



**RESPONSE TO COMMENTS RECEIVED DURING THE SRR COMMENT PERIOD ON
THE ELECTRONIC SURETY BOND TRACKING
OCTOBER 1, 2014 TO OCTOBER 30, 2014**

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Background

On October 1, 2014 the State Regulatory Registry LLC (SRR)¹ invited public comment on the [proposed implementation of Electronic Surety Bond Tracking in NMLS](#). All submitted comments are available on the [NMLS Resource Center](#). After review of the comments by the Surety Bond Working Group, the [NMLS Policy Committee](#) and the NMLS Industry Development Working Group², the following is a summary of the comments received with SRR's response regarding the approval of implementing Electronic Surety Bond Tracking in NMLS.

Purpose of Implementing Electronic Surety Bond Tracking in NMLS

Many state laws or regulations require financial services licensees to obtain a surety bond as a condition of licensure. State regulators or consumers can file claims against a surety bond to cover fines or penalties assessed or to provide restitution to consumers due to the failure of a licensee to comply with licensing or statutory requirements.

In addition, Title V of P.L. 110-289, *the Secure and Fair Enforcement for Mortgage Licensing Act of 2008* ("SAFE Act")³ requires that applicants have met "...either a net worth or surety bond requirement, or paid into a State fund..." in 12 USC §5104(b)(6). In 2014, 48 state agencies required mortgage loan originators to either have their own surety bond or be covered under a company's surety bond in order to originate mortgages. (The remaining agencies have established a state recovery fund.) State regulations define the specific surety bond requirements (e.g. amount of coverage) that must be satisfied in order to obtain, maintain, and renew a license in the state.

In 2014, 177 license authorities managed on NMLS required the company to obtain and maintain a surety bond as a condition of licensure. As more state agencies choose to manage license authorities on NMLS, SRR expects this number to grow.

One of the primary goals of NMLS is to serve as the comprehensive system of record for licensing information. NMLS's current functionality is limited to the uploading of a surety bond document

¹ State Regulatory Registry LLC (SRR) is a nonprofit subsidiary of the Conference of State Bank Supervisors (CSBS) that operates NMLS on behalf of state financial services regulatory agencies.

² The Industry Development Working Group (IDWG) consists of individuals from state-licensed non-depository financial services companies, financial institutions, and financial services-related industry trade groups to provide licensee input into the technical and functional development of NMLS to ensure that, to the greatest extent possible, the system provides industry users an efficient and effective mechanism for applying for and maintaining their state financial services licenses.

³ The full text of the SAFE Act can be found at <http://mortgage.nationwidelicencingsystem.org/SAFE/NMLS%20Document%20Library/SAFE-Act.pdf>

through NMLS, but does not allow for the tracking of surety bond requirements or the maintenance of surety bond information validated by authorized Surety Companies and/or Surety Bond Producers⁴. Tracking surety bond compliance is cited as a reason for processing delays in license applications, amendment filings and renewal approvals.

Responses to Comments

At the end of the public comment period, SRR had received submissions from five commenters with respect to implementing electronic surety bond tracking in NMLS. Commenters included two surety associations and three state-licensed financial services companies. The comments were reviewed by the Surety Bond Working Group (comprised of state regulators) and the NMLS Policy Committee. SRR also held discussions with the National Association of Surety Bond Producers (NASBP) and the Surety & Fidelity Association of America (SFAA).

Based upon the comments received, SRR found no objections to the implementation of electronic surety bond tracking in NMLS, but was asked for clarification of the intended process and functionality.

ELECTRONIC SURETY BOND TRACKING

Entitlement (Account Creation)

The [Request for Public Comments](#) described the creation of an entitlement process that all Surety Companies and Surety Bond Producers in the business of issuing, brokering or underwriting surety bonds for financial services will undergo before being able to provide surety bonds for licensees through NMLS. Commenters had concern that the entitlement process was intended as a relicensing activity for such entities.

SRR Response

“Entitlement” in NMLS is the process through which an account is created in NMLS and login credentials are issued. Entitlement allows SRR to control access to NMLS to parties with a legitimate reason to use the system and ensures that multiple records for the same entity are not created.

Surety Companies and Surety Bond Producers will be required to submit an account request in NMLS to provide electronic surety bonds through the system. Surety Companies and Surety Bond Producers will provide SRR baseline information for account verification purposes and substantiation of designations. SRR will review requests and validate information such as the submitting entity’s ability to conduct business in a particular state, and their corporate and organizing information as submitted by the company. This review will ensure the company does not already have a record in NMLS, is duly authorized to conduct business based upon prevailing

⁴ For purposes of this proposal, a surety company is defined as “a company whose primary business is acting as a surety for the performance of obligations especially by the issuing of surety bonds” and a surety bond provider is defined as “an agent or broker acting on behalf of a surety company to issue and maintain surety bonds for the bond principal.”

statutes and standing, and will identify any outstanding regulatory issues with the company.

Entitlement to NMLS is not a licensing activity nor does it substitute for state authority in any manner. Entitlement and account creation provides access to an entity's own record in NMLS, but not to the record of any other account in the system.

Replication of Paper Process (Wet Signatures)

The request for public comment specifically asked what other items or issues should state regulators consider promoting adoption of electronic surety bonds in NMLS, which would replace the existing paper-based bonding process that is conducted outside of the System. A few commenters noted the importance of preserving the formalities of the current bonding process such as the need to include the execution of a bond and contract.

SRR Response

In order to meet state bonding and contractual requirements, a standardized bond form will be used that contains common data entry fields in addition to state-specific language based on the license type associated with the bond. State regulators believe adoption of this functionality which will validate a surety bond company's/producer's authority to conduct business, and leverage data in NMLS, will meet the formalities of bond issuance, increase the reliability of surety bond information and provide a more streamlined mechanism to meet state requirements. Licensed entities in NMLS will legally attest within the System to the electronic bond which contains highly scrutinized, reliable, and verifiable information.

Publicly Viewable Information

Several commenters raised concerns regarding what information would be viewable by the Surety Companies and Surety Bond Producers and the general public.

SRR Response

Surety Companies and Surety Bond Producers will not have access to licensee information in the System unless the licensee grants access to their information. In the case where a licensee grants access to their record to a Surety Company or Surety Bond Producer, the licensee information available to the Surety Company or Surety Bond Producer will be limited to (1) information that is available on [NMLS Consumer Access](#) and (2) any pending license applications to a state agency participating in NMLS.

Furthermore, NMLS undergoes rigorous testing and reviews to ensure that sensitive and non-public data is protected. Please see the [NMLS Data Security Overview](#) for more information.

With the initial launch of electronic surety bond tracking in NMLS, state regulators have not indicated a primary need to display bonding information on licensed entities to consumers. This topic may be further explored in future public comment periods related to NMLS Consumer Access.

Fee Plan

One commenter inquired about SRR's proposed fee plan, costs associated with implementing and administering Electronic Surety Bond Tracking in NMLS, and who will incur potential fees. (No fee information was provided in the [Request for Public Comments](#).)

SRR Response

This Request for Comments was limited to the functionality and policies of the proposed NMLS Electronic Surety Bond Tracking and did not include any fees. Fees associated with NMLS functionality are determined by the [SRR Board of Managers](#), who governs the activities of NMLS on behalf of participating state agencies.

The NMLS Electronic Surety Bond Functionality is major functionality that SRR is spending significant resources in developing. We believe that, when fully functional, it will create great efficiencies and cost savings for Surety Companies and Surety Bond Producers, licensees, and state regulators. As SRR continues to evaluate Electronic Surety Bond Tracking in NMLS, the issue of assessing any possible fees will be reviewed by the SRR Board.

Interoperability

One commenter highlighted the importance of not restricting the execution of a bond within a closed system that is restricted to a technology or structure provided by a specific vendor. The commenter suggested that SRR establish high level requirements to accept bonds and perform association management from systems and technologies that meet those requirements. A commenter also expressed concern with the possible exclusion of Surety Companies or Surety Bond Producers who do not utilize the electronic surety bond tracking process, from providing bonds for clients or potential clients who are licensed through the System.

SRR Response

Surety Companies and Surety Bond Producers that do not wish to participate in NMLS are not required to do so, but in order to issue and track bonds electronically through the System, a certain level of interaction with NMLS is required to maintain and update the surety companies/producers information, associations, and bonds. SRR is developing a bulk transfer functionality to facilitate association management between Surety Companies and Surety Bond Producers. Bond issuance to NMLS licensees can continue to be managed in the same paper process manner as today, externally from the System, or through the functionality under development.

After deployment of electronic surety bond tracking in NMLS it will be up to each state regulatory agency to decide whether or not it will continue to accept bonds outside of the System, solely through NMLS, or through either channel.

Surety Bond Working Group Participation

Commenters suggested soliciting the input and guidance of surety industry representatives to ensure successful deployment that is not burdensome to industry.

SRR Response

In addition to the state regulators participating on the Surety Bond Working Group, since the initial public comment period in October 2014, SRR has been working closely with representatives from the National Association of Surety Bond Producers (NASBP), the Surety & Fidelity Association of America (SFAA) and numerous industry participants to ensure that the proposed functionality creates a more streamlined, secure, and verifiable bond process that does not hamper necessary business processes. SRR will continue to consult with state regulators and industry representatives in developing and maintaining this functionality.

Process Overview

SRR will implement the functionality of Electronic Surety Bond Tracking in two phases. In Phase I, SRR will implement the account creation and association process for surety companies and surety bond producers. In Phase II, SRR will implement bond issuance and tracking. As development work continues, SRR will keep the state regulators, NMLS licensees, and industry stakeholders informed on the timing of implementing Phase I and II of Electronic Surety Bond Tracking in NMLS. SRR anticipates Phase I to be implemented in 2016.