



NMLS Ombudsman Virtual Meeting

Our biannual meeting to address the issues that matter to you

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September 9, 2020, 3:30 p.m. to 5:30 p.m. ET

Meeting Theme

What Happens Next? Remote Work and Supervision in a Post-Pandemic World

The COVID-19 Pandemic forced financial service providers to move quickly to remote operations. Regulators responded equally as quickly by temporarily suspending regulations that prohibited remote work or inhibited operations outside of licensed locations. While the pandemic is far from over, it is not too early to discuss lessons learned from this initial response and to think about how location supervision might "stay different" in a post-pandemic world.

Agenda

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| 1. Opening Remarks and Ombudsman Update | Jim Payne, NMLS Ombudsman & Director of Examinations/Assistant Deputy, Consumer and Mortgage Lending Division, Kansas Office of the State Bank Commissioner |
| 2. "Fishbowl" Discussion on Ombudsman Meeting Theme | NMLS Ombudsman and Panelists |
| 3. Live Questions & Comments with the Experts (Submitted via Webex Q&A Feature) | NMLS Ombudsman, Panelists, and Attendees |

Panelists

- Jim Payne, NMLS Ombudsman & Director of Examinations/Assistant Deputy, Consumer and Mortgage Lending Division, Kansas Office of the State Bank Commissioner
- Kirsten Anderson, Licensing Manager, Oregon Department of Consumer and Business Services
- Charlie Clark, Director, Washington Department of Financial Institutions
- Rhoshunda Kelly, Interim Commissioner, Mississippi Department of Banking & Consumer Finance
- Danielle Arlowe, Senior Vice President, American Financial Services Association
- Charlie Fields, Jr., Senior Vice President, Mortgage Regulatory Relations, PennyMac Loan Services
- Melissa Koupal, Senior Vice President, Loan Integrity, Loan Depot
- Pete Mills, Senior Vice President, Residential Policy & Member Engagement, MBA



Supporting Ombudsman Exhibit Submissions

Danielle Arlowe, *American Financial Services Association* Exhibit 1
Remote Work

Robert Niemi, *Bradley* Exhibit 2
Evolution of Mortgage Branches

Charlie Fields, *PennyMac* Exhibit 3
Branch License Requirements & COVID-19 Work Remote

Robert Broeksmit, *Mortgage Banker Association* Exhibit 4
Remote Work Flexibility for State Licensees

July 16, 2020

Exhibit 1

Jim Payne
Ombudsman, Nationwide Multistate Licensing System
1129 20th Street, N.W., 9th Floor
Washington, DC 20036

Re: Remote work presentation at the virtual NMLS Ombudsman Meeting

Dear Ombudsman Payne:

I write on behalf of the American Financial Services Association (AFSA)¹ to request an opportunity to discuss work from home authorizations for licensees during the virtual NMLS Ombudsman Meeting on Tuesday, August 4.

Thirty-seven states have communicated permission for licensees to have employees work from home during these unprecedented times to protect employees and consumers while maintaining business operations, and some of these states have even noted that employees can work from home permanently according to their statutes and regulations. AFSA believes it is in the best interests of customers and employees to allow licensees to continue to pursue remote operations. Importantly, remote work allows businesses to make critical safety accommodations for employees who may be higher-risk or those who care for higher-risk individuals.

Licensees have proven that their employees can conduct these activities safely and effectively at home during the crisis, with appropriate levels of data privacy and employee supervision. Protection of sensitive information remains a priority for our members, and the pandemic necessitated the opportunity for financial institutions to successfully test the use of technology to ensure data protection and transition to remote work on a large scale. In that time, licensees have demonstrated that nearly all critical operational functions can take place through teleworking.

With no end to the current emergency in sight, remote work remains the best way to maintain continuity of operations for customers and ensure the safety of employees and customers. New technology has made teleworking nearly indistinguishable from in-person operations, and remote work is quickly becoming the new normal. Industry members and regulators alike continue to grapple with these changes—including the implications of remote work for supervision and examinations—and this will likely be a priority issue for many participants during next month's meeting, so NMLS has an opportunity to be at the forefront of these developments.

AFSA's 350+ member companies provide consumers with many types of credit, including

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice.

traditional installment loans, direct and indirect vehicle financing, mortgages, and payment cards. AFSA members are both non-banks and banks, ranging in size from one-state operations to operations in every state. They serve the entire credit spectrum, from non-prime to super-prime consumers. With members spanning the consumer credit industry in every state, AFSA is uniquely positioned to serve as a resource for state financial services regulators seeking information about how financial institutions are adapting operations to meet new health guidelines.

With that in mind, our members have identified the following remote work best practices for licensees to ensure the protection of consumers and to preserve regulatory supervisory authority:

- 1) In-person customer interactions will not be conducted at the remote location;
- 2) Sensitive customer information will be protected consistent with the licensee's existing cybersecurity protocols for on-site operations;
- 3) Risk-based monitoring and oversight processes will be followed;
- 4) Physical records will not be maintained at the remote location; and
- 5) Information regarding the specific activities conducted via telework will be maintained and available upon request.

I would like to discuss these issues and briefly present these best practices and some arguments in favor of remote work authorizations at the Ombudsman meeting with the aim of requesting that states that haven't already addressed the issue of long-time remote work of licensees consider clarifying and expanding work-from-home opportunities for licensees beyond the current crisis. Please do not hesitate to contact me at 952-922-6500 or dfagre@afsamail.org.

Sincerely,



Danielle Fagre Arlowe
Senior Vice President
American Financial Services Association
919 Eighteenth Street, NW, Suite 300
Washington, DC 20006-5517

cc: Jim Payne, NMLS Ombudsman Elect

Robert S. Niemi, CMBSenior Advisor
bniemi@bradley.com
(614) 565-5901 direct

NMLS OMBUDSMAN DISCUSSION TOPIC

FROM Bob Niemi, CMB

DATE July 17, 2020

SUBJECT Evolution of Mortgage Branches

First, congratulations to Jim Payne thank you for stepping up and accepting the role as NMLS Ombudsman. These meetings, the role and your experience will be key to discussions like today and how together we evolve the system and state regulation. If I had any wish for the role it would hope would be to expand these meetings to include an in-person meeting at one of the consumer lender or money transmitter regulatory conferences. As the NMLS expands into more non-mortgage license types and more industries are regulated, the evolution of the NMLS and the effectiveness of the Ombudsman could also be grown. That being said, my topic today is about shared future and how the last several years have evolved and more specifically, what lessons the last four months have shown.

We know that the last financial crisis brought significant regulatory change including the NMLS. We know this pandemic is not over, as we all sit here digitally meeting, forced to socially distance instead of meeting in person. We should also understand that once a vaccine is tested, effective and widely available – this will end and return to a new but not necessarily normal one. For we will never know when the next pandemic will come or how severe the impact will be on all the aspects of our lives. We should consider what we have learned since the last financial crisis and implement change recent lessons as well.

We need to realize that this emergency work from home period has shown us – both as the regulators and the regulated – that we can adapt and survive. These last five months have shown the benefits of the advancements in technology and adaptation to quickly empower companies to provide essential services in a new format. Home is now the office as the old office has become problematic and perilous. Certainly, I do not mean that office buildings are hazardous, but traveling to get there, working near others and meeting customers face to face increase the risk factors exponentially to both employees and to customers. We need to be aware of the move toward the financial technologies and how the lending world has evolved began before the emergency orders were enacted. That is what enabled companies to quickly implement this method of distribution for essential financial services into everyday life.

These four months have demonstrated that remote work, remote supervision and a remote workforce can survive and can thrive in periods of tremendous need and greater volume.

Before this virus sent us all home before St. Patrick's Day, we already knew the systems, security and supervisory policy was in place to make it happen. This virus provided the 'regulatory sandbox' to test how the industry could make that work. This time has also provided the opportunity for state regulators to test the work from home architecture. Lending works in this environment when the proper protocols are in place and the supervision is structure and effective. Regulation works in this environment as well. How can we intersect these worlds into our new regulatory model?

Understand this model for the lending community has existed for several years with cloud-based loan origination systems, virtual private networks, automated compliance and quality control software to ensure that both consumer protections and lending requirements are being met to preserve the value of the loan being originated. This has existed for companies to supervise their origination, processing, underwriting and closing teams whether they work in the same office, across town or in states that allow origination work from home offices. Companies have done this not because it was best in a work from home environment, but because it is the best way to supervise their workforce. Again, this is to preserve the validity and the value of the loan product being originated.

Commutable distance, work from a state-licensed location and brick and mortar branching requires do not preserve this value, nor do the increase the access to credit. States that limit the distance one can drive to work does not increase access to credit for their citizens, it only restricts the markets that originator can serve. States that limit lending to only a state-licensed locations do not increase the access to credit for more citizens, it only restricts the time that these citizens can be served. This work from home 'sandbox' has shown that record volumes of your state citizens can be served, provided essential services and counseled when they need forbearance or just answers. Much like the progressive initiatives contained in VISION 2020 whitepaper, now is the time to implement these changes and remove constraints.

Now the challenge of this is sovereign state licensing authorities. Some states are enable this model and have few limits on branches in their oversight and supervision. Many states will have a sovereign state code and administrative process that will need to be addressed and modified. The simple addition of a digital branch is one such solution, potentially the fastest and causing the least impact on the existing process.

However, we know there will be more work done to remove restrictive code and requirements that actually limit the access to capital based on the 2008 regulatory model. We need open discussions by state to implement regulatory change to remove these burdens and harmonize multistate practices. Echoing a message from CSBS Vision 2020 to "push outside comfort zones toward a stronger system and embrace change to make this happen."

Remember that when branch licensing, work from licensed locations and commutable distances were all put into place during the last financial crisis. At that time, the NMLS was brand new, the SAFE Act and the CFPB were also new, we did not have the Mortgage Call Reports, the SES, NMLS Consumer Access or the NMLS Ombudsman. Since that time, these have all matured as well as the increased state coordination and increased use of technology across the regulatory framework and the industries supervised and licensed on the NMLS.

Now is the time to work together to develop new approaches that leverage technology to improve licensing and regulatory supervision to support the access to capital. Now is the time to enable today's business model with the cooperation of state and federal regulators to insure consumer protections. Now is the time for digital licensing.

Thank you for your time and the opportunity to share my thoughts. I welcome and encourage discussion from the group.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Niemi', with a long horizontal flourish extending to the right.

Bob Niemi, CMB
Senior Advisor for Regulatory Compliance
NMLS Ombudsman Alumnae



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July 17, 2020

VIA EMAIL

Mr. Jim Payne
NMLS Ombudsman
Director of Examinations & Assistant Deputy Commissioner
Kansas Office of the State Bank Commissioner
700 SW Jackson St., Suite 300
Topeka, KS 66603

Re: NMLS Ombudsman Meeting Topics

Dear Jim Payne,

I'd like to submit the following topics for discussion during the upcoming NMLS Ombudsman Meeting.

- State regulator coordination related to providing a "safe harbor" for employees of company licensees to work remotely during the remainder of 2020 due to the COVID-19 Pandemic impacting areas of the United States differently.
- Continue the discussion of branch licensure requirements, given the advancements made in technology utilized in the mortgage industry and consumer preference to use online technology to conduct their mortgage related transactions.

If you have any further questions or comments regarding these suggested topics, please contact me at (813) 498-0878 or charlie.fields@pnmac.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charlie Fields, Jr.", is positioned above the typed name.

Charlie Fields, Jr.
SVP, Mortgage Regulatory Relations



July 24, 2020

Mr. John Ryan
President and Chief Executive Officer
Conference of State Bank Supervisors
1129 20th Street, 9th Floor
Washington, DC 20036

Re: Remote Work Flexibility for State Licensees

Dear John,

I am writing to request that our organizations work together to address an issue that has concerned us both since the onset of the coronavirus pandemic. As you know, with the initiation of shelter-in-place orders by governors and mayors, the mortgage banking industry has had to modify its operations to facilitate remote work in order to deliver critically important financial services to the public. This has been particularly challenging in states where staff of lenders and servicers are required to work from a licensed location or branch. We appreciate that state financial service regulators have provided written guidance permitting those professionals to work-from-home. MBA¹ members are grateful for the leadership of the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) in encouraging and facilitating this flexibility. As a result, our industry has been successful in serving consumers and especially those who have needed forbearance. Indeed, MBA survey data show that more than 4.3 million American families have received mortgage forbearance in the first three months of operationalizing entirely new federal programs along with a variety of additional state requirements.

Because of the open-ended nature of the nation's current public health challenges, MBA would like to establish a collaborative effort with CSBS to address the real estate finance industry's near-term issues related to these work-from-home orders, and to build a longer-term framework for remote work capabilities to address future health emergencies, natural disasters, and changing attitudes toward telework in today's economy.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,300 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, credit unions, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

RE: Remote Work Flexibility for State Licensees
July 24, 2020
Page 2 of 7

Near-Term Challenge and Recommendation

There are many reasons that the current work-from-home permissions should be continued, but none more compelling than the surge in recent weeks of new COVID-19 cases reported daily.

Our reality is that the re-opening of the economy is happening unevenly among the states and sometimes among counties/regions within a state. These uncoordinated public policy decisions are creating confusion and potentially significant regulatory risk for state-regulated independent mortgage bankers (IMBs) that employ licensed mortgage loan originators (MLOs) and servicing personnel. Mortgage companies licensed in several states or nationally must face the complicated challenge of balancing their team's needs against each state's directives. This has made it particularly challenging when individual MLOs are licensed in states where they do not physically reside.

Back-to-work considerations for state-licensed IMBs must not only address the broad public health considerations that go into decisions to extend or end these licensing flexibilities, they must also address factors unique to their workforce, their facilities, and individual employees. For example, an MLO's company/office may not be ready to open up to staff, because workspace and office architecture still needs to be modified to help reduce the risk of transmission. Or, company facilities may only accommodate return-to-work in phases and/or require staggered in-office workdays to adhere to responsible COVID-prevention density requirements. Even if lenders' or servicers' facilities are ready to reopen, companies may face the need to take precautions if individual employees become ill, thus requiring an entire site to be closed and deep cleaned and requiring all other employees who came into contact with their infected colleague to be subject to an extended quarantine.

Finally, personal or family health issues may govern an individual MLO's needs and compel them to remain away from others in a work environment or limit their ability to commute to work if using public transportation. Other legitimate pandemic related needs could relate to individual licensees needing to look after children because of the closure of schools, daycare, or summer camps, or the need to stay quarantined to protect high-risk family members.

All decisions about reopening facilities and allowing individuals to return are occurring against the backdrop of new legal and regulatory requirements as well as potential new litigation risk. These concerns stem from existing and any new federal, state, and even local requirements to provide safe workplaces and mitigate any potential spread of the virus to employees or customers. For example, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) General Duties clause (29 USC 654) requires each employer to furnish to each of their employees a place of employment which is "free from recognized hazards that are causing or are likely to cause death or serious physical harm." There are also compliance needs to consider with respect to the Americans with Disabilities Act. For example, an accommodation may be necessary for an employee who is unable to wear a mask for a protracted period because of a breathing condition. Additionally, new policies are also needed to implement the Families First Coronavirus Response Act enacted earlier this year.

RE: Remote Work Flexibility for State Licensees
July 24, 2020
Page 3 of 7

Addressing these issues requires more time. Employers need to review all requirements and to develop and implement new procedures to protect their employees and their customers. They also need to navigate the increased potential for employee-related litigation and claims. As companies develop policies and procedures to open their offices, they will need to test and implement strategies for basic hygiene, social distancing, identification and isolation of sick employees, workplace controls and flexibilities, and employee training. Until they can confidently complete all these tasks, OSHA suggests they should “consider extending special accommodations to workers with household members at higher risk of severe illness.” Moreover, if an employer implements health screenings, the records of those screenings are, according to OSHA, to be considered confidential and are subject to confidentiality and record retention laws and rules.²

Thus, to be able to continue to meet urgent consumer needs during this period of economic upheaval while protecting employees and the public, lenders and servicers need operational consistency from state regulators to navigate these evolving personnel needs as well as labor laws and regulations. Given the sharp resurgence of the virus in recent weeks, and the lack of a vaccine or treatment in the near term, MBA believes state regulators should collaborate to issue aligned guidance extending the current work-from-home permissions.

Specifically, MBA suggests that CSBS urge its state regulator members to issue guidance, which extends current permissions (by order, rule, or by legislation, if necessary) through the end of 2021. Additionally, MBA recommends state policymakers establish a simple uniform method for companies to request additional extensions of an MLO’s work-from-home permission. State regulators should develop this process through NMLS to allow these companies to specify which MLOs and branches are affected, the address from where they will be working, and the approximate duration. The process should also allow for companywide or branch-level requests with an ability to easily renew/extend the permission as public health considerations may dictate. The process should also incorporate the requirements that many states have adopted as part of their current remote work permissions for MLOs including, for example:

- Licensable activity is conducted from the home location of an individual working on behalf of a state-licensed company.
- The MLO is working from home due to a reason relating to the COVID-19 outbreak.
- The MLO maintains all necessary licenses under state law to conduct licensable activity.
- None of the licensable activities will be conducted in person with members of the public from the home location.
- The company/employer exercises reasonable supervision of the licensable activity being performed at the remote office and ensures that appropriate safeguards and controls are established concerning consumer information and data security.
- The MLO and their employer meet specific data security provisions:
 - The MLO must be able to access the company’s secure origination system (including a cloud-based system) directly from any out-of-office device the MLO

² <https://www.osha.gov/Publications/OSHA4045.pdf>

RE: Remote Work Flexibility for State Licensees
July 24, 2020
Page 4 of 7

- uses (e.g. laptop, phone, desktop computer, tablet, etc.) using a virtual private network (VPN) or similar system that requires passwords or other forms of authentication to access;
- All security updates, patches, or other alterations to device security must be maintained; and
- The MLO must not keep any physical business records at any location other than the licensed main office.

Attached is a supplemental document that can be shared with state regulators, which lists considerations that should be taken into account when determining if an MLO should be allowed to work-from-home.

An extension through 2021 will also give regulators more time to consider and compare their views and data on the supervisory experience of the industry during the pandemic. This is an opportunity to measure compliance and loan quality. Regulators could also review how their examination of lenders and servicers has changed in recent months and they could also evaluate whether or not complaints have increased relative to significantly larger loan volumes this year. MBA would like to work with CSBS staff and state regulators to move as expeditiously as possible to harmonize any independent efforts and establish this uniform approach.

Long Term Challenge and Opportunity

MLOs and state-licensed companies in this health crisis have proven they can operate in a new paradigm where they can remotely serve consumers effectively while respecting all necessary consumer protection rules. Indeed, the industry's service to consumers impacted by the pandemic and needing forbearance is a remarkable success story. MBA believes this moment presents an opportunity to learn from current exigencies and facilitate new and more efficient ways for companies to operate and for regulators to conduct oversight.

In recent years, the financial services industry has been providing consumers with new technological resources to enhance the customer experience and streamline processes. The pandemic has expedited the adoption of these digital technology solutions in ways that could make the current model for branch licensing outdated and perhaps even anachronistic. Having made significant financial investments in recent months to support remote work, most companies now have the resources, policies, and procedures to interact with consumers and manage compliance remotely.

We recognize and appreciate the ongoing efforts of CSBS and state regulators to adapt to these changes as well. MBA would welcome the opportunity to work with CSBS in a collaborative fashion to move away from a company and individual licensing regime that is location-based. We believe the last four months have provided valuable lessons learned (for both the industry and the regulators) that warrant a joint effort to better understand the risks and benefits of developing a new approach to licensing in a digital world. Issues to be discussed could include (but not be limited to):

- Oversight expectations and standards when licensable activity is conducted from the home location of an individual working on behalf of a state-licensed company;

RE: Remote Work Flexibility for State Licensees
July 24, 2020
Page 5 of 7

- Appropriate restrictions on conducting in-person activities from remote work/home locations;
- Establishing minimum standards for data/system security, and protection of consumer privacy; and
- Record retention and storage requirements and regulator access to such records.

Given the industry's record in recent months in providing remote delivery of consumer service, it is appropriate to move to a regulatory structure that embraces that dynamic on a permanent basis once appropriate safeguards are established and implemented.

MBA also suggests that now is the time to reconsider the state license renewal process. Requiring all MLOs to renew their licenses within the same narrow time window each year has proven problematic for regulators and industry alike. MBA recommends allowing states to expand the renewal time window to 120 days, rather than anchor all parties to the compressed two-month period that currently falls during the already challenging holiday season. This change would allow both licensed entities and regulators a greater window to complete, submit and review all renewal information and materials. In addition to reducing demands on all parties, it may also help state agencies budget more effectively and consistently by allowing the influx of licensing revenue from renewal fees to come in earlier and be spread across a more extended period than just two months of the year.

We appreciate your consideration of ways to engage regulators and industry collaboratively on this effort, and look forward to discussing this further with our respective leaderships.

Sincerely,



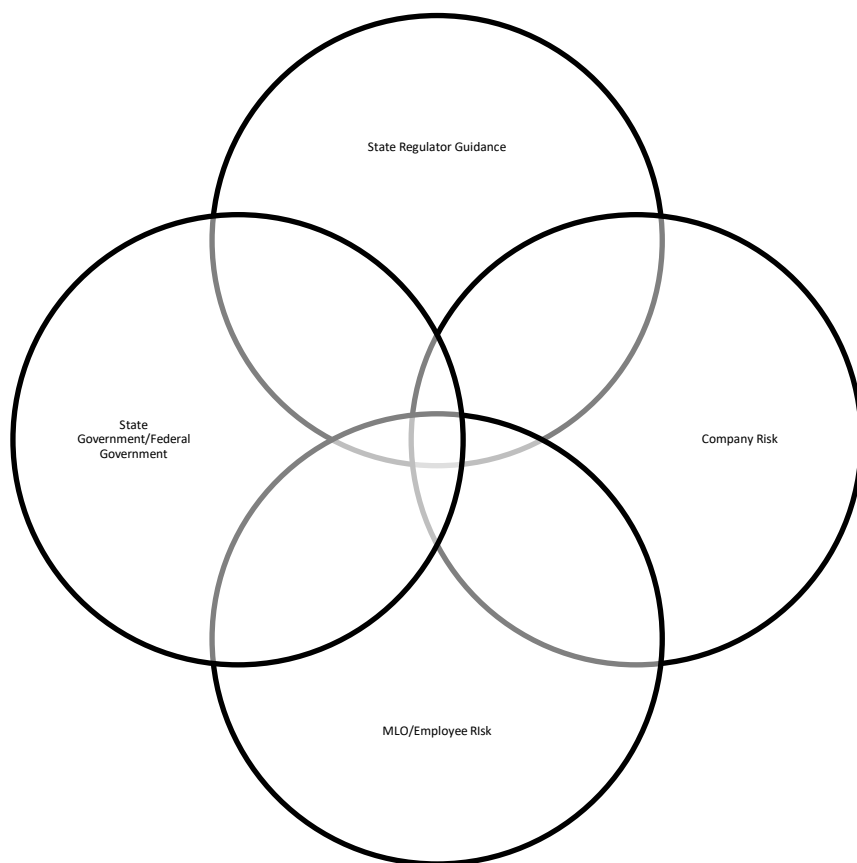
Robert D. Broeksmit, CMB
President and Chief Executive Officer
Mortgage Bankers Association

Attachment

CC: Chuck Cross
Tim Doyle
Mary Pfaff
Pete Mills
William Kooper
Kobie Pruitt

Considerations for Permitting Work-from-Home during the COVID-19 Pandemic

When considering if an MLO should be required to work from their licensed branch location, there are several factors that must be evaluated and conditions that must be met. If one of the following four (4) are not met, then the ability for an MLO to return to their licensed branch location is not feasible based on the risks. There must be a balanced, thoughtful approach when determining when an MLO must be forced to return to their licensed location since doing so not only affects the regulator risk, but also personal, corporate and community risks.



State Executive Order Guidance for State Businesses

- Should a state not have the requisite guidance for businesses to resume operations in order to interact with the public in a manner that adequately protects the health and safety of the state's constituents, then an MLO should be able to work-from-home for an undetermined period of time until such guidance is provided and/or extended. For example, if the state does not require social distancing, but the company wants to require such and therefore does not have adequate office space to do so.

RE: Remote Work Flexibility for State Licensees
July 24, 2020
Page 7 of 7

State Mortgage Regulator(s) Guidance for MLOs and Branches

- Should a state not have the requisite guidance needed for a branch to open safely based on the company's risk profile, then a company should be provided the opportunity to develop its own strategic plan to protect employees and determine when it is safe to continue on-site activities. The company would be required to submit a company risk profile and timeline for returning their employees back to licensed locations.
- If state regulator guidance for a licensed location conflicts with any other states in which the company operates, the state must allow a company to be in compliance with the latest date in which branch compliance is required by that company. For example, if a branch is licensed to operate in multiple states, the latest of the dates would be required to be met.

Legal Liability and Risks to the Company

- Companies should be able to assess the potential legal liability to their company and determine the proper course of action for allowing MLOs to work on-site. If a company determines it cannot ensure the safety of employees, then MLOs and other employees must be provided the opportunity to work-from-home.
- Companies must be provided the time needed to create a working environment conducive to the social distancing guidelines of the federal Center for Disease Control (CDC) and state health services.

Considerations for Personal Risk to MLO

- An employee should be given deference to decide to work-from-home should they live with or care for family members that have a higher risk for respiratory illness or are more susceptible to COVID-19 related illness (i.e. elderly).
- If an employee is unable to wear a mask for an extended period of time because of a breathing condition, accommodations need to be made to comply with the Americans with Disabilities Act (ADA).