NMLS Ombudsman Virtual Meeting
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September 9, 2020, 3:30 to 5:30 p.m. ET
Webinar Password: NMLS2020

1. Jim Payne, NMLS Ombudsman & Director of Examinations/Assistant Deputy, Consumer and Mortgage Lending Division, Kansas Office of the State Bank Commissioner
   • Welcome, Ombudsman Update & Issue Review

2. Danielle Arlowe, American Financial Services Association
   • Remote Work

3. Robert Niemi, Bradley
   • Evolution of Mortgage Branches

4. Charlie Fields, PennyMac
   • Branch License Requirements & COVID-19 Work Remote

5. Q&A
July 16, 2020

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
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,

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

Charlie Fields, Jr.
SVP, Mortgage Regulatory Relations