



NMLS Ombudsman Summary
Hilton Tampa Downtown, Tampa, Florida
Bayshore 2-4
9:00 a.m. - 12:00 p.m. (ET)
August 2, 2016

The NMLS Ombudsman, Scott Corscadden, called the meeting to order at 9:06 a.m.

1) NMLS Ombudsman Update

Scott Corscadden, NMLS Ombudsman

Supervisor, Bureau of Loans, Alabama State Banking Department

Corscadden provided an update on issues that had been brought up at the last Ombudsman meeting in February. Companies had requested that they received the MCR flagged filing report, which is an auto-generated analytical report that identifies certain data quality errors contained in an MCR filing. After discussions with internal working groups, the decision was made to begin a pilot program for dissemination of the report to a set number of companies and then to provide the report to those companies that request it.

Corscadden also discussed the NMLS licensing checklists updates, noting that 15 percent of the 2,000+ checklists were updated with a new format that will provide more uniform content. He also discussed follow-up taken on the issue of development of a formal policy on the SRR public comment process. A draft policy has been written, which was attached in the Ombudsman packet and will be discussed at the August SRR Industry Advisory Council meeting. Following that meeting, the proposal will be issued for public comment before being adopted.

Another update discussed was the additional public comment period on the licensing form attestation language that was a result of technical issues raised at the last meeting regarding final language that had been planned to be adopted. As a result of that discussion, SRR issued an additional public comment period and the language, "to the best of my knowledge, information and belief" was added back to the attestation.

The NMLS 2.0 development process was also discussed and Jim Payne (Kansas), co-chair of the NMLS 2.0 Regulator Steering Committee provided details on the NMLS 2.0 development governing process and how stakeholder engagement will be facilitated. Amy Greenwood-Field, (Bradley Arant Boult Cummings LLP) stated that she hopes that industry will be engaged fully in the 2.0 development process. Mary Pfaff (CSBS) discussed how industry will be involved and spoke to the engagement of the Industry

Development Working Group and Large Institutions Working Group in the formal stakeholder engagement process. Pfaff also stated that all details of the process will be posted publicly on the NMLS Resource Center.

2) Foreign Entity Licensing

Haydn Richards

Bradley Arant Boult Cummings LLP

Richards discussed concerns related to the licensing of foreign entities. Specifically, he stated that certain states do not permit the licensing of foreign entities either by state law or agency policy. Haydn also discussed the issue of vetting control persons and qualifying individuals who reside in a foreign country and have issues running a criminal background check or financial fitness evaluation.

Scott Corscadden (Alabama) responded that Alabama has issued some licenses to foreign companies and individuals, but does have issues vetting foreign based individuals especially when the individual has never resided in the United States. Rich Cortes (Connecticut) stated that their agency does not feel confident with materials provided for foreign based individuals and that most often they are inconsistent and difficult to read and understand. Rich suggested that a working group be developed to further evaluate the issue with both regulators and industry. Gus Avrakotos (Mayer Brown LLP) voiced support for the creation of a working group and agreed that he has noted an increasing trend for companies to offshore operations and their ownership structure.

Richards agreed to follow up with interested parties for follow up.

3) Licensing Requirements for Account Executives

Lisa Marie Lanham

Dentons US LLP

Denton discussed an issue of inconsistency between the states on individual licensing of account executives of wholesale lenders. Tom Brennan (Massachusetts) responded that Massachusetts recommends that account executives should be licensed mortgage loan originators because of the potential for them to interact with consumers and discuss mortgage products. Jim Payne (Kansas) stated that they recommend that the location where the executives work out of be licensed as a branch as well.

Jack Konyk (Weiner Brodsky) stated that there are issues when an individual is added to a record in NMLS that not all states require the specific individual to be added but all see it and often contact the company asking why they didn't report this individual initially and were they attempting to hide something. He asked that regulators that do not require certain individuals to be reported not aggressively react to the record being updated especially when they don't require the individual to be added as part of their licensing requirements.

Stacey Valerio (Connecticut) stated that Connecticut does require qualifying individuals and branch managers to hold mortgage loan originator licenses. Greg Oaks (Florida) said that Florida bases their decision on whether a control persons should be licensed on what specifically the individuals are doing and what their role is. Rick St. Onge (Washington)

stated that they are similar to Florida in that they base the licensing requirement on what exactly the account executives are doing and what activities they complete.

4) Stakeholder Engagement with NMLS

Ken Markison

Vice President and Regulatory Counsel, MBA

Markison stated that the MBA is pleased with the upcoming posting of the formal SRR public comment process. He said he hopes that the 60 day comment period will become the standard for all NMLS public comment periods. Additionally, there was discussion around the need to ensure that for any significant change in the System that there is enough lead-time to implement the adjustment so that industry can update their own systems and processes. Gus Avrakotos (Mayer Brown LLP) stated that he is supportive of the longer 60 day comment period and he feels it permits industry to better organize their responses.

The proposed policy will be reviewed by the SRR Industry Advisory Committee and then will be posted for a public comment period.

5) Attestation Language

Amy Greenwood-Field, Bradley Arant Boult Cummings LLP

Costas Avrakotos, Mayer Brown LLP

Greenwood-Field asked for clarification on what is meant by “employed by” in the final attestation language for NMLS licensing forms. She asked if the language could be adjusted to permit an authorized agent of the company to attest to the filing submission and asked a general question regarding who the regulators want to attest to the filing. Gus Avrakotos (Mayer Brown LLP) made similar comments in that he would like clarification on who specifically the states want to attest to the filing.

Stacey Valerio (Connecticut) said that the SRR Lawyers Committee’s intention is that the company be responsible for the attestation. The concern is that the company will separate itself from the individual submitting the attestation. Greenwood-Field stated that she feels the System, through the use of submitter roles, provides adequate accountability for the attesting individual.

Tom Brennan (Massachusetts) stated that his agency is seeing third party entities completing the attestation and that is one of the reasons why the change in attestation language is needed. K.C. Schaler (Idaho) voiced concern over the same issue of third parties submitting the attestation and that the company would be able to distance itself from the filing submission attestation.

Haydn Richards (Bradley Arant Boult Cummings LLP) stated that he feels the licensing/compliance staff who are account administrators are better acquainted with the System and record information than the control persons and therefore should be permitted to submit the filing and attest to the record.

Valerio said that the issue seems to be around the company’s understanding of “employee” and that it needs to be someone who can bind the company and understands the record. Tim Lange (CSBS) noted that starting in September companies will need to

specifically identify which users in NMLS can attest to the filing and that this enhancement was requested by the SRR Lawyers Committee.

6) Backdating of License Approval Dates

*Cilla Conrow, Project Manager
Veterans United Home Loans*

Conrow discussed an issue with individual licenses being backdated to a date prior to the actual approval of the license. She explained that this backdating creates issues with the Mortgage Call Report and their own internal tracking system.

Tom Brennan (Massachusetts) stated that they backdate in order to properly track the processing times for applications. Tanya Anthony (The Money Source) said she has experienced backdating issues with branch licenses being backdated and that it created issues between their licensing and business units in that it appears that they could have been working earlier than the actual approval date in the system.

Kirsten Anderson (Oregon) stated that they only backdate if they have made a mistake or if they issued an approval by order. K.C. Schaler (Idaho) stated that they would only do backdating for transitional licenses to reflect the initial approval date that was completed outside of the system. Tanya asked if we could make adjustments in NMLS 2.0 to require a reason be entered when backdating occurs.

It was concluded that because there seem to be inadvertent consequences in companies when backdating occurs, that CSBS staff will gather more information and Corscadden will prepare a memo to the states addressing the issue.

7) Examination Preparation Materials

*Terri Baer
One Main Holdings, Inc.*

Baer spoke on behalf of AFSA asking if the states could provide examination preparation materials to permit licensees to see what is covered in exams in order to better plan and prepare for an upcoming exam. Tony Vasile (CSBS) stated that the Multistate Mortgage Committee (MMC) exam templates and other materials are available on the CSBS website. Kirsten Anderson (Oregon) discussed that various preparation materials and sample questions are available on their website and they are updated on a routine basis. Charlie Fields (PennyMac Loan Services) asked that as the NMLS examination system is developed that it be considered to include these sample materials so that they can be available to licensees directly in NMLS.

Some state regulators suggested that industry should bring this issue to NACCA (the National Association of Consumer Credit Administrators).

8) Uniformity Proposal for State Advertisement Disclosures

*Scott Nowak,
Assistant Director of State Government Affairs, MBA*

Nowak discussed a need for uniformity in advertisement/disclosure requirements between the states. He explained that the existing requirement for each state disclosure is not effective for its intended consumer awareness purposes, is inefficient, and costly for a multi-state licensee to comply with. He circulated proposed language that directs consumers to visit NMLS Consumer Access and eliminates the need for each state's individual disclosure requirements. Scott informed regulators in the room that the MBA's intention is to push this uniform disclosure verbiage with its state members with a goal of encouraging state legislatures to adopt and require the adjusted verbiage.

Kirsten Anderson (Oregon) asked if they would want this disclosure on business cards and specifically if they have an issue with the NMLS ID being required on business cards. Scott responded that they actually encourage the use of the NMLS ID on business cards and are fully supportive of that requirement. Scott asked that if the regulators have feedback on the proposed disclosure verbiage that they reach out to him.

9) Examination Trends

*Charlie Fields, First Vice President, Mortgage Regulatory Affairs
PennyMac Loan Services, LLS*

Fields discussed that it would be helpful if regulators could share trends they may be seeing in examinations of licensees. Items such as recent findings and other issues examiners are seeing would be useful for licensees to know in ensuring they maintain compliance.

Rick St. Onge (Washington) stated that his agency holds a quarterly webinar to discuss findings and trends they have experienced during recent state exams of licensees. Tony Vasile (CSBS) stated that a findings report and trends from the Multistate Mortgage Committee (MMC) are available on the CSBS website and it's updated on a routine basis. Greg Oaks (Florida) stated that the number of mortgage related consumer complaints has decreased and that recent findings are mostly related to state disclosure requirement issues.

Cynthia Begin (Massachusetts) stated that when they complete an exam they have found issues with their not being a designated individual at the company that processes and tracks consumer complaints.

10) Mortgage Call Report Update

*Rich Cortes, Principal Financial Examiner
Connecticut Department of Banking*

Cortes provided an update on recent Mortgage Call Report developments. He discussed the ongoing CSBS project of reviewing and tracking state reporting requirements that are submitted outside the System and are in addition to the Mortgage Call Report. Rich stated that the MCR working group will be working on expanding the definitions and instructions of what should be included in the report. He also discussed the possibility of moving towards a business activity basis to determine what information should be submitted on the MCR by each company instead of the current GSE basis that distinguishes which companies submit the expanded report rather than the standard version.

Cortes also went over a potential adjustment to the report in that completeness checks and sections required will be based on business activities identified on a company's MU1 form. An industry member asked that when adjustments are made on what sections are required to be completed, that adequate lead-time be provided in order to permit licensees to make adjustments to their internal systems to be able to submit the adjusted report.

11) Additional Topics

a) Housing Counseling Licensing

David Shirk (Lotstein Legal) asked for clarification on housing counseling requirements and a potential conflict of interest issue with counselors who work with lenders. Additionally, he stated that there is a potential for a housing counselor to discuss terms of a mortgage or lending options during translation services provided to clients. His request is for housing counseling agencies to be exempted from MLO licensing requirements.

K.C. Schaler (Idaho) stated that Idaho has an exemption for housing counseling companies, but do require licensing if they are involved in lending.

b) MLO Invoicing Issue

Tanya Anthony (The Money Source) discussed an issue with invoices being posted to individual MLO accounts in the System and that posting to the individual account makes it difficult for the company to pay the invoices for them. K.C. Schaler (Idaho) asked what type of fees are causing the issue and voiced support for adjusting the system to permit payment of invoices posted to individual accounts by the employing company.

c) Securities Filings

Gus Avrakotos (Mayer Brown LLP) asked if state regulators could rely on the forms being submitted to FINRA for securities purposes instead of requiring a separate license application from in NMLS. He made the point that many agencies regulate both and sees a potential for reduction in submission of filings. Greg Oaks (Florida) stated that Florida and other state have to adopt each form version by rule and the variation between the forms may prevent the acceptance of the securities form for mortgage and other state licenses.

d) Foreclosure Registry

Jack Konyk (Weiner Brodsky) discussed recent developments in the tracking of foreclosures and abandoned properties. He requested that states considering the tracking of these properties collaborate on a uniform registry to ensure the tracking of these properties is efficient and completed in a consistent format. Jedd Bellman (Maryland) discussed his states status on the issue and agreed with the need for uniform reporting if possible.

e) Control Person Definition

Carolyn Goldman (Goldman and Zwilling) discussed an issue with the NMLS control person definition potentially including control persons of parent companies that are publicly traded. She felt that this seemed unnecessary and was beyond the intention of the control person definition. She requested that regulators review the definition and make clarifications if possible.

Corscadden thanked all of the attendees and participants at the meeting and adjourned at 12:00 p.m.