



**Hilton Austin**  
**Austin, Texas**  
**Salon FG**  
**8:30 a.m. – 11:00 a.m. (CT)**  
**February 16, 2017**

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The NMLS Ombudsman, Scott Corcadden, called the meeting to order at 8:40 a.m.

#### **1. NMLS Ombudsman Update**

*Scott Corcadden, NMLS Ombudsman*

*Supervisor, Bureau of Loans, Alabama State Banking Department*

Corcadden provided an update on emails that were sent to the Ombudsman over the past six months and issues that had been brought up at the last Ombudsman meeting in August during the AARMR Annual Conference.

SRR Public Comment Policy: Following the August meeting a request for comments on the development of the SRR Public Comment Period was issued. Eight comments were received from industry and the after review and discussion, the NMLS Policy Committee approved a final version that added more specifics surrounding timing, notice of publication for greater outreach, clarity of governance processes and ongoing effort to maintain transparency, and opportunities for open discussion.

Backdating of License Approval Dates: In response to this issue being brought up at the last meeting, SRR ran several reports to identify instances of backdating of license records. States have been reviewing those reports and working to determine processes that can be automated in NMLS 2.0 (such as lag time in removal of sponsorship requests), identify more standardization of use of license statuses and to align existing time lags (due process issues such as court orders; surrender requests). Corcadden noted that state agencies and SRR staff will continue to review these issues and to further identify processes that result in backdating particularly of license approval dates.

NMLS 2.0 Update: 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 recent meetings held with regulators and industry representatives in order to

develop the high level requirements for NMLS 2.0. There were two panel sessions during the conference and Payne reviewed touched on some of the major points of discussion and the effort being focused on the development of user personas. The user personas define specific user types and what they need to accomplish. He also reiterated that there will continue to be many opportunities for ongoing input from both state regulators but also industry and all other stakeholders in NMLS.

## **2. License Sponsorship Change Timelines**

*Kevin Pezzani, Union Home Mortgage*

Pezzani spoke on behalf of the Mortgage Bankers Association on the issue of the length of time some state agencies take to process changes in sponsorships for mortgage loan originators when they change employment from one licensed entity to another. In response to discussion at the January Independent Mortgage Bankers Conference, the MBA polled members for information on timelines for their new employees by state and the answers ranged from a week (65 percent) to a range of one to three weeks (35 percent). Pezzani asked whether industry can get real information from the states as to the actual timelines. The issue of ACH payment holds by NMLS as a possible delay issue was brought up but Tim Doyle commented that while the System used to place a hold on ACH payments for five days, that is no longer the case. Discussion was also held on what impact the 2.0 development may have on the timing issue as automation of sponsorship approvals is an item being discussed by the states.

## **3. Disclosure of Commonly Owned Affiliates in NMLS**

*Gus Avrakotos, Mayer Brown*

Avrakotos inquired about the requirement for licensees to report information on commonly owned affiliates in NMLS and why that information is relevant or necessary to determine licensing approval or license renewal for a state regulated company. He discussed various issues that make this reporting problematic and burdensome including the overall attestation issue (every time a change is made to a record, it must be re-attested to which involves attesting to the accuracy of all information in the record and an affiliate company may have been removed or added); the fact that listing the affiliates may trigger advance change notice requirements in some states; and ambiguous wording and conflicting definitions and state requirements that define what determines an affiliate. He cited a recent letter sent out by the New Hampshire governor encouraging an overall review of all state regulations to see if they are still necessary and pertinent as a good idea that should be a regular process for all reporting requirements including those for state licenses.

A few state regulators spoke up as to how they review and use the information. For example, in Oregon, the information is not necessarily used in connection with a licensing decision but is often reviewed as part of an examination process (e.g. to review affiliated business disclosures or related complaints). Other states noted that they are most often interested in the licensee's relationships with its affiliates in the financial services field.

## **4. Licensing of Foreign Entities**

*Rich Cortes, Principal Financial Examiner*

*Connecticut Department of Banking  
Haydn Richards  
Bradley Arant Boult Cummings LLP*

Cortes and Richards discussed concerns related to the licensing of foreign entities and the need for states to be able to obtain credible criminal background checks and credit reports when reviewing license applications for foreign entities or individuals. Cortes reviewed some of the issues facing regulators as they attempt to concretely determine suitability of foreign control persons and companies regarding criminal background and financial responsibility. Also discussed were specific issues that had been brought up during a conference panel on foreign licensing issues regarding regulator and industry views on the licensing of foreign entities and the existing barriers to allowing those entities to secure licenses that arise in certain jurisdictions. Both Cortes and Richards believe that these issues can be best resolved through the organization of a joint regulator and industry working group and offered to submit a proposal for the creation of such a group.

## **5. Credit Reports Obtained Outside of NMLS**

*Robert Niemi, Baker & Hostetler LLP*

Niemi discussed instances that have been brought to his attention by state licensees where a credit report issued for purposes of determining financial responsibility had been requested by a state agency outside of NMLS resulting in a “hard pull” which can have an impact on the individual’s credit score. (Reports requested through NMLS are considered to be a “soft pull” and do not affect credit scores.) He asked that states refrain from getting any hard pulls and was asked to provide follow up information regarding which states have been reported as doing so.

## **6. Specific System Issues**

*Trish Lagodzinski, Compliance Director, Chartwell*

Lagodzinski brought up several System issues for discussion:

Notification of Expiration and Record Deletions: Company records in NMLS are deleted if no filing has been submitted for 180 days after the date the record is established.

Lagodzinski stated that there have been several instances when companies in the MSB arena have needed at least that much time to establish bank accounts; to adjust company financial statements to adhere to US GAP standards; or to collect all required information on company control persons. She requested that the states consider changing the automatic deletion where a record is clearly active and in the process of being built or perhaps place a dormancy clock on the company’s dashboard or a system warning that would allow a person to re-confirm that this is still an active account. Deletion of the entire record that has to be then repopulated with information, CBC records, etc. is a costly and timely process that companies would like to avoid. There was some support for maintaining the fingerprints in such cases so that the filing could be repopulated in a quicker manner.

Decoupling of Company and Control Person Filings: As noted above, getting all the information required for all control persons, branch managers, qualifying individual, etc.

(most specifically the criminal and credit information) can take some time and effort so that may often delay the submission of a company filing. As this time, the company form must be complete before filing which includes all MU2 related filings to also be complete. Tom Brennan from Massachusetts noted that this would be submitting an incomplete filing which would not be then moved for review to agency staff for that reason. Greg Oaks from Florida stated that he would be more in favor of granting an extension for a company from the 180-day time period rather than having incomplete applications submitted in a piecemeal fashion.

NMLS Call Center Issue Escalation: A request was made for a clear escalation procedure to a second tier, or a technical specialist when the (experienced) caller has a complex question for the NMLS Call Center. Dave Dwyer, CSBS, responded to the issue noting that there is currently a pilot program in place for larger lenders that use the System extensively to be able to obtain that type of service from the Call Center.

Grace Period and Detailed Guidance Regarding Comprehensive System Changes: Lastly, Lagodzinski asked that state regulators give sufficient time and guidance when any substantive changes or new functionality is added citing state adoption of the newly expanded CBC processing as an example.

## **7. Money Services Businesses Call Report Adoption Timeline**

*Amy Greenwood-Field, Senior Attorney, Bradley Arant Boult Cummings*

Greenwood-Field expressed concerns about the ability of companies to accurately and in a timely manner complete the first submissions of the upcoming Money Businesses Services Call Report. She urged adopting states to contemplate issuing formal written statements or adopting temporary policies that allow for late and/or incomplete filings without penalties being assessed while companies become more fully prepared and experienced in report submission.

The general response to her request was that the state regulators main goal is to acquire valid data and that they want to work with reporting companies to ensure that is accomplished. The group was reminded of a similar situation when the Mortgage Call Report was first required. At that time, many states did take either a formal or informal stance that penalties would not be assessed during the beginning phases of the report in order to allow companies to become more accustomed to the reported data and the methods by which it is collected and added to the report.

## **8. Specific System Issues**

*Josh Weinberg, EVP Compliance, First Choice*

Weinberg had several specific issues to raise:

Advance Change Notice Process: Weinberg discussed challenges surrounding the state requirements for advance change notice most particularly that some states do not acknowledge or give any indication of approval of a notice which leaves a gap in the licensee's compliance procedures. Generally this occurs in states where the statutes do not require advance notice and/or actual approval of a change. There was some discussion as

to whether this issue could be addressed in NMLS 2.0 and state acknowledgement could be determined by a setting established by each agency.

ECOA Notice: Weinberg had a question for states regarding the federal agency that should be listed in a licensee's ECOA notice. New Hampshire had required something different than what he has used in the past and he queried other states but none noted any change. He had in the meantime followed up with New Hampshire and they are stating that the form can contain two agencies.

Order of Operations for CBC Process: CBCs for federally registered MLOs trigger a notification to their current employer when they give a potential new employer access to run their CBC. This often results in the current employer terminating the employee, but prior to the new employer agreeing to move forward. That leaves a real and actual problem where an MLO could lose a job and not be able to get a new one. Weinberg asked whether this process is mandated by the FBI rules regarding viewing of CBCs or whether the process could be changed as was the ability of federal registrant employers to see education and testing information in NMLS. The issue was discussed and Corscadden said that it would be further researched.

## **9. Mortgage Call Report Update**

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

Cortes, the chair of the MCR Working Group, updated the attendees on current questions being received on the MCR and noted particularly that they are considering the establishment of a sandbox environment for advance testing of new reporting requirements and have been asked by various LOS vendors to permit access to the system training environment so that they can better provide service to their licensee clients.

## **10. Additional Topics:**

### **Use of NMLS Guidebook**

*Keisha Whitehall-Wolfe, Mayer Brown*

Whitehall-Wolfe asked if states are always using the NMLS Guidebook to govern their requirements and processes and noted as an example the different instructions and guidance that are sometimes given by state agencies regarding document upload – both what documents can be uploaded and where they should be placed. A few states noted that their law requires compliance with the Guidebook. This led to a broader discussion of individual state differences in what they may require from licensees and how that information should be provided. (Should there be a section in NMLS that is unique to each state for the additional information that state may require?)

While there is agreement that each state has the authority to request whatever information or documents it requires for licensed entities, the question arises that if that information is in NMLS, do other states consider that to be information “owned” by them if they also license that entity. Stacey Valerio, Connecticut, stated that the document

would be owned by the requesting state and subject to that state's open records laws even though another state can view the information (governed by the NMLS User Agreement and SAFE Act). There was agreement that there should be an awareness of the necessity for internal shielding of information and that this issue should be more closely reviewed and communicated to the state agencies as an issue to be aware of.

The discussion continued regarding the overall issue of how to align NMLS processes and requirements with state requirements and, when possible, continue to promote uniformity across states. The original basis for many of the standards was to allow compliance with the highest standards of states where a company is licensed which tended to make that the de facto standard. As we have progressed and grown, there is much discussion about how to balance the individuality of a state and the uniformity and benefits of utilizing NMLS.

An additional item that was brought up was whether it would be possible for states to accept individuals in control or management that have already been vetted and approved for management roles in the securities field through FINRA. The types of information and disclosure questions are quite similar. Regulators generally felt that using that information would be problematic because it would be difficult to share the data between state agencies and that the interpretation of data varies as to the reason the person is being vetted.

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