) participate in the Nationwide Multistate Licensing System and Registry in order to facilitate the sharing of information and standardization of the licensing and application processes for mortgage loan originators, mortgage brokers, and mortgage lenders by electronic or other means; and (2) enter into operating agreements, information sharing agreements, interstate cooperative agreements, and

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other contracts necessary for the Department's participation in the Nationwide Multistate Licensing System and Registry. This state's mortgage finance licensing law supports the standardization of the licensing process. Yet, our client was not permitted to follow an acceptable alternative approach to submitting the statutorily required information outside the NMLS.

As each state has agreed to participate in the NMLS to standardize the licensing process, we would think that regulators in each state would seek solutions that would be consistent with the NMLS when they can do so. We recognize that each state retains full and exclusive authority in determining who may be issued a license, but that authority is not undermined in any way if a state regulator accepts filings unique to her or his statute outside of the NMLS. Indeed, by accepting uniquely state-required filings outside the NMLS, state regulators would be both fulfilling those provisions of the statute that recognize the NMLS, while retaining exclusive authority as to the information called for in the licensing statute.

We are at a crossroads, and hope that these fissures in the licensing process can be repaired before the fault line grows wider, and more states demand that state-specific information be entered or uploaded in the NMLS. We think the CSBS and the State Policy Committee should strongly re-affirm that the intent of the NMLS is to strive for uniformity, and strongly discourage state regulators from compelling state-specific information to be added to MU1 Record or uploaded in the NMLS. Perhaps, as part of the CSBS Accreditation Program for "State Mortgage Agencies," CSBS should evaluate a "State Mortgage Agency's" efforts toward achieving uniformity in the state licensing process.

Additionally, as part of NMLS 2.0, we understand, CSBS is giving serious thought to establishing a functionality through which state-specific information can be submitted or uploaded in the NMLS. NMLS 2.0 may provide the remedy to the concerns raised in this letter. We have mixed feelings about this change in functionality, but from what we have seen this past year, we believe it is a more favorable alternative than enabling states to force applicants and licensees to enter information in the NMLS that is not required by the NMLS or other states. We trust this functionality for NMLS 2.0 is being favorably considered. In the interim, if the information required under a statute is not required for NMLS purposes, state regulators should be strongly encouraged to accept the submission outside the System and then transition this information on to the NMLS, in the "state-specific page," as part of NMLS 2.0.

We thank you for your consideration of our concerns, and trust that they will be given full consideration by state regulators, the State Policy Committee and CSBS.

Sincerely,


Costas A. Avrakotos



July 16, 2018

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

Re: AARMR 2018 Ombudsman Meeting topics – Cindy Corsaro

Dear Scott:

I would like to submit the following topics for discussion at the Ombudsman Meeting at the AARMR 2018 Annual Regulatory Conference in Boston, Massachusetts:

- 1) Improved communication needed between regulators and industry re: deficiency responses and license applications
- 2) State regulators need to be more cognizant of how other state(s) may be affected by their state-specific requirements, especially when one state requests/requires updates or uploads in NMLS that will affect other states, particularly:
 - State-specific Business Plans
 - “One off” state-specific requirements
- 3) Ability to assign different Business Activities in MU1 per license application rather than by state, since some states have different license(s) that require removal of certain business activities allowed under other license(s) already approved in NMLS
- 4) Recap or update on topics raised at previous Ombudsman Meetings that may affect and/or should be considered for inclusion in NMLS 2.0 and SES:
 - highlight changes made in Pending MU1 filing so Administrators know what has been changed prior to submitting
 - separate Address Change option for updates not related to moving to a different location
 - addition of Explanation box to explain what has been added or updated in MU1 filing
 - better organization of renewal deadlines (what is on the renewal spreadsheet in NMLS vs actual deadlines per state)
 - display due dates for CE on renewal checklists or in Education section of MU4 since they vary per state
 - display of entity name on all pages once logged into NMLS
 - state-specific requirements requested after the application is submitted but not on New Application Checklist(s)
 - request that regulators wait the allotted five days before setting deficiencies on new applications
 - request that state(s) not issue compliance examination deadlines two weeks before or after MCR deadlines or the NMLS Annual Conference is in session

If you have any questions related to the above-mentioned topics, please do not hesitate to contact me.
Thank you!

Sincerely,

Cindy Corsaro.

Cindy Corsaro
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