



NMLS Ombudsman Meeting
Boston Park Plaza, Georgian Room
Boston, MA
9:00 a.m. to 12:00 p.m. (EST)
July 31, 2018

The NMLS Ombudsman, Scott Corcadden, called the meeting to order at 9:00 a.m.

1. NMLS Ombudsman Update

Scott Corcadden, NMLS Ombudsman

Supervisor, Bureau of Loans, Alabama State Banking Department

Scott Corcadden, NMLS Ombudsman, reported he received 94 emails between February 1 - July 31. Corcadden reviewed the emails and responded directly to the individual or directed the individuals' question to SRR staff. SRR staff then routed the questions to the internal Regulatory User Group (RUG); NMLS Call Center; the NMLS Resource Center; a specific state regulator; or the Consumer Financial Protection Bureau (CFPB). None of the emails received contained any queries or issues that needed further review by the NMLS Policy Committee. The top five general categories of emails received over the last six months, in order of frequency, were License Application, Consumer Complaint, Renewal, system log-in or access issues, and Testing. The email subjects varied in terms of the level of specific details.

Corcadden also updated the group on several issues that had been discussed at previous Ombudsman meetings, including the meeting in February, and other events that have occurred since then.

Uniform State Test: Effective August 1, the Minnesota Department of Commerce adopted the National State MLO Test with Uniform State Content (UST), becoming the 59th state agency to no longer require a state-specific test component to be taken by mortgage loan originators (MLOs) seeking licensure with its state. The UST was launched in April 2013. Minnesota is the final state to adopt the UST, bringing the adoption of the test to 100%.

Mortgage Call Report (MCR) Update: Rich Cortes, Principal Financial Examiner with the Connecticut Department of Banking and Chair of the MCR Working Group, provided an update on the MCR update. Implementation has been postponed until the first quarter of 2020, so that a full year of data can be collected with the new format.

NMLS/SES Fly-in: On July 17 and 18, CSBS hosted 28 state regulators and 11 industry members for the first NMLS 2.0 & SES Stakeholder Fly-in. The primary purpose of the Fly-in was to have both industry users and state regulators test both new systems in the

staging environment. NMLS 2.0 was tested from account setup to license approval. SES was tested from the point at which a company responds to a regulator's information requests to the point at which a regulator completes the areas chosen to be reviewed in an exam. Multiple Fly-in attendees discussed their experiences. Jim Payne (Kansas Office of the State Bank Commissioner) felt the Fly-in was successful, citing the back-and-forth between state regulators and industry participants as a highlight. Payne concluded the new system will make it easier to keep track of items and complimented the system's ability to pre-review applications. Kristie Battershell (Quicken Loans) also expressed enthusiasm about the long-term concepts being developed, again singling out the industry-regulator interaction as a highlight.

NMLS 2.0 Steering Committee: Jim Payne (KS and Co-Chair of the NMLS 2.0 Steering Committee) gave a brief overview of the NMLS 2.0 Steering Committee. Committee members, representing seven state agencies, meet every week to discuss system goals and navigation, and policy decisions. Payne gave an update on what the Committee has been working on and requested they continue to receive feedback on the development of NMLS 2.0.

NMLS 2.0 Update: Tim Doyle (CSBS) provided an update on the NMLS 2.0 project. CSBS is currently working to identify a new go-live date for the system. CSBS will not finalize a go-live date until they are confident the date can be met with a product that is intuitive and easy to use, eliminates or minimizes checklists, provides a better process for Control Persons, and delivers better document management. Doyle reminded attendees the system being rebuilt is over ten years old and is used by 30,000 banks and non-banks. Doyle reported CSBS has been unhappy with the development velocity of the NMLS 2.0 project. Additionally, the delay in go-live has contractual ramifications to our primary vendor and related vendors which must be worked through. He assured attendees there will be an increase in interaction and more opportunities for feedback in the future. Doyle also confirmed 2.0 will not go live during the annual renewal period.

2. Implementation of MLO Temporary Authority

William Kooper, Mortgage Bankers Association

William Kooper presented on behalf of the Mortgage Bankers Association (MBA). The speakers acknowledged many regulators have reservations about The Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155) and sought to address some of the most frequent concerns. They explained the law does not provide for a traditional license, but rather a temporary authority to operate, and that company licenses will be at risk for bad actors. Furthermore, the limitations on to whom the law applies are designed to discourage bad actors; the temporary authority to operate requires one year of federal MLO registration. The MBA is happy about the extended liability protection the new law offers. They are requesting the CFPB rescind Memo 2012-5, as they feel it is no longer accurate. The MBA believes doing this will open a path to make it possible for temporary authority to operate to be available before the 18 months required by law. Finally, Kooper discussed how NMLS will help with state change of sponsorship.

Lisa Tinsley (CSBS) provided an overview of S. 2155 and confirmed the law is not effective until November 24, 2019. The law grants a temporary authority to act as an MLO for individuals moving from a federally regulated employer to a state regulated employer or moving from one state to another. CSBS' goal is to modify the NMLS process to comply with the November 2019 deadline. Tinsley explained that in NMLS 2.0, the system will be able to automatically check for certain eligibility requirements such as background checks, testing and credit reports. During the period of temporary authority, the MLO may originate loans. If the MLO cannot obtain a license after 120 days, the loans conducted within the temporary authority period will still be valid. There is an outstanding question about whether a temporary authority to operate status will be used. A meeting attendee also asked if S. 2155 is preemptive or not. Kooper replied law says "shall, not may," and therefore is in effect for all states.

Traci Walsh (Ohio Division of Financial Institutions) stated her agency already has a transitional license, and that most MLOs come in already approved in another state. Typically, applicants apply for both a transitional and an MLO license at the same time. It allows for state-to-state licensure and allows changes based on federal law, therefore allowing movement from depository to non-depository institutions. Jim Payne (KS) questioned who decides when authority begins – what is the origin of authority, and what role do the states play? Payne encouraged CSBS to design the system so that it could answer these questions automatically.

Tim Doyle (CSBS) spoke on how NMLS will implement temporary authority. Most of the provisions can be checked by the system. The goal is to implement in NMLS 2.0.

A discussion about how temporary authority to operate impacts Rap Back began. Regulators present requested that states make sure enforcement actions are up to date in the system so denials can be issued quickly when necessary. Kirsten Rice (North Carolina Commissioner of Banks Office) said NC believes the law to be preemptive.

A meeting attendee asked what would happen if an applicant had a misdemeanor within the past five years. In NC, this would be grounds for denial, and the individual would not be eligible for licensure. How would that work in the system? Costas Avrakotos (Mayer Brown LLP) responded if a company is denied a license in any state, it would lead to a revocation of its temporary authority in five states. If an MLO is denied licensure in a state, are there any other states that deny licensure? The MBA representatives said liability provisions will protect NMLS, but not until November 2019. An attendee asked how temporary authority will appear in NMLS Consumer Access. The final question came from an attendee who asked about the relationship between 120 days and state laws vis-a-vis abandonment. Would there be a different outcome for transitional vs. a new license? Kirsten Anderson (Oregon Division of Financial Regulation) responded yes, this would be the case.

CSBS/Ombudsman Follow-Up: S. 2155 will be implemented in NMLS effective November 24, 2019. CSBS to follow-up with implementation approach.

3. NMLS Add/Delete Company Account Administrator Form & Account Creation Process

Kathryn Goodman, Buckley Sandler

Kathryn Goodman presented recommended changes to the NMLS Add/Delete Company Account Administrator Form and the NMLS Account Creation Process.

Currently, the Company Account Administrator 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 Administrators are an employee of the company. Goodman recommends amending the instructions and attestation to also permit a non-employee officer, director, manager or authorized signatory to serve as the Company Account Administrator. This would allow companies that technically do not have employees to successfully submit this form and complete the Account Administrator change process.

Goodman also suggested a change to the NMLS Account Creation Process, allowing an officer, director, manager or authorized signatory of the company to submit the account request and be designated as an Account Administrator. This change would allow companies who do not have employees to successfully complete the Account Creation process. Buckley Sandler is aware of NMLS rejecting account requests because the name of the company seeking the NMLS account does not match the email address associated with the individual requesting the account. Goodman thinks this email test is not a true test and should not provide for the immediate rejection of the account request, but rather be cause for escalation for CSBS employees for further review.

Kirsten Anderson (OR) said she has no problem with allowing non-employee officers, directors, managers or authorized signatories to be designated as Account Administrators if they have clear authority to operate and to view information. Anderson and Jedd Bellman (Maryland Commissioner of Financial Regulation) believe this is acceptable if safeguards are put in place for anyone who is not an officer, director, manager or authorized signatory. K.C. Schaler (Idaho Department of Finance and Co-Chair of the NMLS 2.0 Steering Committee) expressed concern that an unaffiliated person may be able to attest to NMLS filings. Goodman said Buckley Sandler is not advocating for third-party attestation. Katie Ryan (Buckley Sandler) stated individuals with authority should be able to create an account and attest. Dave Dwyer (CSBS) explained the NMLS 2.0 approach to Account Creation. The individual account will be created, then the first entity affiliation should be to their third-party company. Companies need to clarify an individuals’ roles and permissions. Dwyer will see if this issue can be addressed in 1.0.

CSBS/Ombudsman Follow-Up: NMLS Ombudsman will take these suggestions to the NMLS Policy Committee, where they will be vetted further.

4. State-Specific Information Reporting in NMLS

Costos Avrakotos, Mayer Brown LLP

Costos Avrakotos reviewed problems he discussed at the February Ombudsman Meeting. More states are now requiring state-specific information, and he believes this is causing problems for other regulators who do not need – and should not be able – to review these documents. States should only be able to view documents they requested. Viewing other states' documents could have a negative impact on applicants. In Avrakotos' opinion, more thought needs to be given to who can view state-specific information in NMLS, and how existing company licenses work.

Jedd Bellman (MD) stated the goal of NMLS, and the intention of the SAFE Act, was to create transparency. This is the reason states entered into information sharing agreements. If one state's law does not require personal financial statements, then that state should not look at it. Avrakotos responded this is true, but information sharing cannot be arbitrary. Kirsten Anderson (OR) said her agency requires more data be put into NMLS because the system is more secure. For example, they want contact information for Control Persons in NMLS, but just because the information is there does not mean she looks at it. Oregon does not look at other states' items, and only recently started looking at financial statements. A meeting attendee said it would be more considerate to only view the state-specific information if that state asked for the document. Bellman said Maryland does not arbitrarily deny applications because of reviewing unrequested information that shows up in a file because they do not have enough time to review that information. Anderson added not all information is reviewed because not all members of staff have the appropriate knowledge to review it. A meeting attendee told the regulators it takes a lot of time and money for companies to submit information that is not required by some states. Avrakotos was also concerned there may be repercussions for companies once states start reviewing personal financial statements they did not request. Kathryn Goodman (Buckley Sandler) stated there could be FOIA issues. Bellman reiterated there are privacy requirements settings in NMLS 1.0 for state-owned documents. Stacey Valerio (Ballard Spahr) pointed out there are ownership issues in terms of submitted documents. Therefore, if you want to be able to view a document you should request it. Corscadden ended the conversation and suggested that this issue be further discussed by the NMLS Policy Committee.

CSBS/Ombudsman Follow-Up: CSBS and NMLS Ombudsman will work with the NMLS Policy Committee, 2.0 Steering Committee, the Industry Development Working Group and the Large Institution Working Group to develop appropriate access for state-specific documents and information provided in NMLS.

5. Streamlining Applications and NMLS 2.0 Recommendations

Cindy Corsaro, Promontory Fulfillment Services LLC

Cindy Corsaro began by recapping her requests from the February Ombudsman meeting. She expressed a concern that there is an ongoing communication issue, or a lack of dialogue between regulators and industry. She then requested NMLS 1.0 show those affected when

state-specific requirements lead to global changes affecting multiple states. Corsaro stated regulators do provide contact information in NMLS for their agencies, but no one is responding to deficiencies. State regulators need to be more vocal. Corsaro made a series of suggestions for improvements in NMLS 2.0, which included highlighting the changes in a pending Company Form (MU1), explanation box to provide the regulator with information about the change, display due dates in the system for Continuing Education, and display the entity's name on every page.

Corsaro then began a discussion on business activities and why a licensee cannot list all business activities provided under a license on NMLS even if they are not currently engaged in a business activity. Rick St. Onge (Washington Department of Financial Institutions) warned that industry should be cautious about putting business activities in NMLS they are not actively using. Having activities accurate is best because it drives examination scoping.

CSBS/Ombudsman Follow-Up: NMLS Ombudsman will take these suggestions to the NMLS 2.0 Steering Committee and CSBS to be vetted further for inclusion in the new system.

6. Finally! A Call for Regulators and Industry to Work Together to Redefine the Meaning of “Control” in Licensing

Janine Bjorn, Rich Madison, Sue Clark, CSBS

Sue Clark (CSBS) opened the discussion by questioning who needs to be identified in NMLS 2.0. She believes the word “control” needs to be taken out of the dialogue and discussion ensued about the Fly-in discussions on control. K.C. Schaler (Idaho) felt the discussion at the Fly-in was productive. The common theme was that an individual's title did not matter, but the activities the person was engaged in mattered. Tom Brennan (Massachusetts Division of Banks) said Massachusetts hoped to get non-MU2 contact persons information into the system. Brennan said apparent authority in Massachusetts is considered actual authority, because they need to know who to speak to. A distinction was drawn between decision makers and policy makers, and between MU2 filers and contact employees. An example was made of an ownership structure divided into three stakes of 46%, 46%, and 8%, where the 8% owner has control. Another distinction was drawn between passive investors versus those who have a seat on the board. Kristie Battershell (Quicken Loans) said from an industry point of view, they need to keep record of who can answer which questions. Brennan stated Massachusetts would not speak to anyone who is not listed in the NMLS. Massachusetts has asked that people with less than 25% ownership be put in as contacts because they also have decision making authority. Clark said a decision still needs to be made on who needs to be vetted in 2.0 and conversation needs to include more than the mortgage industry. A meeting attendee asked that the group involved in this project be careful the decision does not impact state statute definitions of Control Persons.

CSBS/Ombudsman Follow-Up: CSBS will take steps necessary to formalize a working group composed of regulators and industry members to further this initiative.

7. Open Discussion

The first topic discussed was multi-state examination and disclosure of consent orders and whether they need to be posted. Jedd Bellman (MD) and Kirsten Anderson (OR) agreed regulators are currently required to update and post consent orders. A meeting attendee said this is not fair – states are getting the worse view of the company even though the company has been in good standing in other states. Anderson said enforcement orders need to be updated to make transitional authority to operate easier.

Next, a meeting attendee questioned whether checklists will still be made available for individuals considering applying for a license. Stephanie Buonomo (CSBS) informed those gathered that licensing requirements will still be available publicly, however the exact format the information will take is yet to be determined.

A meeting attendee reported to the group that she has an MLO at her company who has become a victim of fraud/identity theft. She asked whether there was a way to educate consumers to use NMLS Consumer Access when choosing an MLO. Christopher Moya (New Mexico Financial Institutions Division) asked that any MLO who becomes a victim of fraud contact their office immediately, so the public can be made aware. Bellman said Maryland requires all instances of fraud be reported.

The last issue discussed was raised by William Kooper (MBA). Kooper addressed the issue of uniform ad disclosures. Kooper would like to start discussions on how to include NMLS ID numbers for reference purposes.

Corcadden thanked meeting attendees and participants, and adjourned at 11:59 a.m.