

Uniform NMLS Licensing Forms and Mortgage Call Report

Request for Public Comments

Proposal 2013-2

April 12, 2013 – June 11, 2013

The State Regulatory Registry invited public comments on the Uniform NMLS Licensing Forms and Mortgage Call Report during a public comment period from April 12, 2013 to June 11, 2013. 31 individuals or organizations submitted comments during the comment period.

The comments are contained in this document as received, without editing. Comments received in email format were copied exactly as submitted and pasted in the comments section of the table with the submitting individual's name and company displayed. Comments received as an email attachment or via USPS are displayed as submitted in their original format. These comments are noted in the table and numbered accordingly as attachments.

Comments are listed in the order received. Comments received without full name or contact information are not included.

The Forms Working Group and Mortgage Call Report Working Group will review the comments and make recommendations to the [NMLS Policy Committee](#). The NMLS Policy Committee, after consultation with all participating NMLS state regulatory agencies will respond to comments received and propose (for an additional 30 day comment) period any updates to the Uniform NMLS Licensing Forms and Mortgage Call Report.

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

#	Date	Name & Company	Comments
1	4/12/2013	Ray Daitch	I do 3 to 5 loans per year, so total volume less than \$ 2,000,000. Most of the forms are zeros, why not have an abbreviated set of forms if the total volume is say under \$ 5,000,000 or better yet, exempt from reporting. Just submit something that says total volume under \$ 5 million and do an annual report at most.
2	4/12/2013	Harold C. Tebbetts	I have no idea what a "money transmitter" might be. I only use my NMLS license to originate and broker conventional, FHA, and VA loans. While I am incorporated, I'm the only licensee working for my company. I feel ill equipped to comment on a subject of which I have no knowledge.
3	4/12/2013	Randall Sorensen Old American Home Loans, LLC	I personally do not see a real purpose in these reports. They are providing statistical information to the States and Federal regulators, but it doesn't seem to be of any benefit. These reports can't tell us if a company or individual is treating the consumer well or not. The reports do not tell anything about what consumers the lender or loan officer are serving. These reports are just additional wasted time and resources to no useful end. All Federal laws are covered and recovered in the loan documents that we create and submit with the closing of each mortgage. All of these documents are available to all agencies by way of audit or by request. I say enough already. Let us do our jobs and don't encumber us with more and more paperwork that does not serve the public interest or our industry.
4	4/12/2013	George H. Davis Landis & Locke, Inc	The whole process is annoying. Criminal background and prints - all other is a waste.
5	4/13/2013	Michael Littman Key Properties Financial, Inc.	My name is Michael Littman president of Key Properties Financial, Inc. NMLS licensed I want to ask your board to make an exception for any company that does less than 10 loans a year to be exempt from any NMLS reporting. It is a tremendous burden on a small company .Your reports have thousands of lines of data to input just for one loan that I might do every few months. A loan dollar amount should not be used because different parts of the country have different median home prices. You require individual reports company reports financial reports all for one loan a year. What a large burden. Also you should allow exemptions for seller financing. Example: I want to sell my house I use as a rental property to my tenants. My tenants have been paying me rent of \$1,900 per month for years. If I sell them my house Their PITI drops to \$1,850 per month. Why should I have to run their credit? The truth in lending law says seller financing does not require disclosures. Why do you have all these rules to force my tenant never to be able to buy my house? You are proposing to only let fully amortized loans to be exempt. You mean at my age of 95 I have to give my tenants a 30 year loan? I want to give them a 30 year loan due in 5 years, not 30 years. Your proposed rules do not allow this. Give us less burdensome regulations so we landlords can sell our tenants a home before we die!! Do to same thing: Any seller can give any buyer a loan with no disclosures except for the California seller Financing disclosure form required by the association of Realtors. It's a simple to read one page form not 200 pages of disclosures that consumers don't read. Michael Littman PS I am not 95 but I wanted to get you complaints from sellers who are.

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

6	4/13/2013	James Derouen	<p>The system is very complicated, my computers are 5 years old but still work, except are not as fast as I am sure the Govt and State computers are. If I have to update computers to comply with every state or govt requirement. my business will have more expense and this system is so time consuming, it is a waste of my time, when it was so simple the old way when it was run by the state. In my opinion, the fees are just another form of taxation and govt. jobs. I know unemployment is up but that is not my fault, blame that on companies moving out of the country to get cheap labor and not taxing their goods when exported back to the US to make their large profits. The system is worthless in my humble opinion.</p> <p>Sincerely,</p> <p>James Derouen</p> <p>PS: I am 70 years old and am not a guru on computers, just converted my office to computers in 1996 and if it was not for my son coming into the business would probably still be doing everything manual.</p>
7	4/16/2013	Myron Green Green Richard And Trent	<p>My first experience this year with NMLS was horrible. I believe if we are going to be forced into new procedures for renewing our license we should not then be forced to pay the fees associated with the action. Secondly why can't the person at the end of the phone line that is there to assist, be more helpful and courteous, not so short and rude as if it our problem we can't figure out your new system, regulations and website.</p> <p>I only hope the renewal process is much easier</p> <p>Kind Regards</p>
8	4/16/2013	Jeff Drury Construction Loan One	<p>My name is Jeff Drury and I am the President of Construction Loan One, a small lender located in Ann Arbor, Michigan. You have requested feedback regarding the recent Government interventions and I am providing you with feedback. The recent implementation of Dodd Frank Act and its numerous compliance and regulatory requirements, NMLS quarterly Call Reports and other forms of government regulation which are too numerous to list have created an environment in which small business can no longer afford to stay in business.</p> <p>Construction Loan One is a small lender and we cannot afford to hire three new employees just to monitor and maintain new compliance and regulatory requirements including the tracking and reporting of the NMLS quarterly Call Reports. I have talked to the Presidents of many small Community Banks and this is what they have been forced to do in order to stay within compliance. They have the resources to pay for the additional personnel. Unfortunately, we are a small lender and cannot afford these additional costs. Most likely, we will be forced to close our doors as will many other small lenders.</p> <p>It is unfortunate that the Government is putting regulations in place where only the largest financial institutions will be able to adhere and ultimately survive. Small lenders will be forced out and ultimately the consumer will not be able to obtain financing on many types of credit including construction financing which we provide.</p> <p>It is very unfortunate!</p>

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

9	4/16/2013	Nick Mikker RMPF Investments, LLC	<p>To Whom it may Concern,</p> <p>I think it is important to recognize that not all companies that are required to use the NMLS are Money Transmitters. I believe it would be easier for all parties involved the NMLS, State Agencies, and Companies that the NMLS uses a system that recognizes and differentiates that fact. Not just in this case but in all cases. It would help to prevent companies from having to complete unnecessary paperwork and for the NMLS and State Agencies to have to deal with those submissions.</p> <p>Sincerely,</p>
10	4/18/2013	Larry Blake East Cooper Mortgage Corporation	<p>This continues to be the most unnecessary BS that continues to plague the housing industry!!! You continue to come up bureaucratic requirements to make a very simple business into one that has become a real pain to be a part of. After nearly 14 years of owning a brokerage, and over 30 years in the housing industry, there has to be a better way to conduct the business than all of the repetitive reporting that is now required. All it has done is increase the cost of doing business, which is always passed on to the ultimate consumer, creating extreme inflation, which we do not need in housing nor in any other industry. THIS SHOULD NOT BE LOOKED UPON AS A WAY TO CREATE JOBS, AS IT HAS OBVIOUSLY BEEN FOR THE PAST FIVE YEARS!!! The kiss method should be used. Keep It Simple Stupid !!</p> <p>Maybe a better idea would be to require all this reporting ONLY for those mortgage companies that close over a certain minimum volume, such as \$20 MILLION. IT IS LUDICROUS FOR US SMALL BROKERAGES TO BE HELD TO THIS SCRUTINY!!</p>
11	4/20/2013	Luis A. Perez	<p>As a MLO who has gone through the process and have an MLO number I have several comments:</p> <ol style="list-style-type: none"> 1. This NMLS is another bureaucratic organization who has no reason to be, is of no benefit (except for the bureaucratic organization) to R.E. brokers. 2. As a bureaucratic organization the ONLY purpose is to collect monies (One way to collect additional taxes) that will benefit the people in number 1. 3. The connection between state controlled organizations (Another way of collecting taxes) and this bureaucracy is so bad, that one of them or both can cancel your license; obviously will be reinstated after paying fees (taxes) 4. I would like to have the list of the people in the administrative position of this organization and really see what they have done to stop the abuses of big corporations (who do not pay taxes and can afford their "fees" and "costs" of training. 5. What are the benefits for a R.E broker? Pay for what? How were the fees "approved" (imposed)? 6. What are the benefits for the buyer/seller? Taxes ("Fees") without representation or benefits should be

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

			<p>considered a crime based on the constitution (Taxes) or on the NMLS rules of business (Fees)</p> <p>I know that this e-mail will never be answered.. but any way these are some of my complains and my opinion regarding your NMLS</p>
12	5/1/2013	Al Viaforce III Certus Capital, LLC	Adding the ability to upload MCRs into NMLS as excel spreadsheets would increase report accuracy and efficiency.
13	5/1/2013	Bernie Holt Holt Mortgage Services, Inc.	<p>The definition of "Application" should not include "Oral" Applications, the inquiry of a Credit Report, Prequalification Applications or Applications without a property address. If these are included it will make a significant burden to keep data that is going nowhere at that time. If they applied later, it would create a duplicate reporting of applications which would skew the statistical reports.</p> <p>Whatever is decided, please incorporate State and NMLS requirements in the MCR so we do not have to do two reports.</p> <p>Thank you,</p>
14	5/8/2013	Saundra A. Burrus-Grimes, Esq Second Round, L.P.	<p>It would be so much more efficient and simpler if all collection agency and debt buyer licenses went through NMLS, or a similar site.</p> <p>The states requiring so many different things, and in different formats, etc. does make is difficult to keep up.</p> <p>If all licensing went through a central data base, even if the states required different documents, it would be much easier.</p>
15	5/14/2013	Mike Frandy R Mortgage Company	It seems that the accountability of mortgage data could and likely should be provided by the funding source not the NMLS broker. This simplifies the process for the broker. The lender has the NMLS number of every loan funded, the fees collected for every loan and the compensation data. This is especially true of brokers like myself that use only institutional funding sources. The MCR is presently attempting to address too many areas in one form. Anytime one has to populate an entire form with zeros and work backwards filling in a fraction of applicable data points is an indication of an inadequate design. If the form is destined to be part of brokers duties and not the funding sources' I would recommend that the form be designed to first assess the type of activity(ies) applicable via checkboxes. Then the checkboxes would be used to trigger those parts of the form that are applicable. The form does not have to ask all things of all people.
16	5/15/2013	Liz Gerhart Movement Mortgage	<p>In response to a Request for Public Comments in relation to NMLS and the MCR, I have a comment on Item Number Four.</p> <p>Item Four Reads: Entities that indicate on their company record in NMLS that they are Fannie Mae or Freddie Mac Seller/Serviceers or Ginnie Mae Issuers are required to complete the Expanded version of the Mortgage Call Report. All other companies complete the Standard version. Should a different set of criteria be used when determining which companies file the different versions of the Mortgage Call Report, and, if so, what</p>

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

			<p>should the criteria be?</p> <p>The criteria should not be whether or not a company sells or services a certain type of loan it should be based on a company's total production dollar amount -- similar to HMDA. The dollar amount which pushes a company into the Expanded MCR criteria is debatable but the concept that just those companies who offer and/or service a certain type of loan need additional scrutiny is misguided. All companies who sell or service the Fannie Mae, Freddie Mac or Ginnie Mae loans, regardless of production amount should file the Expanded MCR; in addition, all companies over a certain total production dollar amount, for example \$100 million, should be subjected to further scrutiny. The odds are that most of those companies already fall within the Expanded MCR category, but for those that do not the additional information submitted on the Expanded MCR should be required.</p>
17	6/4/2013	Jim Turner Hawaiian Marketing Services	<p>Hi We think there should be more direction about how to reconcile the fields when loan amounts change because of change of circumstances, etc. A loan amount may have started at 540,000 and ended up closing at a higher or lower loan amount. Maybe a couple fields with the borrowers names, and another field for any aggregate adjustments to the numbers.</p>
18	6/4/2013	John C. Ball East West Mortgage	<p>In reference the below definition, requests made without a signed Signature Authorization for purpose of determining credit analysis/ score and without a property address should not be considered application. Without these minimum elements, loans, pricing for which are determined by credit score, and eligible property information vary so widely, that incorrect GFE's will always be done. It is, or should be required that minimal data be provided to the MLO for an application to be considered viable. The "what if" of lesser information, should not be considered an application and therefore not reported as NMLS MCR data.</p> <p>3. The definition of</p> <p>"application" in the Mortgage Call Report is:</p> <p><i>An oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a financial institution for the type of credit requested (Per Regulation B). Examples of requests that are considered an application for the NMLS MCR include, but are not limited to, any HMDA reportable application, pre-approval requests, requests without a property address, or requests which include access to the borrower's credit information.</i></p>
19	6/4/2013	Karen Kline Karen Kline Home Loans, LLC	<p>I would like to respond to the 7 questions being posed. As a small MLOC in Hilo, HI we have limited staff and these additional requirements could be difficult for our company to comply with. I also believe the current MCR is all inclusive of the mortgage loans we have applications for and next close to be a very accurate and precise record.</p> <p>1. In 2012, the Forms were updated to allow entities to indicate all lines of business they engage in at the</p>

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

			<p>company and branch levels. These business activities have corresponding definitions to guide users when completing company and branch filings. Is this list of activities and corresponding definitions sufficient and comprehensive? Does it clearly and accurately capture the activities entities engage in during a term of licensure?</p> <p>I believe the current MCR report does capture the activities our business engages in. The Loan Application is taken once all 6 or 7 elements are present, depending on whether a refinance or a purchase transaction.</p> <p>2. Based on experience in using the Forms over the past several years and in conjunction with the 2012 changes to accommodate other non-mortgage financial services licenses in NMLS, how can the questions or content of the Forms be improved or clarified?</p> <p>I do not believe any improvement is needed.</p> <p>3. The definition of "application" in the Mortgage Call Report is..... I believe we are taking the application once we have the necessary elements to do so and I do not believe there is anything that needs to be clarified.</p> <p>4. Entities that indicate on their company record in NMLS that they are Fannie Mae or Freddie Mac Seller/Serviceers or Ginnie Mae Issuers are required to complete the Expanded version of the Mortgage Call Report. All other companies complete the Standard version. Should a different set of criteria be used when determining which companies file the different versions of the Mortgage Call Report, and, if so, what should the criteria be?</p> <p>We are not Fannie Mae or Freddie Mac serviceers and it is clear to me what report our company needs to complete for MCR.</p> <p>5. Based on nearly two years of experience with the Mortgage Call Report, which policies, requirements, data fields, or definitions should be amended or maintained in order to provide regulators with sufficient supervisory information and create a uniform reporting mechanism for industry? I believe the report is fine as is.</p> <p>6. SRR intends to publish aggregate, non-company specific Mortgage Call Report activity data on the NMLS Resource Center. What information would you consider useful to both industry and the general public that should be included in the data publication?</p> <p>I am not sure why there would be information from the MCR provided to the public. I don't see any use for this as this is confidential company information.</p>
--	--	--	--

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

			<p>7. SRR understands that licensees in non-mortgage industries periodically submit production (e.g. transactional or volume) and financial information to state regulators. What specific information should SRR consider collecting through NMLS, and should it be collected through the Call Report or similar filing?</p> <p>I am not sure what additional non-mortgage information should be collected. At present the current report is time consuming and all inclusive reporting on all applications taken.</p> <p>Thank you and Aloha,</p>
20	6/6/2013	Kathy Bankert Pulte Mortgage LLC	See Attachment 1
21	6/10/2013	Tammy J. Barnett Franzen and Salzano, P.C.	See Attachment 2
22	6/11/2013	Katherine Baird LendingTree, LLC	See Attachment 3
23	6/11/2013	Haydn J. Richards Dykema	See Attachment 4
24	6/11/2013	Costas Avrakotos K&L Gates	See Attachment 5
25	6/11/2013	Costas Avrakotos K&L Gates	See Attachment 6
26	6/11/2013	Stacy Riffin K&L Gates	See Attachment 7
27	6/11/2013	Cheryl Graham Mortgage Investors Corporation	<p>To whom it may concern,</p> <p>I would like to submit a comment regarding the NMLS Call Report filing.</p> <ol style="list-style-type: none"> Please populate the MLO Data section with all of the MLOs that were licensed under our company during the quarter and we are expected to report on. We have a lot of processors and other corporate employees who never originate loans, and the MCR generated by our LOS only lists MLOs who took an application during the quarter, so there is a lot of time spent maintaining lists and cross-referencing for this section. <p>Thank you for your consideration,</p>
28	6/11/2013	Susan Sullivan American Financial Services Association	See Attachment 8
29	6/11/2013	Erika Sharpe United Shore Financial	See Attachment 9

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

		Services, LLC										
30	6/11/2013	Terry Mcleroy Mortgage Acceptance Corp of Jackson	NMLS should not create a definition of an application that differs from RESPA. If an entity pulls a credit report for a potential client or pre-qualifies a potential client prior to a property, this should not be part of the Mortgage Call Report. Also a borrower may need several pre-qualification letters due to their offer(s) not being accepted on a particular property.									
31	6/11/2013	Joseph M. Gormley Mortgage Bankers Association	See Attachment 10									
32	6/11/2013	Teresa Lentini Home First Lending	Based on the 7 questions, more clarification is need in the following: regarding # 3: "Definition of an application" this needs to be clear and concise - too many different definitions depending on the source/entity. It is very confusing, can it be streamline with other entities. Most states don't consider a credit inquiry a reason to enter information on a log but the NMLS does? regarding # 5: There are too many options for the Withdrawn/Denied (file closed for incomplete, cancelled, denied, withdrawn, etc..) - it would be easier to understand and track if there were only two options: Client initiated Withdrawn and Broker/Lender Denied. "Application taken but not accepted" what exactly does this mean? More clarification is needed in this area. regarding # 6: What type of data is going to be published? What is the intent?									
33	6/11/2013	Fran Ferrara PHH Mortgage Corporation	<ol style="list-style-type: none"> When uploading the XML files for submission of the quarterly NMLS reports, an error message may be received. Please provide clearer messages when the XML fails so the error can be more easily determined. An error message that "the upload failed, refer back to the XML specification," is difficult to evaluate for a 50+ state lender who has over 19,000 lines of information to submit. If the interest rate and/or amortization period changes on a refinanced loan, clarify what would cause the loan to be reported in I313 (Refinance Restructure), versus I311 (Refinance Rate-Term). <table border="1" data-bbox="808 1117 2022 1286"> <tr> <td>I311</td> <td>Refinance Rate-Term</td> <td>borrower purchase. The dollar amount and number of 1- to 4-unit residential loans whose purpose is for borrower rate-term refinance.</td> </tr> <tr> <td>I312</td> <td>Refinance Cash-Out Refinances</td> <td>The dollar amount and number of 1- to 4-unit residential loans whose purpose is for borrower cash-out refinance.</td> </tr> <tr> <td>I313</td> <td>Refinance Restructure</td> <td>The dollar amount and number of 1- to 4-unit residential loans that have been refinanced for purposes of restructuring the terms of the loan (e.g., interest rate, amortization period, etc.).</td> </tr> </table> In Section I400 – I409, provide clearer direction of which loans to include in the "Loans Sold" and the "Gross Revenue" sections. Earlier questions to the NMLS regarding clarification of these terms indicated to only include loans that were <u>closed/funded</u> during the reporting period. Is this correct? Should "Loans Sold" and "Gross Revenue" <u>earned</u> in the reported quarter also be included? Provide consistent updates. The documentation/field definitions use the word "Originated" in places where they should indicate "Closed and Funded". Some terminology was changed previously, but 	I311	Refinance Rate-Term	borrower purchase. The dollar amount and number of 1- to 4-unit residential loans whose purpose is for borrower rate-term refinance.	I312	Refinance Cash-Out Refinances	The dollar amount and number of 1- to 4-unit residential loans whose purpose is for borrower cash-out refinance.	I313	Refinance Restructure	The dollar amount and number of 1- to 4-unit residential loans that have been refinanced for purposes of restructuring the terms of the loan (e.g., interest rate, amortization period, etc.).
I311	Refinance Rate-Term	borrower purchase. The dollar amount and number of 1- to 4-unit residential loans whose purpose is for borrower rate-term refinance.										
I312	Refinance Cash-Out Refinances	The dollar amount and number of 1- to 4-unit residential loans whose purpose is for borrower cash-out refinance.										
I313	Refinance Restructure	The dollar amount and number of 1- to 4-unit residential loans that have been refinanced for purposes of restructuring the terms of the loan (e.g., interest rate, amortization period, etc.).										

NMLS

Uniform NMLS Licensing Forms and Mortgage Call Report- Public Comments – April to June 2013

			<p>not throughout the documentation/field definitions.</p> <ol style="list-style-type: none"> 5. The NMLS definition of “pass through fees” are “fees that are not retained by your company (e.g. appraisal, credit report, flood cert., etc.)” In Field AC1100, Gross Revenue is defined as “all revenue from whatever source received by your company on mortgage loans in this state during the reporting period before any expenses are deducted. Include gross revenue from sales of mortgages at or subsequent to closing and from any other mortgage related activity.” The definition does not indicate whether or not to include “pass through fees.” Please specify whether or not “pass through fees” should be included, using the same terminology used in the Fees field descriptions. 6. Clarify if the Pull Through Ratio field is always calculated by dividing AC070 (loans closed/funded) by AC020 (applications received)? If it is, can this field be auto-calculated? If is not, explain in more detail what the Pull Through Ratio should represent. 7. In the FICO Score Distribution area, create a section for loans where a credit score was not obtained and provide instruction that field I360 (Average FICO) should exclude the loans in this newly created section. There are scenarios where a credit score is not pulled on certain loan applications. If they are included in the total number of closed loans, it results in lowering the average FICO score in Section I360. 8. We would recommend the definition of "application" be defined as it would be for HMDA.
34	6/11/2013	Brian Benjamin NJ-PMO	See Attachment 11

PulteMortgage™

June 6, 2013

State Regulatory Registry
Conference of State Bank Supervisors
Attn: Tim Doyle, Senior Vice President
1129 20th St NW, 9th Floor
Washington, DC 20036

Dear Mr. Doyle,

Pulte Mortgage LLC (“Pulte”) is pleased to submit the comments below to the State Regulatory Registry LLC (SRR) regarding the uniform NMLS Company, Branch, and Individual Licensing Forms developed by state regulators and used by all states through NMLS; and the NMLS Mortgage Call Report (MCR). Pulte files the Expanded Call Report.

Pulte Mortgage has been in the mortgage banking business since 1972 and is a subsidiary company of Pulte Home Corporation (PHC). The indirect parent company of Pulte Mortgage is PulteGroup, Inc. (PHM), a national, publicly-traded homebuilder.

PHM is one of the nation’s largest residential homebuilders based on number of units sold. PHM has been in business for over 50 years and has continued to expand its domestic homebuilding operations, mostly recently through the merger with Centex Corporation (Centex) in August, 2009. PHM’s headquarters are in Bloomfield Hills, Michigan. The corporate and operational headquarters for Pulte Mortgage is located in Englewood, Colorado. Pulte Mortgage currently is licensed in 29 states and the District of Columbia and provides home financing for purchasers of the PHM brands of Pulte, Del Webb, DiVosta and Centex homes.

Pulte Mortgage has made customer service a core value of its business operation. Its principal business is the origination of purchase money loans. Pulte Mortgage investor offerings include FHA, VA, Fannie Mae, Freddie Mac and non-agency loans. Product offerings include first mortgages and, in previous years, have included second mortgages. Pulte Mortgage is currently capturing approximately 82.00% of PHM’s eligible business. Pulte Mortgage’s loan production volume for 2010 was \$2.3 billion. In 2011 the loan production volume was \$1.9 billion and in 2012, \$2.5 billion.

Definition of “Application” in the MCR Recommendations

THE MCR definition of “application” means an oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a financial institution for the type of credit requested. Examples include any HMDA reportable

State Regulatory Agency
 Conference of State Banking Supervisors
 Attn: Tim Doyle, Senior Vice President

application, pre-approval requests, requests without a property address, or requests which include access to the borrower's credit information.

Under the Equal Credit Opportunity Act and Regulation B, lenders are given some latitude within which to define an "application." Federal rules require that "applications" under Regulation B be reported under HMDA. While we believe that the intent of the MCR definition was to make the "application" definition co-extensive with the definition for "HMDA reportable transactions," the examples set forth in the MCR definition suggest that the definition may extend beyond "HMDA reportable application[s]," to include potentially non-HMDA-reportable "pre-approval requests, requests without a property address, or requests which include access to the borrower's credit information." For example, lenders are not required to report applications to HMDA that do not include a property address if they are not part of a preapproval program that meets specific requirements.

For these reasons, Pulte suggests that the MCR definition be clarified to state that its requirements that it is adopting the HMDA definition of "application."

MCR Usage By States

The state specific reports have significantly changed since the implementation of the MCR. It is Pulte's understanding that a benefit of the MCR was to have regulators use this quarterly data, eliminating any prior or new reporting requirements. Some states have reduced their state specific reports while others have increased their reporting requirements. Based upon the states in which Pulte lends, the following is a breakdown of increased reporting requirements, reporting requirements that have not changed and decreased reporting requirements:

- Increase in Reporting Requirements
 - NC – Extensive Quarterly Report now required
 - FL – Weekly report required (completed but not sent to the state)
 - GA – Weekly report required (completed but not sent to the state)
 - MO – Weekly report required (completed but not sent to the state)
 - TX – Extensive Weekly report required (completed but not sent to the state)
 - SC – Loan level report for Annual Report
 - WA – Loan level report for Annual Report
- Reports Still Required
 - AR, CO, DC, MA MI, MO, NC, NJ, OH, OR, TX, VA, WA – Annual Report
 - NV – Monthly report
 - NY – Quarterly report
 - DE – Bi-Weekly report (completed but not sent to the state)
- Decrease in Reporting Requirements
 - OK – Eliminated Annual Report
 - MA – Eliminated Quarterly Reports
 - GA – Eliminated Annual Questionnaire
 - PA – Eliminated Annual Report

State Regulatory Agency
 Conference of State Banking Supervisors
 Attn: Tim Doyle, Senior Vice President

- RI – Eliminated Annual Report
- IN – Eliminated Licensed Lender Volume Report

Pulte believes the inconsistencies and redundancy in the reporting requirements are burdensome and would like to recommend a standard data set agreed to by all states. Pulte's experience indicates that few states utilize the MCR as a tool for their examination process. There have also been instances where it appears that when regulators do have the opportunity to review the report they are not always familiar with the contents (an example of this would be the usage of the notes field.)

Pulte is very supportive of a consistent reporting system and strongly believes that this will provide better data to the regulators for monitoring but would like to recommend striving for a standard data set and agreement from states that would meet their reporting needs. A standard data set would allow the lenders to provide better quality data to the regulators. It would also be beneficial to lenders to receive aggregated feedback on how the report data is being used. This would help lenders self-correct lending practices.

MCR Specific Detail Recommendations

Pulte respectfully makes the following recommendations in regards to MCR details.

- List Closed-Retail Application, then Brokered, then Closed-Wholesale Application data rather than listing Brokered data first
- Remove recently added AC1100 – Gross Revenue from Operations
 - Based upon how loans are sold to investors and how some revenue is not broken out on a per state basis, this is not the best indication of gross revenue per state. Many companies likely vary in items included
- Provide details on changes to definitions to allow lenders to determine what change is needed. Currently that can only be done by a line by line item review.

NMLS Form Modification Recommendations

Pulte believes that in general the company, branch and individual forms are very encompassing and easy to use and update. However, providing clarification on the Disclosure Questions would be beneficial:

- A3 Have you been the subject of a foreclosure action within the past 10 years?
 - Some states require a Yes response, even if you only had a short sale, not a foreclosure, so clarification to the wording would be helpful
- Disclosures that state “based upon activities that occurred while you exercised control over an organization”
 - Should state “while you were employed”, otherwise individuals may not know if an event occurred after they left the company
 - Or the ability to add a comment on a No response such as “to the best of my knowledge”
- Combine or clarify the disclosures in Section K. For example if you have an order suspending a license in one state – which disclosures do you update to a “Yes”?

State Regulatory Agency
Conference of State Banking Supervisors
Attn: Tim Doyle, Senior Vice President

- This varies by state. For example: K3, K4, K6, and K9 could all relate to the same event.

Pulte appreciates this opportunity to comment on the proposed changes to the NMLS Call Report and licensing forms. As always, we stand ready to work with the SRR in its efforts to improve the efficiency of the mortgage marketplace.

Respectfully,



Debra W. Still
Pulte Mortgage LLC
President and Chief Executive Officer

Cc: Ken Markison
Vice President and Regulatory Counsel
Mortgage Bankers Association



Loretta Salzano
Admitted to Practice in Georgia
Telephone: 770-248-2881
Facsimile: 770-248-2883
e-mail: lsalzano@franzén-salzano.com

40 Technology Parkway South, Suite 202
Norcross, Georgia 30092-2906
www.franzen-salzano.com

June 10, 2013

VIA ELECTRONIC SUBMISSION
comments@stateregulatoryregistry.org

State Regulatory Registry
Conference of State Bank Supervisors
Attn: Tom Doyle, Senior Vice President
1129 20th Street, NW, 9th Floor
Washington, DC 20036

RE: Uniform NMLS Licensing Forms and NMLS Mortgage Call Report

Dear Mr. Doyle and other Members:

Thank you for the opportunity to respond to your request for comments on the above-referenced matter. We sincerely appreciate your thoughtful consideration of this letter. Our firm's clients are struggling with the multiple definitions of "application" as set forth in the NMLS, state statutes and regulations and guidance from administrative agencies. We respectfully request the adoption of a definition of application consistent with the federal Equal Credit Opportunity Act and Regulation B which implements it (together, "ECOA") and the Federal Home Mortgage Disclosure Act and Regulation C which implements it (together "HMDA"). Aligning the NMLS definition of application with ECOA's would promote consistency of reporting. It would also serve the goal of minimizing state and federal reporting discrepancies which could lead to misleading data interpretation.

In essence, ECOA/Reg. B and HMDA/Reg. C allow the lender to establish its own application definition in response to credit inquiries based upon the lender's practices. Many lenders adopt the "application" definition set forth in the Real Estate Settlement Procedures Act and Regulation X which implements it (together, "RESPA"). The Truth in Lending Act and Regulation Z which implements it refer to the RESPA application definition. In essence, the RESPA definition of application is tied to the lender's obtaining six specified pieces of information which include social security number to obtain a credit report and property address. In advising on call reports, the NMLS defines "application" in two different places: (1) in its "MCR Frequently Asked Questions," and (2) in its "Glossary of General Terms." The definition in the FAQs is, in essence, the same definition of application under ECOA. HMDA also use this definition. Thus, based upon the definition of application in the NMLS's FAQs, it is permissible for lenders to establish consistent procedures for NMLS call reporting, ECOA loan decisioning and HMDA reporting, which results in relatively consistent HMDA reporting and NMLS call reports.



State Regulatory Registry
June 10, 2013
Page 2

Unfortunately, we cannot stop there. In its Glossary of General Terms related to the Mortgage Call Report, the NMLS provides examples of “requests that are considered an application for the NMLS MCR.” These examples are far broader than what would constitute an application under federal law. Arguably, any one of them could trigger an “application” and NMLS reporting which is how at least one state is interpreting the additional language instead of treating it as an example of a procedure a lender might adopt. We believe that the appropriate interpretation is that something must first be part of the lender’s procedures before it is relevant.

Moreover, the language in at least one of the “examples” is vague and difficult to implement; that is “requests which include access to the borrower’s credit information” which is not included in any federal statute or regulation. This last example has been interpreted by at least one state to mean any consumer for which the lender pulls credit even if such inquiry does not include a loan amount or property address and if such inquiry then “falls out” without resulting in an application or adverse action.

Another complicating factor is the Glossary’s example which requires reporting of a “request without a property address.” Such inquiries are also treated differently under federal law which generally does not require reporting of “fall out.”

Finally, one of our clients has asked specifically about inquiries without a request for any specific loan amount. It seems that such inquiries are to be reported with as a “\$0” “application” even if they do not constitute an application under federal law.

Considering the monumental compliance changes and challenges facing the industry, we would greatly appreciate the adoption an approach consistent with the NMLS’s Frequently Asked Questions’ definition of “application” as it is consistent with federal law. A reasonable interpretation of the Glossary’s definition is that the examples are only that and do not necessarily trigger the existence of an application absent the lender’s adopting any such factor as its procedure as mandated by the first clause of the definition (which is consistent with federal law).

Thank you for your consideration and continued efforts to revitalize the mortgage market.

Respectfully submitted,

Loretta Salzano

LS/tjb



June 11, 2013

VIA ELECTRONIC DELIVERY
Comments@stateregulatoryregistry.org

Tim Doyle, Senior Vice President
State Regulatory Registry
Conference of State Bank Supervisors
1129 20th Street, NW
9th Floor
Washington, DC 20036-3403

RE: Comment Letter In Response to Proposal for Comments Regarding Uniform NMLS Licensing Forms and Mortgage Call Report

Dear Mr. Doyle,

Summary of LendingTree, LLC Activities:

LendingTree, LLC (hereinafter "LendingTree") is a marketing lead generator, required by most state laws to be licensed as a Mortgage Broker. LendingTree does not take applications, make loans or credit decisions in connection with mortgage loans, nor does LendingTree issue commitments or lock-in agreements. LendingTree's services are administrative only. Any mortgage loan inquiry submitted is NOT an application for credit. Rather, it is an inquiry to be matched with lenders participating in LendingTree's lender network ("Network Lenders") to receive conditional loan offers from Network Lenders. Network Lenders will require the completion of a formal loan application (typically a Form 1003) before the Network Lender will extend an offer, pre-approval, or pre-qualification. As such, it is the Network Lender, not LendingTree, that reviews the consumer's personal financial situation and makes a credit determination.

LendingTree's services are free to the consumer. A marketing lead fee is charged to the Network Lender to be matched with the consumer. This lead fee is not passed on to the consumer, rather it is a marketing replacement cost to the Network Lender and is based on the state, Network Lender-identified criteria, and the goods, services, and facilities provided by LendingTree. The consumer may choose to speak with one or all of the Network Lenders with whom they are matched, or choose not to speak with any of them at all. LendingTree's services cease after the match, other than to provide the consumer with a "MyAccount" which houses the conditional offers received and their Electronic Disclosures.

Summary of Form Changes and Impact on LendingTree, LLC:

On January 24, 2011, the State Regulatory Registry LLC (SRR), on behalf of the state regulatory agencies using NMLS, invited comments from the public, including licensees and regulatory agencies,

Mr. Tim Doyle, CSBS

Page 2

June 10, 2013

on the content of the MU Forms, as represented in NMLS. Implementation of the new Forms occurred on or about April 16, 2012. For the first time under the New Business Activity Wizard, LendingTree was able to indicate its actual business activity of "Lead Generation".

The NMLS Policy Guidebook at page 115 provides that "Lead Generation is solicitation without origination" which perfectly describes LendingTree's activities. However, there are still some issues that present themselves based on lack of uniform definitions and/or lack of uniform state distinctions as to whether (absent a definition) the state follows the Real Estate Settlement Procedures Act (RESPA) or if it follows the Equal Credit Opportunity Act (ECOA/Regulation B), or both. In addition, while the business activity designation and definition provided are accurate, issues remain with respect to licensed Mortgage Brokers that neither the Forms nor the Mortgage Call Reports address.

The fact that there is not a License available for Lead Generators presents reporting issues, including from Federal and State-specific compliance dilemmas. In most jurisdictions, Lead Generators are required to be licensed as Mortgage Brokers, yet they do not conduct traditional Mortgage Broker activities. LendingTree wishes to remain licensed, but would respectfully request that it be recognized that LendingTree, as a lead generator, does not originate and thereby cannot adhere to all of the compliance requirements associated with being licensed as a Mortgage Broker.

While a separate Lead Generator license seems problematic in that it would require adoption through the legislative process through all fifty states, there are viable "fixes" in the interim. One is enabling licensed entities to respond to proposals such as this one and comment on the need for uniform definitions and requirements for reporting. Another would be that the State Regulators and the Consumer Financial Protection Bureau (CFPB) work together through the Multi-State Examination Committee to work toward uniform examination requirements, reporting requirements and by clarifying definitions, then lead generators, such as LendingTree could be seen by the State and Federal regulators for what they actually are and adhere to the requirements associated through such uniform guidance.

Summary of SAFE Act and North Carolina State Requirements:

Title V of P.L. 110-289, the *Secure and Fair Enforcement for Mortgage Licensing Act of 2008* ("SAFE Act"), was passed on July 30, 2008. Section 5101 of the SAFE Act was established to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisions (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) established the Nationwide Mortgage Licensing System (NMLS). In July of 2011 the enforcement of the SAFE Act transferred (under Dodd-Frank) to the CFPB. Accordingly, the CFPB has the authority to create regulations in support of the Act, publish Guidance, issue

Mr. Tim Doyle, CSBS

Page 3

June 10, 2013

Enforcement Action(s) (through the assistance of the States) and to assist in creating uniformity in regulations/laws.

The SAFE Act failed to define what is a “mortgage application” but did define the activities of a “loan originator” at Section 1502(4)(A)(i) as being “an individual who (I) takes a residential loan application; and (II) offers or negotiates terms of a residential mortgage loan for compensation or gain; ... (B) Other definitions relating to loan originator for purposes of this subsection, an individual “assists a consumer in obtaining or applying to obtain a residential loan” by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages or collecting information on behalf of the consumer with regard to a residential mortgage loan.”

States have not adopted the Model SAFE Act but rather have put their own “spin” on certain of the definitions and requirements contained therein through such states’ mortgage broker statutes. Since LendingTree is headquartered in North Carolina, I will present only a the differences between North Carolina and the Model SAFE Act.

LendingTree is required to be licensed as a Mortgage Broker under the North Carolina SAFE Act. The North Carolina Secure and Fair Enforcement Mortgage Licensing Act (“NC SAFE Act” S.L. 2009-374; HB 1523) is found in Chapter 53, Article 19B of the North Carolina General Statutes. NC SAFE replaces the former Mortgage Licensing Act, the “MLA”, (previously found in Chapter 53, Article 19A).

NC SAFE was effective July 31, 2009. LendingTree was licensed prior to the implementation of the SAFE Act under its Mortgage Broker License B-113401 (original issue date of February 12, 2003). In addition, upon the passing of the Federal SAFE Act, LendingTree participated in the testing of the newly created NMLS system and has been licensed on the same since January 2008 as NMLS Unique Identifier #1136.

North Carolina General Statutes N.C.Gen.Stat. § 53-244.030 (11) contains the definitions of the NC SAFE Act, in particular what is “Engaging in Mortgage Business” which is defined as follows:

Engaging in the “mortgage business” means:

- a. For compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, to accept or offer to accept an application for a residential mortgage loan from prospective borrowers, solicit or offer to solicit a residential mortgage loan from prospective borrowers, negotiate the terms or conditions of a residential mortgage loan with prospective borrowers, issue residential mortgage loan commitments or interest rate guarantee agreements to prospective borrowers, or engage in table funding of residential mortgage loans, whether any such acts are done through contact by telephone, by electronic means, by mail, or in person with the borrowers or prospective borrowers. (Emphasis added)

Mr. Tim Doyle, CSBS

Page 4

June 10, 2013

- b. To make or fund, or offer to make or fund, or advance funds on residential mortgage loans for compensation or gain, or in the expectation of compensation or gain.
- c. To engage, whether for compensation or gain from another or on one's own behalf, in the business of receiving any scheduled periodic payments from a borrower pursuant to the terms of any residential mortgage loan, including amounts for escrow accounts, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the residential mortgage loan, the residential mortgage loan servicing documents, or servicing contract, or otherwise to meet the definition of the term "servicer" in 12 U.S.C. § 2605(i)(2) with respect to residential mortgage loans.

LendingTree does in fact indirectly receive compensation within the confines of the Real Estate Settlement Procedures Act (RESPA) for its "lead fee" associated with the funds it receives from the Network Lender for being matched to the consumer. The lead fee is a "marketing replacement cost" for the goods, services and facilities provided by LendingTree to market the consumer, take nominal information, and connect the consumer with up to five lenders to comparison shop for a mortgage. Again, LendingTree's [mortgage brokering] activities cease after the match in relationship to the mortgage process. LendingTree understands that by marketing mortgage products, LendingTree is in essence "soliciting" a mortgage loan for Network Lenders; however, LendingTree does not take an application (as defined under RESPA) nor does it fund, offer to fund, or advance funds in relationship to the mortgage. LendingTree does not service loans or perform any settlement services associated with a mortgage loan.

North Carolina statutes fail to define a mortgage "application" but do indicate that North Carolina follows RESPA (N.C.Gen.Stat. § 53-244.030 (32)). LendingTree does not collect all data defined in RESPA as required to constitute an application as LendingTree does not inquire as to a consumer's income or debt. Under 12 U.S.C. 2602 and 24 C.F.R. 3500.2 an "Application" is defined as "the submission of a borrower's financial information in anticipation of a credit decision relating to a federally related mortgage loan, which shall include the (1) borrower's name, (2) the borrower's monthly income, (3) the borrower's social security number to obtain a credit report, (4) the property address, (5) an estimate of the value of the property, (6) the mortgage loan amount sought, and (7) any other information deemed necessary by the loan originator. An application may either be in writing or electronically submitted, including a written record of an oral application." As noted above, LendingTree does not take item 2 or item 7 and accordingly is not taking an application.

The Consumer Financial Protection Bureau published a proposed rule in July 2012 indicating that it was going to drop the seventh element from the definition, but failed to coordinate the definition with the Equal Credit Opportunity Act definition of an application under Regulation B which is adhered to by some states. The definition of "application" is in proposed § 1026.2(a)(3). See http://files.consumerfinance.gov/f/201207_cfpb_proposed-rule_integrated-mortgage-disclosures.pdf. Nonetheless, even under the proposed definition, LendingTree is still not collecting a full or completed application from any consumer; only Network Lenders with whom a consumer decides to proceed will take a complete application from a consumer. LendingTree does not assist or offer to assist a consumer in making that choice.

Mr. Tim Doyle, CSBS

Page 5

June 10, 2013

As LendingTree is not engaged in the mortgage loan process following completion of the initial consumer inquiry, and generally does not know which Network Lender, if any, the consumer has chosen, LendingTree does not have access to Good Faith Estimates (GFEs) or HUD-1s associated with the mortgage loan transaction. Only LendingTree knows which loans are closed as it is required contractually in order to comply with the reporting requirement(s). Network Lenders are required to provide the GFE, HUD-1 and/or Regulation B Adverse Action Notices to the consumer and to maintain records of the same.

While LendingTree does contractually obligate Network Lenders to provide closed funding information to LendingTree (which is required to be reported on the NMLS Mortgage Call Report (hereinafter "MCR")) it does not know the disposition of all leads. This can lead to duplicative reporting when lenders and lead generators are both submitting MCRs. In addition, the Lead Generator does not have access to the "loan level" information, rather it only obtains the funding date and funded amount. Generally, when LendingTree receives a request for GFEs, HUD-1s or disposition proof with respect to a particular consumer lead, all that LendingTree can do is look in its records to determine to whom LendingTree sold leads to during the prescribed period, request any and all information from the Network Lenders and hope that Lenders will respond timely to the same. Contractually, LendingTree offers certain Network Lenders to deal directly with the State Regulator making the request if they so choose, but again LendingTree must depend on the Network Lender to provide the requested materials. Current statutes place LendingTree at a disadvantage and in constant peril of being non-compliant with the letter of the statute if its Network Lender(s) fail(s) to provide the contractually required materials. This could be remedied if statute(s) adequately reflected LendingTree's business model as a marketing lead aggregator.

As stated previously, the Conference of State Bank Supervisors (CSBS) through its NMLS Guidebook has at least made a step in the right direction wherein at page 115 of the same it provides a "Business Definition" for "Lead Generator" as "solicitation without origination." This is an accurate description and summarizes why a Lead Generator, such as LendingTree, has an inability to provide loan level origination documents: a Lead Generator's business mode is "solicitation without origination" and accordingly a Lead Generator will not have generated the documentation through its regular business activities nor will it have made a credit decision in relation to the consumer's inquiry.

Title 04 NCAC 03M.041(c) also fails to define mortgage application, lead generator/aggregator, or mortgage broker. It merely defines "license" at section (9) to mean a mortgage lender, mortgage servicer, mortgage broker, exclusive mortgage broker, or mortgage loan originator license issued pursuant to the Act and this Subchapter. The key provision at 04 NCAC 03M .0401 regarding reporting requirements appears to be more on point.

(c) Beginning on January 1, 2011, mortgage lenders and mortgage brokers shall provide information on the characteristics of loan originations in an electronic format prescribed by the Commissioner on a quarterly basis within 45 days after the close of the calendar quarter. Mortgage lenders shall provide:

- (1) Information sufficient to identify the mortgage loan and the unique identifier of the mortgage loan originator, mortgage broker (if applicable), and mortgage lender for the loan;
- (2) Information sufficient to enable a computation of key items in the federal Truth in Lending (TILA) disclosures, including the annual percentage rate, finance charge, and a schedule of payments, and any deviations between the final disclosures and the most recent disclosures issued prior to the final disclosures;

Mr. Tim Doyle, CSBS

Page 6

June 10, 2013

- (3) Information included in the "Good Faith Estimate" (GFE) disclosure required under the federal Real Estate Settlement Procedures Act including the rate, the date of any interest rate lock, itemization of settlement charges and all broker compensation;
- (4) Information included in the final HUD-1 Settlement Statement, if maintained by the mortgage lender in an electronic format;
- (5) Information related to the terms of the loans, including adjustable rate loan features (including timing of adjustments, indices used in setting rates, maximum and minimum adjustments, floors and ceilings of adjustments), the undiscounted interest rate (if maintained by the mortgage lender in an electronic format), penalties for late payments, and penalties for prepayment (including computation of the penalty amount, duration of prepayment penalty, the maximum amount of penalty);
- (6) Information typically used in underwriting, including the appraised value of the property, sales price of the property (if a purchase loan), borrowers' income, monthly payment amount, housing debt-to-income ratio, total debt-to-income ratio, and credit score(s) of borrowers; and
- (7) Information included in a Loan Application Register for mortgage lenders required to submit information pursuant to the federal Home Mortgage Disclosure Act,

Mortgage brokers shall provide information identified above unless such information is not prepared or known by the mortgage broker and the mortgage broker does not reasonably have access to the information in an electronic format. The Commissioner shall permit mortgage lenders and mortgage brokers to utilize compatible third-party software to provide information required under this Paragraph. (Emphasis added.)

As stated above, LendingTree is a marketing Lead Generator that conducts business through solicitation without origination and thereby such information is not prepared or known by the mortgage broker (here LendingTree) and nor does the mortgage broker (LendingTree) have access to the information in an electronic format.

LendingTree, LLC for the reasons stated above respectfully requested and was granted a Broker waiver from being required to provide the Quarterly Reporting Requirement of Electronic Loan Level Data to the Office of the Commissioner of Banks of North Carolina in May 2013.

NMLS Mortgage Call Report Requested Comments:

- (1) In 2012, the Forms were updated to allow entities to indicate all lines of business they engage in at the company and branch levels. These business activities have corresponding definitions to guide users when completing company and branch filings. Is this list of activities and corresponding definitions sufficient and comprehensive? Does it clearly and accurately capture the activities entities engage in during a term of licensure?

RESPONSE: Addressed above that the Business Activity definition and addition to the MU1 of "Lead Generator" is sufficient and captures the high level activities of such entities. However, issues remain regarding the requirement for Lead Generators to be licensed as a Mortgage Broker and how that impacts compliance, examinations and reporting.

Mr. Tim Doyle, CSBS

Page 7

June 10, 2013

3. The definition of “application” in the Mortgage Call Report is:

An oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a financial institution for the type of credit requested (Per Regulation B). Examples of requests that are considered an application for the NMLS MCR include, but are not limited to, any HMDA reportable application, pre-approval requests, requests without a property address, or requests which include access to the borrower’s credit information. SRR recognizes that various definitions of “application” exist in state and federal law and the multiple definitions have led to significant misunderstandings among licensees completing the Mortgage Call Report. Does the current definition of “application” for the Mortgage Call report require additional clarification or explanation and, if so, what should that guidance be?

RESPONSE: LendingTree suggests that the proper definition of an “application” as it relates to Lead Generation activities be that which is contained in RESPA and not in ECOA.

Regulation B (12 C.F.R. § 202.2(f) provides that an:

Application means an oral or written request for an extension of credit that is made in accordance with procedures used by a creditor for the type of credit requested. The term application does not include the use of an account or line of credit to obtain an amount of credit that is within a previously established credit limit. A completed application means an application in connection with which a creditor has received all the information that the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested (including, but not limited to, credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral). The creditor shall exercise reasonable diligence in obtaining such information.

LendingTree does not capture all of the information that a creditor would regularly obtain nor does LendingTree make a credit decision, approve or deny inquiries, it is up to the matched Network Lender(s) to obtain such information and make such determinations.

Other jurisdictions rely on Regulation X, 24 C.F.R. § 3500 *et seq.*, which is the regulation which implements the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 *et seq.* (“RESPA”). The definition prior to its amendment effective January 1, 2010, is as follows:

Application means the submission of a borrower’s financial information in anticipation of a credit decision, whether written or computer-generated, relating to a federally related mortgage loan. If the submission does not state or identify a specific property, the submission is an application for a pre-qualification and not an application for a federally related mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a federally related mortgage loan.¹

¹ The Official Staff Commentary to Regulation Z, 12 C.F.R. § 226 *et seq.*, which implements the Truth-in-Lending Act, 15 U.S.C. § 1601 *et seq.* (“TILA”), states that the term “application” as used in TILA and Regulation Z have the same meaning as the term is given under RESPA. See Comment 19(a)(1)-3.

Mr. Tim Doyle, CSBS
Page 8
June 10, 2013

Since a consumer's Inquiry is not submitted in anticipation of a credit decision, LendingTree respectfully submits that the inquiry is not an application for a mortgage loan as defined in Regulation X. In addition, the consumer is not asked to provide, and is not permitted to provide, information regarding their income (or debt) in connection with the consumer's request to be matched with a Network Lender and as such no debt-to-income (DTI) can be determined.

As indicated, Regulation X also states that "[i]f the submission does not state or identify a specific property [it] is an application for a prequalification and not an application for a ... loan." *Id.* This creates some trouble for Lead Aggregators since the passage of Anti-Money Laundering (AML) requirements for non-bank financial institutions and especially for online lead generators having to conduct an inquiry into the consumer data entered into the inquiry form to determine that the consumer is in fact who they are stating they are in the form, a property address is necessary to ensure that the phone, name, address, date of birth and when provided, Social Security Number is in fact the person entering the inquiry to be matched with up to five (5) lenders.

We point out that LendingTree's inquiry data fields are insufficient to constitute an "application" under HUD's current definition of application in Regulation X as, again, it does not take income (or debt) and is unable to perform any DTI calculations. In addition, LendingTree is not a creditor and cannot nor does it offer to extend credit, alter credit or reject credit.

Finally, on June 30, 2011, HUD published its Final Rules with clarification in relationship to SAFE Mortgage Licensing Act which were effective on August 29, 2011.² HUD views the phrase "tak[ing] an application to mean receipt of an application for the purpose of deciding whether or not to extend the requested offer of a loan to the borrower, whether the application is received directly or indirectly from the borrower." Again, LendingTree does not extend or offer a loan to any consumers, it merely matches consumers with Network Lenders, and the consumer is in complete control of his or her decision to speak to or not speak to the Network Lenders, to submit a formal Form 1003, or to do nothing at all. Respectfully, LendingTree does not facilitate a decision whether to extend an offer; rather, only the Lender(s) do[es] so -- after LendingTree's involvement in the mortgage process has ceased.

LendingTree does not take and is not required to provide HMDA Reporting because it, again, cannot offer or extend credit to consumers as a non-bank financial institution. Lead Generation is simply marketing and advertising which is "solicitation without origination". LendingTree suggests that the proper definition of an "application" as it relates to Lead Generation activities be that which is contained in RESPA and not in ECOA.

(5) Based on nearly two years of experience with the Mortgage Call Report, which policies, requirements, data fields, or definitions should be amended or maintained in order to provide regulators with sufficient supervisory information and create a uniform reporting mechanism for industry?

² See 76 FR 38464-38501.

Mr. Tim Doyle, CSBS

Page 9

June 10, 2013

RESPONSE: SRR should consider amending the data fields to allow for the collection of aggregate number of leads generated and aggregate lead fees obtained for the same. For example, LendingTree should be providing the Total Leads generated per quarter and the corresponding dollar amount received in lead fee revenue per state.

(7) SRR understands that licensees in non-mortgage industries periodically submit production (e.g. transactional or volume) and financial information to state regulators. What specific information should SRR consider collecting through NMLS, and should it be collected through the Call Report or similar filing?

RESPONSE: SRR should consider collecting aggregate number of leads generated and aggregate lead fees obtained for the same. For example, LendingTree should be providing the Total Leads generated per quarter and the corresponding dollar amount received in lead fee revenue per state. The changes to the Mortgage Call Report (MCR) did not accommodate our business mode as a non-bank financial service with a mortgage broker licenses (in most jurisdictions). As a Lead Generator, LendingTree does not fund loans and can only report zeros in the MCR and leave a note as to why it cannot provide funded data. In addition, LendingTree cannot accurately fill out the Application Data because it does not take a formal application (i.e. Form 1003) nor does it take an application under RESPA or the proposed CFPB definitional change associated with the same as described above. Lastly, LendingTree cannot report on Reverse Mortgage Lead Fee because the form directs you to place additional information and/or will present an error.

LendingTree thanks NMLS, the CSBS and the SRR for the opportunity to comment.

Respectfully,



Katherine Baird
Compliance Counsel
LendingTree, LLC

Cc: Charlie J. Fields, Jr. Director, Non-Depository Entities Division via email at cfields@nccob.gov
Tim Siwy, NMLS Ombudsman via email at ombudsman@stateregulatoryregistry.org



Dykema Gossett PLLC
Franklin Square, Third Floor West
1300 I Street N.W.
Washington, DC 20005

WWW.DYKEMA.COM

Tel: (202) 906-8600

Fax: (202) 906-8669

Haydn J. Richards

Direct Dial: 202-906-8602

Direct Fax: 202-906-8669

Email: HRichards@dykema.com

June 11, 2013

Mr. Tim Doyle
Senior Vice President
State Regulatory Registry, LLC
Conference of State Bank Supervisors
1129 20th St., NW, 9th Floor
Washington, DC 20036

Re: Request for Public Comments – Uniform NMLS Licensing Forms and Mortgage Call Report

Dear Mr. Doyle:

We greatly appreciate the opportunity to provide State Regulatory Registry, LLC, the Conference of State Bank Supervisors, and various state regulatory agencies with feedback regarding the Uniform NMLS Licensing Forms (“Forms”). This letter provides concise feedback on two of the questions posed in the recent request for comment. We provide our comments below for your consideration.

Question 1: Are all appropriate business activities identified on the Forms?

Although the list of business activities is comprehensive, we would suggest the addition of “Reverse Mortgage Servicing” as a business activity. Because “Reverse Mortgage Servicing” is not a presently identified business activity, licensees that conduct such operations must select the “Other-Mortgage” category. Doing so regularly prompts regulatory agencies to make inquiry as to the specific activities that are being conducted by the licensee. By adding a specific “Reverse Mortgage Servicing” category, those inquiries from regulatory agencies could be minimized. An alternative option that would address this issue would be to modify the “Reverse Mortgage Originations” category by changing it to “Reverse Mortgage Activities,” which is similar to the category that originally appeared on the MU1 Form relating to reverse mortgage activity. By broadening the scope of that category, licensees could select this category whether they originate or service reverse mortgage loans, or conduct both activities.

Question 2: How can the content of the Forms be clarified or improved?

California | Illinois | Michigan | Minnesota | North Carolina | Texas | Washington, D.C.



Mr. Tim Doyle
June 11, 2013
Page 2

Entity-specific Requests/MUI Form

Disclosure of executive officers and other control persons on an entity's NMLS record is governed by specific guidelines, set forth on the MUI form and in greater detail in the NMLS Policy Guidebook. Historically, prior to the development of the NMLS, mortgage license applicants and licensees were permitted to identify the key control persons of a licensee. Typically, it was expected that companies would identify their executive officers, directors (or managers, in the case of a limited liability company), and 10% or more owners.

With the development of the NMLS and the NMLS Policy Guidebook, the disclosure requirements pertaining to control persons are now refined and more focused. Specifically, the NMLS Policy Guidebook now suggests at least two approaches to the disclosure of individuals. First, the Guidebook suggests that the following meet the standard for control persons and, therefore, should be disclosed: (1) members of the Board of Directors, Board of Managers, Member Manager, General Partner, or a similar governing body; and (2) the President, Executive Vice President, Senior Vice President, Treasurer, Secretary, or similarly situated senior corporate officers. The Guidebook also suggests, as an alternative approach, that the following individuals be disclosed: (1) Chief Executive Officer; (2) Chief Financial Officer; (3) Chief Operations Officer; (4) Chief Legal Officer; (5) Chief Credit Officer; (6) Chief Compliance Officer; and (7) individuals occupying similar positions or performing similar functions.

We do not disagree that individuals holding certain of the above-referenced positions may merit disclosure in a licensee's NMLS record. However, we believe it is essential for the instructions to reflect, and regulatory agencies to understand, that it is the functional responsibility that an individual holds, rather than someone's title, that should make disclosure appropriate. For example, an individual may be identified as the Chief Human Resources Officer and, notwithstanding that the individual is responsible for personnel functions, such individual would not be senior in a licensee's management structure or involved in day-to-day operations of the mortgage licensee.

We strongly believe that the licensee is the party most familiar with their own operations. As a result, it is the licensee who is in the best position to identify the individuals who are in control of the operations of the entity and, therefore, should be disclosed in the company's NMLS record. All too often, licensees are directed to add specific individuals to their NMLS record when those individuals are not truly control persons (or certainly not control persons as the licensee administers its activities). Consequently, we suggest that the NMLS Policy Guidebook and the related NMLS forms be updated to reflect that although individuals may hold particular titles, it is their functional responsibility and whether they truly "control" an entity that would necessitate disclosure. We similarly believe updates should be made to demonstrate that although functional titles may suggest that an individual is in control, such a presumption may be

California | Illinois | Michigan | Minnesota | North Carolina | Texas | Washington, D.C.



Mr. Tim Doyle
June 11, 2013
Page 3

rebutted by appropriate facts demonstrating that an individual is not in control of an entity. We would be privileged to work with the Conference of State Bank Supervisors and the various regulatory agencies to further work through this particular matter, if you wish.

Branch-specific Requests/MU3 Form

First, with respect to the Branch/MU3 form, Question 7(a) inquires whether the “branch office and/or individuals at this branch office operate pursuant to a written agreement or contract with the main office.” Over the years, our historical understanding regarding why this question was posed related to identifying potential net branch considerations. However, it has been our general understanding that certain state regulatory agencies are broadly interpreting this question to require an affirmative answer merely because a branch manager may have a written branch manager agreement with their employer. Because certain state licensing requirements obligate a licensee to have a branch manager to have a written branch manager agreement with his or her employer, we believe that the value of this question in its current form is diminished (in essence, if a branch will be licensed in one of those jurisdictions, the question will always be answered in the affirmative). As a result, we would suggest that this question be revised to better clarify its true intent or focus. If, for example, regulatory agencies would like to understand whether a branch manager has a written agreement with his or her employer, we would suggest that the question be updated to reflect its true intent. Otherwise, affirmative responses to this question, as are required by certain regulatory agencies, have the potential to confuse other regulatory agencies that tend to view this question in a net branching context.

Second, one of the more difficult challenges that mortgage licensees face relates to branch locations that intend to conduct business in each of the fifty (50) states and the District of Columbia. When a licensed entity intends to open a branch location that will conduct business in all of those jurisdictions, it must identify one (1) branch manager that meets all minimum requirements in each of the jurisdictions. This generally results in that branch manager meeting a significant number of licensing obligations, including securing mortgage loan originator licenses, in a variety of states. As you can imagine, this creates significant operational difficulties for licensees because one individual must meet all of these requirements.

With the April 2012 functionality upgrade to the NMLS, branch locations now can identify multiple branch managers for each business line of activity conducted at a location. However, NMLS requirements still obligate licensees to only identify one branch manager per line of business. We strongly suggest that this policy be re-evaluated by the appropriate parties. It is not unreasonable to think that locations that conduct business in each of the 50 states and the District of Columbia and which have significant numbers of employees could identify multiple individuals to reasonably supervise activities in various states. In fact, as a best practice, we would suggest that diversified oversight strengthens the compliance function and better ensures

California | Illinois | Michigan | Minnesota | North Carolina | Texas | Washington, D.C.



Mr. Tim Doyle

June 11, 2013

Page 4

that a particular manager is not overburdened by his or her individual responsibilities. In short, a diversification of the branch manager function to allow individuals to specialize in particular states or particular regions of the country can only result in improved operations for a licensee and, ultimately, better compliance practices. Therefore, we believe that the interests of regulatory agencies and licensees are aligned on this particular issue and there should be no obstacle in eliminating the requirement that licensees only identify one individual branch manager per line of business.

Thank you for the privilege of being able to submit this comment letter. We hope that this feedback is helpful to you, your colleagues, and those reviewing this correspondence. To the extent that you have any questions or require any additional information, please do not hesitate to contact me at (202) 906-8602 or at hrichards@dykema.com.

Sincerely,

DYKEMA GOSSETT PLLC

A handwritten signature in blue ink, appearing to read "Hayden J. Richards", written over a blue circular stamp or seal.

Hayden J. Richards

June 11, 2013

Tim Doyle
Senior Vice President
State Regulatory Registry
Conference of State Bank Supervisors
1129 20th St. NW, 9th Floor
Washington, D.C. 20036

Costas A. Avrakotos
D 202.778.9075
F 202.778.9100
costas.avrakotos@klgates.com

Stacey L. Riggan
D 202.778.9202
F 202.778.9100
stacey.riggan@klgates.com

Dear Mr. Doyle:

We welcome the opportunity to submit comments to the Nationwide Mortgage Licensing System and Registry (“NMLS”) on the NMLS Company, Branch, and Individual Licensing Forms. There is much to be said of the benefit to the states in administering their licensing statutes through to NMLS, and much to benefit companies that are licensed through the NMLS, so we strongly encourage periodically reviewing the Forms used in the NMLS. As the NMLS, in some respects, still is a “work in progress,” it is good to know that the State Regulatory Registry (“SRR”) recognizes that changes in the forms and the information collected may be needed and that SRR will solicit comments from the industry.

K&L Gates represents a diverse group of companies, including mortgage finance companies, money transmitters, money service businesses, collection agencies, commercial lenders, and chartered depository institutions, among others, whose businesses activities and employees, are required to obtain and maintain their corporate-level licenses, branch office licenses, or employee licenses or registrations through the NMLS. We are in a position to hear from a wide range of companies who have concerns that arise in navigating the NMLS and in their efforts to be compliant. Our comments represent issues that have been brought to our attention by the companies we represent, and from our experience in helping companies obtain and maintain state licenses since the advent of the NMLS, and going back more than 18 years before the NMLS was created. From that perspective, we have raised issues during the Ombudsman sessions of each of the NMLS annual user conferences, and most recently, presented the Ombudsman a memorandum on NMLS User Issues during the conference in February 2013. We are pleased to learn that some of the issues raised regarding the forms are being considered by the Forms Working Group.¹ We offer these additional comments in

¹ We do not reiterate in these comments the issues raised in our memorandum of February 22, 2013, but want to emphasize that one of the most vexing NMLS issues involves multiple location/multiple state branch licensing, and the restriction on having one branch manager for each branch office, regardless of the number of states in which that location is licensed as a branch office, and urge the NMLS and the states to find ways to license branch offices without this “one branch manager restriction.”

Tim Doyle
June 11, 2013
Page 2

response to SRR's invitation to submit comments on the NMLS Company, Branch, and Individual Licensing Forms, and trust they will be of value in SRR's efforts to improve the NMLS.

Goals of the Uniform NMLS Licensing Forms

As emphasized in the request for comments, a goal of the NMLS in developing its forms is that they provide state regulators with sufficient information to make a decision to approve or renew a license, and, over time, they include all necessary information required by regulators such that requirements do not need to be submitted and tracked outside the NMLS. The forms also are intended to provide greater uniformity in licensing companies in multiple jurisdictions.

The information that is expected to be submitted to obtain and renew licenses for companies has grown significantly since the NMLS came into being, and shows no signs of having found a plateau of what is sufficient or necessary. At times it seems that information is required simply because it may exist, and not because it is needed or used to evaluate the worth or merits of issuing a license to an entity. A great amount of information now has been collected in the NMLS on licensed companies, and continues to grow. Perhaps this information is not as voluminous as that which the National Security Agency has collected, but significant nonetheless. If the goal is to assemble all of the information that is necessary to license a company, then a fair question is whether all of the information now required is truly necessary to determine whether to approve or renew a license for a company, or is some of the information excessive, redundant or immaterial in deciding whether to issue or renew a license to an entity. We, therefore, have certain questions that merit an answer.

Why Was It Necessary to Broaden the Scope of Who Is Considered a Control Persons?

One set of submissions that many companies find excessive is the information required of those who are designated "control persons." Prior to the last revisions in the NMLS, a core list of individuals managing a company were included in the list of individuals who were identified as "control persons." With companies having been successfully licensed for years outside and through the NMLS, it seemed reasonable that the states had been collecting sufficient information by which to determine whether to issue a license to a company. Apparently that was not the case. Not only do the senior executive-level officers need to submit MU2 forms, but now a much broader group of individuals, including persons in corporate governance positions or those employees performing certain operations, must be identified as "control persons" and submit MU2s. As we understand, this determination of whether a person in a corporate governance position must be identified as a control person is based solely on the individual's title and not the definition of control.

Tim Doyle
June 11, 2013
Page 3

These additional individuals may need to submit MU2s and other information required of “control persons” irrespective of whether the individual (i) is in a position of senior management, or (ii) has the power to direct the management of the licensee or establish policies independent of reporting and obtaining the approval of senior management. We do not believe any explanation was offered as to why it was necessary to expand the list last year of those persons designated as “control persons.”

The July 23, 2012 NMLS Policy Guidebook provides that “[a]pplicants and licensees should review the definition of *Control* when completing the Direct Owners section of the NMLS, and include any individual or company that has *Control over the entity*” (emphasis added). Individuals should be identified if they have control over the entity with control defined, in relevant part, as the “power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise. However, the language in the Guidebook now captures those individuals who may not have the power to direct the management or policies of a licensee, but simply are assigned to implement a policy or conduct certain operations. The Guidebook identifies a group of individuals who now are seen as having “functional responsibility,” and therefore deemed to be “control persons,” including those involved in the information technology and security functions of the licensee. Consequently we are starting to see some state regulators request the submission of MU2s on those individuals, notwithstanding that they report to senior management with whom the decision-making responsibility for those functions may rest.

Other individuals seen as having functional responsibility for an entity include qualified persons, location supervisors, and branch managers. Location supervisors or branch managers do not control the management or policies of a licensee. They may run a branch and supervise employees, but they do not manage an entity. Yet, they are now viewed as control persons by virtue of being disclosed on the Direct Owners page of the NMLS, which we understand assumes that anyone listed on the Direct Owners page is a control person, because designation as a control person is no longer separately required by the licensee. At some point, the NMLS determined that it was not sufficient to collect and review information on those who may control and direct the policies and management of a licensee, but that the NMLS should include those individuals who merely implement the policies or conduct its operations. If these persons report to senior executive management, who have the decision-making authority for a licensee and its operations, why has it become necessary to collect information on these individuals?

One of the reasons why this is particularly troublesome is that it creates a situation where an individual who does not have the ability to exercise control over the licensee’s affairs may ultimately be held accountable for actions of the licensee. For example, the NMLS Individual Statement asks a series of disclosure questions about actions taken against the individual personally, as well as actions taken against the company for which the individual served as a control person.

Tim Doyle
June 11, 2013
Page 4

If a state compels an individual to be identified as a control person despite the inability to exercise control, there will be an historical record in the NMLS that the individual served as a control person when, indeed, that individual was not in control of the licensee. In addition, certain state laws provide regulators with authority to take action against a control person of a licensee in the same manner as they can take action against the licensee. Many individuals holding (i) lower level officer positions, (ii) corporate governance positions, such as treasurer or secretary, or (iii) certain functional responsibilities may not be cognizant of these over-arching provisions and the risk they assume in being identified as a control person for the licensee, which may become a part of their permanent record given that there is no time limitation for responding to the disclosure questions in the NMLS Individual Statement.

From day one, the NMLS has indicated that the individuals identified as controlling a company are presumed to control the company, but the NMLS has never indicated how a person or company could rebut the presumption of control. With the expanded list of individuals presumed to control a company, and with states becoming more aggressive in requiring that individuals be listed as control persons because of a job description or a title, the NMLS should provide a basis by which a licensee can rebut the presumption of control. Otherwise, licensees are left with no objective measure by which they can refute that someone is a “control person.”

The issue of identifying those in control of a licensee also continues to be an issue of identifying passive indirect investors in a licensee. We have never believed that entities or individuals who have less than a 10 percent indirect ownership interest in a licensee should be reported in the Indirect Owners section of the NMLS, despite the entity or individual holding a 25 percent or more interest in the holding company. We do not believe it is necessary for these individuals to be reported to decide whether the company should be issued a license. We have seen states require a more than 25 percent investor in a holding company of a license be reported as an indirect owner when the holding company held less than five percent of the licensee. These investors should not need to be listed as indirect owners if the holding company through which their interest is held in the licensee is less than 10 percent.

What is particularly problematic is that some states are requiring natural persons who are reported as indirect owners because they have a 25 percent or more interest in a holding company of a licensee be identified as a “control person,” when the individual’s indirect interest in the licensee does not equal 10 percent. A “control person” is defined as “an individual (natural person) named that directly or indirectly exercises control over the applicant (see definition of control).” The definition of control is based on a 10 percent or more test. Despite holding a 25 percent or more interest in a holding company in the chain of ownership, a natural person does not become a control person, unless the natural person holds 10 percent or more of the interest in the licensee. If a less than 10 percent direct owner of a licensee does not need to be disclosed, then surely a less than 10 percent indirect owner

Tim Doyle
June 11, 2013
Page 5

of a licensee should not need to be disclosed, notwithstanding that such indirect owner holds 25 percent or more of a holding company in the chain of ownership. This point should be clarified in the NMLS to relieve less than 10 percent indirect owners of needing to be disclosed, regardless of the interest held in an indirect holding company.

We also have concerns that the list of who should be identified as a control person may continue to grow, as we understand that some state regulators may be advocating that those individuals who are officers or directors of the holding or parent companies of a licensee should be deemed to control the licensee and be required to submit MU2s. After many years of sufficiently licensing entities before the NMLS was created, and now through the NMLS, without requiring background information on the officers or directors of the parent companies in all but less than a handful of states, we do not see why it could become necessary for all states to now require MU2s of the officers and director of the parent companies of licensees.

Is It Necessary to Require an Attestation with Every NMLS Submission?

Each time a company files for a license in the NMLS, and every time something is added or deleted in a company's NMLS Record, the company's administrator must make an attestation before hitting the submit button. The attestation provides that the information and statement contained in, and any exhibits accompanying, the application are current, true, and complete, and are made under the penalty of perjury. Moreover, to the extent any information is not amended, the attestation provides that such information remains true and correct. Companies are finding that state regulators are beginning to raise questions of false attestation when submissions are made in the NMLS if out-of-date information is not updated.

With the amount of information that a licensee may have submitted over the years in connection with its Account Record, there may be volumes of information in the NMLS that would need to be reviewed, considered, and amended each time a licensee needs to update its NMLS Account Record. The attestation does not merely address the changes being reported that involve the company, but applies to all of the information in a company's Account Record. Moreover, each control person would need to make sure his or her information is current, true and complete, for a company's attestation to be made. It takes time and a concerted effort to ensure that all previously submitted information in a company's account record is true and correct each time an attestation is made.

We recognize that the appropriate attestations must be made when a new application is submitted, but is it truly necessary to require a licensee to make an attestation for each and every entry subsequently made in the NMLS? Is all of the information in the NMLS equally significant for purposes of maintaining a company's license in the NMLS? Is there a reason that certain non-material information for licensing purposes cannot be submitted without an

Tim Doyle
June 11, 2013
Page 6

attestation being made? Of course, updating of other information can still be required, but licensees should be able to submit or update routine general information without needing to make a new attestation. We encourage the NMLS to explore ways to reduce the events that require a new attestation.

Questions about the need for an attestation have arisen in certain specific scenarios. One situation we recently encountered involved a company that submitted multiple state license applications in the NMLS over the course of one day. With each new application, each control person was required to again attest to his or her MU2 record, despite the fact that the person had just attested to his or her record a few hours earlier. It was cumbersome, and frustrating to the control persons to attest to the SAME information over and over again on the same day

Another attestation “issue” involved a control person that also served as a branch manager. As a control person on the Company’s MU1, he would attest to this MU2 record. Once the company MU1 was submitted, but before the branch application could be submitted, he had to attest to his record again, but now as branch manager. It was very frustrating for him and the licensing administrator in trying to submit the branch applications timely.

We recognize that the attestation is necessary, and do not want to marginalize its significance, but from the issues we have seen raised, it appears there is a need to refine when a new attestation is absolutely necessary. We understand that the NMLS has modified the current attestation so as to accommodate the “future event filings” that can be filed through the NMLS later this month. As the Forms Working Group has given thought to the sufficiency of the attestation in this situation, we trust that it can give further consideration to its application in situations when non-material information is being submitted to update an NMLS Account Record.

Necessary Progress Toward Uniformity

Uniformity in the licensing process has been a long-standing goal of the NMLS, and there is much to be gained by having a licensing system that is uniform across state lines. However, we must admit to having mixed feelings about the continued efforts to strive for uniformity in the license application process. On the one hand, we see the benefits of having a uniform state licensing system, as most recently evidenced by the Uniform State Test. On the other hand, we see states legislate to the NMLS, and require information that is necessary for NMLS purposes, despite a state not previously or otherwise requiring that such information be submitted. Companies seemingly have come to recognize that if they are to benefit from uniformity in the licensing process, they must accept that states will amend their requirements over time to conform to the NMLS.

Tim Doyle
June 11, 2013
Page 7

Notwithstanding the efforts of the NMLS to achieve greater uniformity in licensing companies, however, we continue to see a few states impose licensing criteria that no other state requires, and fear that more states will drift away from uniformity as some states go their own way.

What is particularly disconcerting is when a state imposes a jurisdiction specific submission, and requires that the company make the submission through the NMLS. We recognize that some states by the express language of their licensing statute will require jurisdiction specific information for a company before it can be issued a license, but the state should not be able to compel that such jurisdiction specific information be submitted in the NMLS that would be available to states that do not require the submitted information. Consequently, one state can dictate what must be submitted for all states for NMLS purposes. It has been understood that the NMLS provides that if a state requires certain jurisdiction specific information, the state could accept that information outside the system. As uniformity is a professed goal of the NMLS, then the states should move in concert, and no state should force a jurisdiction submission through the NMLS, but should be willing to accept jurisdiction specific information outside the NMLS. SRR should consider ways to accommodate state specific requirements, without burdening or compelling licensees to make a filing that would undermine the desired uniformity.

Although companies generally see the benefits of uniformity in terms of the information that should be submitted to obtain a license or to have a license renewed, the distinctions and differences in the many companies and types of businesses that need to be licensed through the NMLS should not be cast aside in driving toward this goal of increased uniformity. Small companies manage their operations differently than larger companies. Entities that hold state mortgage finance licenses because a license is needed only to invest in or purchase closed mortgage loans, may have no need for compliance officers or licensed mortgage loan originators. Most companies licensed through the NMLS likely only conduct residential mortgage loan finance-related activities, while, for other licensees, mortgages finance-related activities may constitute a small percentage of their business activities. Licensees that are subsidiaries of publicly traded companies may not have separate financials, but have financials consolidated with the parent company. Companies that are affiliated with multinational companies may have scores of affiliates involved in financial services related activities that make it burdensome to update for NMLS purposes. Although an overlay of uniformity through the NMLS should be the norm to meet state licensing requirements, some exceptions to the standard filings should be recognized by NMLS and the states given the many differences in the companies and businesses being licensed through the NMLS.

Ambiguity

Despite many changes made over the years to provide better guidance and direction as to what needs to be submitted in the NMLS for purposes of considering whether a license

Tim Doyle
June 11, 2013
Page 8

should be issued to a company or an individual, there are still a number of requirements, provisions, or directions that are ambiguous and raise questions as to what is required. We did not have an opportunity to provide a detailed list of those ambiguities or inconsistencies, but would be willing to put together a more comprehensive list for the consideration of the Forms Working Group at a later date, if you would have us do so. For example, here is one ambiguity in the NMLS Guidebook. On the first page of the Indirect Owners pages of the Guidebook, the page provides that an applicant should continue up the chain of ownership listing all 25% or more owners at each level. This provision then states “**only once a public reporting company, a credit union, a bank, or a bank holding company regulated by a Federal Banking or Credit Union Regulator, or a natural person is reached, no ownership information further up the chain of ownership need be given.**” The next page of the Indirect Owners page of the Guidebook provides that the applicant or licensee should be “reporting those with 25% or more ownership interest at each level, **until the reporting reaches a publicly traded entity or the last natural person.**” So, where does the reporting stop, at a bank, or at a holding company above the bank? These and other ambiguous provisions are found in the NMLS, and should be clarified.

Disclosure Questions

During the Ombudsman session in February 2013, we raised a number of NMLS Disclosure questions that need to be addressed and were included in the “Legacy Issues” section of the memorandum that we had prepared for the Ombudsman including:

- (i) Whether Question (E) of the Regulatory Disclosure Questions should be read as requiring the reporting of any pending regulatory action, or, as suggested only regulatory proceedings as was the case before the April 2012 revisions;
- (ii) Conflicts that were raised between the Company (MU1) Form and the Individual Form (the combined MU2 and MU4 Forms) since the April 2012 revisions;
- (iii) Uncertainty between the persons exercising control on the Direct Owners section of the Company’s (MU 1) Form, and the Individual Form (the combined MU2 and MU4 Forms) since April 2012; and
- (iv) Updating “YES” answers to “NO” answers when pending regulatory and civil matters have been resolved.

We trust these four disclosure-related questions are being considered. With respect to item number (iv), we understand that there was wide agreement that the functionality should be amended to allow for this change to take place. The inability of licensees to change a “YES” answer to a pending financial service-related civil action or regulatory action to a “NO” answer when the pending matter is completed should raise no issues with anyone. Is it

Tim Doyle
June 11, 2013
Page 9

necessary for a “black mark” to remain in place against a licensee if a pending matter has been resolved, settled, dismissed or withdrawn? With regulatory or civil matters where the licensee has prevailed, it is particularly galling for a licensee to be compelled to continue to show that a civil or regulatory matter is pending in its NMLS Account. The licensee may have cleared its name, yet continues to be seen as guilty to the world, or at least suspect, of having committed some bad act.

We have another regulatory disclosure that we want to bring to the attention of SRR. As you know, one regulatory action disclosure question asks: “in the past 10 years, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) entered an order against the entity or control affiliate in connection with a financial services related activity.” The “Disclosure Questions” page of the NMLS Policy Guidebook provides that “when responding to questions regarding Control Affiliates, all current and former Control Affiliates for the last ten years must be disclosed.” The NMLS Guidebook makes no allowance if the licensee owned or controlled the Control Affiliate, or was owned or controlled by the Control Affiliate, when the matter occurred that led to a sanction.

In a dynamic industry, when companies are being bought and sold, it is not uncommon for a licensee to acquire a company that has regulatory sanction in its history. As now structured in the NMLS, a licensee that had a “NO” answer to the above question would need to amend its Account Record in the NMLS to change the answer from a “NO” to a “YES.” The licensee would need to report to each state in which it was licensed the reason it changed its answer from a “NO” to a “YES,” and this “YES” answer would remain a part of the licensee’s Account Record for 10 years.

If a licensee did not own or control a subsidiary when a violation of a consumer financial services law or regulation occurred, the licensee should not be compelled to report a sanction involving the Control Affiliate. A licensee should only be required to report on sanctions that arose from its own actions, or from those of a Control Affiliate that the licensee actually controlled, or that controlled the licensee, when the matter occurred. The disclosure questions in the NMLS are taken seriously by regulators, industry, and consumers. They are increasingly being reviewed for an understanding of how consumer credit compliant a state regulated licensee may be. A licensee’s reputation should not be tarnished for an action committed by an entity unaffiliated with a licensee when the conduct took place. It is eminently unfair for a licensee to need to report sanctions against a Control Affiliate arising from actions that were taken against the Control Affiliate before it was controlled by the licensee, or before it controlled the licensee. For purposes of the disclosure questions involving a licensee, the NMLS Forms and the Guidebook should be revised to make clear that a licensee needs to report matters involving a Control Affiliate that occurred during a time that the licensee controlled, or was under the control of, the Control Affiliate.

Tim Doyle
June 11, 2013
Page 10

We appreciate the opportunity to have submitted these comments with respect to the NMLS Forms. We trust our comments have merit, and look forward to addressing any questions that the Forms Working Group may have.

Sincerely,



Costas A. Avrakotos



Stacey L. Riggin

MCR Working Groups and MU Forms

K&L Gates Memo Issues

Mortgage Call Reports

Companies have encountered problems with respect to the manner in which the MCR relates to the change in the instructions for gross income from operations. This line item appears on the state-specific component of the MCR and some licensees have difficulty delineating 'mortgage-related' income on a state-by-state basis. Below you will find the old MCR instructions, and the new instructions dated October 31, 2012.

Previous Definition

100	AC1	Gross Revenue from Operations	All revenue from whatever source received by your company <u>on loans originated</u> in this state during the reporting period before any expenses are deducted. Include gross revenue from sales of mortgages at or subsequent to closing.
-----	-----	-------------------------------	--

New Definition

100	AC1	Gross Revenue from Operations	All revenue from whatever source received by your company on mortgage loans in this state during the reporting period before any expenses are deducted. Include gross revenue from sales of mortgages at or subsequent to closing <u>and from any other mortgage related activity.</u>
-----	-----	-------------------------------	---

We represent companies subject to filing the MCR because they hold a license, but do not otherwise originate, acquire, sell or service loans. As the clause "any other mortgage related activity" is not defined and could be applied very broadly, licensees are compelled to consider any revenue derived directly, or in a distant ancillary manner, from a mortgage loan as being from an activity that was "mortgage related." Given the manner in which licensees may be compensated or in which income is derived, it is nearly impossible to allocate the income from those activities based on a property address.

In one example, the company provides support to mortgage loan servicers in connection with loan modifications. The activity is limited to collecting information from the borrower to input into a decisioning system that is used by the servicer (not the company collecting

the information). As such, the activity is purely administrative and may or may not trigger licensing in a state. In any event, is the income derived from such activity considered to be income from a mortgage related activity, particularly if the activity is not subject to licensing. The problem is that the company is paid by the servicer (it does not receive income from borrowers) on an hourly, not a per loan basis. It is unclear how the company would breakdown its hourly compensation on a loan level basis.

In another example, the company holds a license for certain limited mortgage finance activities in a few states. The company also executes trades in connection with mortgage backed securities. A lender fills the trades but the company's income is not based on the underlying loans. Rather, income is derived through the sale of securities to investors that want to invest in the Mortgage Backed Securities (MBS) for which they executed the trade and their income is based on the commission received, which has no correlation to the underlying loans that are used to fill the trade. This income relates to the sale of securities but because the collateral for the securities involves mortgage loans, would the activity be considered mortgage related?

We believe the activity is too ancillary to the mortgage loans to be considered a mortgage related activity, and such income should not be considered. If the company had to report this income, it is unclear how it would do so. The company does not receive a listing of the loans that were delivered in connection with the trade and even if it did, the company could not prorate the income for a particular trade based on the unpaid principal balance of any given loan because the pricing is based on a percentage of the trade on the whole.

A third example involves a REIT that invests in mortgage backed securities ("MBS"). Holding an investment interest in MBS does not require a state mortgage finance license. However, the REIT also purchase closed loans, so it holds licenses and would report income in connection with the loans held in portfolio. It is unclear if the REIT is expected to report its investment income derived from MBS. We do not believe the REIT should need to report its investment income from MBS. If so required, then how could it accurately report the income derived from an MBS investment involving a particular state?

We do not necessarily have answers to these questions or a proposed solution to these unique situations. There are simply too many variables. However, we question whether it is the regulators' intent to capture income from "any" mortgage related activity" or whether the intent was to expand the definition to capture activity relating to the origination, acquisition, sale or servicing of residential mortgage loans, as opposed to (i) ancillary support services related to the origination or servicing of loans, and/or (ii) investment activities other than the direct purchase and/or sale of mortgage loans. We trust the Policy Committee will consider this issue, and revise the MCR instructions.

FORMS

Affiliate Issues

Last year we raised the issue that the increased functionality of the NMLS, as of April 16, 2012, made a number of changes as to the information that must be included in the Company's NMLS Account Record, including significantly expanding who must be identified as an affiliate of the licensee. Specifically, the NMLS now requires, as set forth in the NMLS Policy Guidebook (the "Guidebook") that: "Applicants and licensees must identify each entity under common ownership (affiliate) and each entity under control (subsidiary) that provides financial services or settlement services." This requirement to identify affiliates engaged in financial services or settlement services was new, as the Guidebooks prior to April 16, 2012, only required identification of those affiliates that provide mortgage-related or settlement services activities.

By requiring the identification of affiliates (not merely control affiliates) engaged in financial services activities, the NMLS significantly expanded the universe of companies covered, given the broadly worded definition of the term financial services set forth in the Guidebook. Identifying all such affiliates was particularly burdensome for those licensees that are in a family of companies owned by the same holding company with worldwide operations, which may have hundreds, if not thousands, of financial services affiliates worldwide. We found a way to work though that issue that generally has been accepted by the states as to the affiliates that must be reported.

However, there remains at least one affiliate issue that raises questions, and merits direction as to what should be reported. As noted above, the Affiliates/Subsidiaries page of the July 23, 2012 Guidebook provides that "Applicants and licensees must identify each entity under common ownership (affiliate) and each entity under control (subsidiary) that provides financial services or settlement services." This Guidebook further directs that with respect to "Control Relationship" -- "identify whether the entity is under common ownership (affiliate) or under control (subsidiary) of the applicant or licensee." The Guidebook makes a clear distinction, in that affiliates are those under common ownership with the licensee, while a subsidiary is one controlled by the licensee.

Although the Guidebook clearly provides that it is looking for those entities under **common ownership** with the licensee to be identified as affiliates, the term affiliate is defined differently in the Glossary to the Guidebook, thereby creating confusion as to which affiliates must be identified. In the Glossary, the term affiliate is defined to mean "an organization that is under **common control** with the applicant." Ownership on the "affiliates page," common control in the Glossary. Ownership is not defined in the Guidebook, but the Guidebook provides direction for what is required when the percentage of ownership is the criteria being considered for indirect owners. In the instructions for identifying indirect owners, the reporting obligation is based on a 25 percent or more ownership test. The term common control is not defined, but control is defined, and is based on a 10 percent or more ownership test. As the instructions for identifying affiliates is based on those entities under common ownership with the applicant or licensee, and as the percentage of ownership test used to identify indirect

owners is based on a 25 percent or more test, we believe that the Glossary definition of affiliate should be changed to remove any uncertainty, and should be amended to reflect the instruction on the affiliates page and on the indirect owners page, so that the definition of affiliate in the Glossary means "an organization that is under a 25 percent or more common ownership with an applicant or licensee."

Branch Offices

We do not understand how a relatively simple process of licensing additional retail mortgage lending or brokering offices as a branch of a licensee has become such a burdensome process. Under the NMLS requirements, but not necessarily under state law, only one person can serve as a branch manager of one licensed mortgage finance branch office regardless of the number of states in which the branch office may be licensed.

In some states, the branch manager of a branch office must have certain number of years of experience and/or be licensed as an MLO for the branch license to be in effect. Coupling these state-specific requirements together with the NMLS limitation that only one person can serve as a branch manager of one licensed mortgage finance location makes it difficult for licensees to manage national or regional call centers. The one person would need to meet each state's experience requirements, and be licensed as an MLO where required to manage the location. If the person leaves unexpectedly, the licensee's origination operations could be disrupted if the location's branch license was not in effect without branch manager.

We do not see what regulatory purpose is served, which otherwise cannot be met, if a branch is limited to having only one branch manager. We also do not understand what administrative purpose is served for the NMLS for managing the information of mortgage finance licensees. As we understand, if a branch office was engaged in multiple business activities under more than one industry group, the branch can have multiple managers. If the functionality of the System is such that it can provide for multiple branch managers for one location when different business activities are involved, then it should be able to do so when the same business activities are involved.

Moreover, as with the need to replace a QI unexpectedly, the operations of a licensee's licensed branch office should not be suspended if the licensed branch manager resigns without notice. Licensees should be afforded a reasonable amount of time to replace a departed branch manager. Allowing for multiple branch managers for the same location also would alleviate the concerns that arise in such situations.

Management Disclosures

Since the April 2012 upgrade in functionality of the NMLS, the NMLS posts a more broadly identified list of individuals with different forms of legal organizations who may be subject to filing an MU2 Form as "control persons" as that term is defined in the NMLS. A list of those persons that are expected to be identified as control persons include those persons involved in

corporate governance and those who have senior functional responsibility for certain operations of the licensee, and also could include "qualified persons, location supervisors, and branch managers." A state or two has started to require that a licensee upload a copy of its management organizational chart, which becomes generally available once uploaded.

Since day one of the NMLS, the definition of control still provides that the individuals identified to control an organization are "presumed to control that company." To date, the NMLS has never set out the basis by which a licensee can rebut the presumption that a person controls an organization. Moreover, according to the definition of control, a person could be deemed to control the management or policies of a licensee by contract. If a person could be deemed to control a licensee by contract, then it would be reasonable to conclude that an otherwise titled officer can show by contract that the person does not direct the management or policies of the company related to the licensable financial services activities. With the NMLS having expanded the list of persons who may need to submit an MU2 Form, the NMLS should provide guidance as to what can be done to rebut any presumption of control if the issue was raised by regulators in an examination.

Regulatory Disclosure Questions

We believe there is still a fair amount of ambiguity and uncertainty that exists in trying to discern how to answer certain of the Disclosure Questions and whether the Disclosure Questions apply in certain situations. The companies and the states seem to have settled into an acceptable routine and practice as to the manner in which many of the original Disclosure Questions should be answered, so clarification may not be necessary until an issue comes to a head. However, there are a couple of issues in the Disclosure Questions that carryover from the April, 2012 update that continue to merit clarification.

Is it Pending Regulatory Action or Pending Regulatory Proceeding?

Since the revisions made to the NMLS forms as of April 16, 2012, Question (E) of the Regulatory Disclosure Question of the Company Form (MU1 Form) now asks:

"Is there a **pending regulatory action** against the entity or a control affiliate for any alleged violation described in (C) or (D)?"

Question (E) circles back to Question (C), which covers certain findings or sanctions, and other matters, and Question (D) relates to certain suspended authority. The terms "regulatory action" or "action" are not defined in the Glossary of the Guidebook, and as far as we can tell, have never been defined. Absent a definition, it is unclear what activities may constitute a regulatory action.

In any event, prior to the April 16, 2012 revisions to the NMLS, Question (E) of the MU1 Form asked:

"Is the entity or a control affiliate **now the subject of any regulatory proceeding** that could result in a "yes" answer to any part of (C)?"

A corresponding question of the Individual Information Form (the combined MU2 and MU4 Forms), Question (O) ask the control persons of a license about any **pending regulatory action proceeding** against any organization over which the person exercised control.

The term proceeding was and continues to be a defined term in the Glossary to the NMLS Guidebook, which defines the term proceeding in this manner:

PROCEEDING – Includes a formal administrative or civil action initiated by a governmental agency, self-regulatory organization, or a foreign financial regulatory authority; a felony criminal indictment or information (or equivalent formal charge); or a misdemeanor criminal information (or equivalent formal charge). **The term does not include** other civil litigation, **investigations**, or arrests or similar charges affected in the absence of a formal criminal indictment or information (or equivalent formal charge).

Soon after the April 16, 2012 revisions were made to the NMLS Guidebook, we were advised that it was not the intent of the Mortgage Policy Committee to drop the word proceeding, and that this Question (E) of the NU1 Form still should be read as a **regulatory proceeding**. We further understood that eventually, this would be corrected in the NMLS, but that the NMLS electronic pages likely would not be revised for two years. In the interim, however, reference to the intent of Question (E) would be made in the next re-issuance of the Guidebook. The July 23, 2012 Guidebook did not speak to this intent, or otherwise explain how Question (E) should be answered. We are still looking for guidance on this question from CSBS.

There is a significant difference if Question (E) asks about any pending regulatory action, versus a regulatory proceeding. How should this question be answered? If it is the intent of the Policy Committee to now call for any regulatory action to be reported, what constitutes a regulatory action?

Conflicts between the Company (MU2) Form and the Individual Form (the combined MU2 and MU4 Forms) since April 2012.

Since April 2012, the Individual Information Form asks certain new Regulatory Action Disclosure Questions and revises a number of questions. Two new Questions are:

(i) Question (M), which asks-- Based upon activities that occurred while you exercised control over an organization, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever taken any of the actions listed in (K) through (L) above against any organization? and

(ii) Question (O), which asks-- Based upon activities that occurred while you exercised control over an organization, is there a pending regulatory action proceeding against any organization for any alleged violation described in (K) through (L)?

One of the revised regulatory Action Disclosure Question is question (N), which asks-- Is there a pending regulatory action proceeding against you for any alleged violation described in (K) through (L)?

Question (M) ties into the Company's Regulatory Action Disclosure Questions, which asks about certain regulatory actions involving the Company. However, the Company's Regulatory Action Disclosure Questions only go back 10 years, whereas this new Question (M) for a control person is open-ended, and not limited to the last 10 year period. It is possible that a Company could have a "NO" answer to each Regulatory Action Disclosure Question, because there were no such actions within the last 10 year reporting period, but a control person of such entity would need to go beyond the 10 year period of the Company with which the person served as a control person to answer this question.

We recognize that, as a general approach, when initially crafting the Individual Disclosure Questions, state regulators believed the an individual should be able to know all civil or regulatory actions take against the individual, but this question does not involve actions taken against the individual, but against the organization in which the person exercised control. Therefore, we think it would be appropriate to limit this Questions (M) to a 10 year period, to coincide with the Company's Regulatory Action Disclosure Questions. We also recognize that this question is not limited to an organization in which the person is currently serving as a control person, but would involve any organization in which the person exercised control. Nevertheless, is it necessary to go back more than 10 years to see if the person exercised control over an organization that was sanctioned, when state regulators have determined that it is not necessary to go back more than 10 years for regulatory sanctions when determining whether a company should be licensed? For this one question on the Individual Information Form (Question (M)), we believe the response should be limited to the last 10 years.

Uncertainty Between the Persons Exercising Control on the Direct Owners Page of the MU1 Form and the Individual Form (the combined MU2 and MU4 Forms) since April 2012.

As indicated above, the two Regulatory Action Disclosure Questions above, Questions (M) and (O), require the person to answer a question that applies because the person exercised control over an organization, which obviously includes the licensee. One Civil Action Disclosure Question, Question (J)(3) is similarly worded. Uncertainty exists as to who controls a licensee for purposes of answering these Questions. The Direct Owners and Executive Officers Page of the NMLS Guidebook provides guidance as to who may control a licensee. The two most recently issued Guidebooks (those of April 16, 2012, and July 23, 2012) have added language that raises a number of questions as to who controls an organization for purposes of answering Questions (J)(3), (M), and (O).

The Guidebooks first state that "applicants or licensee should review the definition of *Control* when completing this section and include any individual or company that has **Control over the entity**." The Guidebook then identifies certain individuals that should be included as having *Control*, including certain equity owners, and those individuals in corporate governance and with functional responsibility. The Guidebook also defines functional responsibility, listing

certain individuals, including certain titled executive officers. With respect to those who have functional responsibility, the Guidebook then provides "other **required** individuals may include **qualified persons, location supervisors, and branch managers.**" As I understand, the QI and the branch managers of licensed branch offices may need to be listed on the Direct Owners page of the Company Form. The QI has a separate section of the Individual Form on which the person must be identified, so it is unclear why the person also must be listed on the Direct Owners page. (I do not know who may be a "location supervisor," but they too must be listed on the Direct Owners page.)

The issue becomes further complicated because the Direct Owners Page was amended with the April 16, 2012 enhancements. Prior to the April 16, 2012 enhancements, the Direct Owners Page provided a column identified as "Control Person," where the box following the person's name could be checked if the person was deemed to be in control. That column was removed from the most recent Company Form. It appears to be generally the position of the state regulators that anyone listed on the Direct Owners Page is in control of the organization, which is not necessarily the case. A manager of a branch may oversee the branch, but does not control the licensee. A person required to be listed as a QI for a licensee for a particular state license does not direct the licensee's overall management or policies, which are the core components of the definition of *Control* for NMLS purposes. If a QI and a manager of a branch is so listed on the Direct Owners Page, and therefore deemed to be in control, then the question has arisen as to whether the so listed QI and branch managers must answer Questions (J)(3), (M), and (O), which apply to persons exercising *control* over an organization? We believe the reasonable and practical answer is that Questions (J)(3), (M), and (O) should be answered NO, as a person who is merely a branch manager or a QI for purposes of one or more state licenses does not exercise control over the operations of the entire Company, Has CSBS and the Policy Committee considered this issue. Will clarification be provided in the Next version of the Guidebook.

Pending Regulatory and Civil Matters that Have Been Resolved

Prior to the April 2012 revisions to the NMLS, an entity was asked to make a determination of whether a pending criminal, regulatory, or civil matter could result in a sanction, finding, order or injunction. Therefore, an entity could make a subjective evaluation of whether the question warranted an affirmative or negative reply. With the manner in which these "pending questions" are now worded, the entity has no or little choice but to answer the question affirmatively if there is a reportable pending matter.

If an entity answers affirmatively to a question about a pending criminal, regulatory, or civil matter, and that pending matter is dismissed, withdrawn, settled, sanctioned, adjudicated or otherwise resolved, the entity should be able to amend its answer to such a question from "YES" to "NO" because the matter is no longer pending. It is unfair to a licensee to have a stigma of a pending action attached to its record for 10 years when there is no pending action. Moreover, each time such entity makes an attestation, it is making a false attestation if the pending action box continues to be answered affirmatively when there is no longer a pending action. (The same issue exists for a control person in his or her Individual Information Form.)

As we understand from having raised this issue in September 2012, there is nothing in the System that would preclude the entity from changing a "YES" answer to a "NO" answer other than the states would want an explanation of why the answer was changed to "NO." However, as we were advised last fall, the System does not allow an explanation for "NO" response at this time. Therefore, the licensee would need to provide an explanation of the reason the answer went from a "YES" to a "NO" by letter or email outside the System.

If a pending action question was answered "YES," and the matter is dismissed or otherwise resolved, then in the interest of fairness, and the integrity of the NMLS, the entity (and control person, as applicable) should not only have the ability to change the "YES" answer to a "NO" answer, but the System should facilitate the ability of the licensee (or control person) to provide an explanation to the states. We, therefore, believe that the functionality of the System should be upgraded to allow an explanation for a "NO" answer to a question.

This leads to another reason to have an opportunity to provide a means for a licensee to provide an explanation for a "NO" answer. As indicated above, there is still uncertainty as to whether different matters from time to time merit an affirmative or negative reply. Administrators for licensees may conservatively answer "YES" to a Disclosure Question when they are not sure of how to answer. A reasoned "NO" answer may have been appropriate, but without an opportunity to explain the basis for answering "NO" to a question, there is a great concern that a state could fine a licensee for answering "NO" if a state regulator believes an affirmative reply was needed. Licensees should have an opportunity to explain a "NO" answer through the NMLS and not be sanctioned if a state regulator believe a "YES" answer was warranted.

Certain Additional Legacy Matters – Update on Roadmap; Forms; Enhancement (did we decide to close)

The following matters are other issues that have been raised with the Ombudsman or the NMLS Administrators, and an update would be welcome.

Exemption Company Registration-- We understand that the Policy Committee was moving forward with providing for an "Exemption Light" for certain institutions who would not be subject to state mortgage licensing obligations.

Ambiguous Business Activities-- We submitted a list of 10 Business Activities whose definitions were found to be confusing by the companies with whom we work, and the reasons for the uncertainty. The list of these definitions of Business Activities is attached. Has any consideration been given to the clarification requested or the amendments suggested?

Dual Attestation-- When control persons have more than one record to which they must attest in NMLS, it becomes very frustrating for the person to complete his or her submissions in a timely manner. For example, we had an individual that is a control person on the Company Record, and then a branch manager for a branch filing, in connection with a state filing, which required that the corporate office location file a Company MU1 AND a branch MU3 Form for the same office location in order to obtain a certain license. Has any consideration been given

to allowing a person to make one attestation when servicing in such a dual control person capacity?

We trust this discussion of these matters has value for the Ombudsman's session during the 2013 CSBS Conference, for CSBS in administering the NMLS, and state regulators in administering their state licensing laws. We welcome the opportunity to discuss these matters when further considered by the Policy Committee. Please contact Costas Avrakotos at 202-778-9075 or by email at costas.avrakotos@klgates.com to discuss any of the matters raised herein.

BUSINESS ACTIVITIES

Since the April 16, 2012 upgrade of the NMLS to expand the types of licenses obtained and maintained through the NMLS, questions have arisen as to the activities covered under certain of the Business Activities. Here are some of the Business Activities issues that have prompted questions from clients.

1) Must an entity select the Business Activity of "Mortgage Loan Purchasing" if the purchaser does not service the mortgage loans purchased, but contracts out the servicing of the loans to third parties?

The Business Activity of "mortgage loan purchasing" is defined as "purchasing closed mortgages (that are not currently in default) with the intent to service or resell to others." Entities purchase closed mortgage loans as an investment without the intent to sell the loans, keep the loans in portfolio, and contract with a third party to service the loans for the purchaser. As the purchaser does not directly service the loans, must this Business Activity be designated?

2) If the Business Activity of "Mortgage Loan Purchasing" is selected, must the Business Activity of "Master Servicing" also need to be selected if the entity only purchases whole loans that have an implicit mortgage servicing right, but the financial asset has not yet been created?

The purchased loans may be sold or transferred to another entity. A couple states that license the holding of servicing rights do not extend the licensing obligation to the mere purchase of loans. The company would not want to be seen as master servicer, and subject to licensing in a state that extends the licensing obligation to a master servicer but not a purchaser. I would think that unless and until the entity is actually holding servicing rights, the master servicing box does not need to be designated.

3) If the Business Activity of "Passive Debt Buying" is selected, must the Business Activity of "First Party Debt Collection" also need to be selected, given that "First Party Debt Collection" is defined to include receiving payment?

The two Business Activities of "passive debt buyer" and "first party debt collection" are worded ambiguously. In addition, there is a third Business Activity, the "Active Debt Buying"

category, which is related to the other two. It is clear that the "Passive Debt Buying" category is intended to cover those in the business of buying delinquent debt who do not undertake to directly collect on the debt, but contract out the collection to third parties. However, it also would appear that the "First Party Debt Collection" box should be checked along with the "Passive Debt Buying" box, as the "passive debt buyer" would be indirectly receiving payments on delinquent accounts.

The "Active Debt Buying" category is intended to cover those in the business of buying delinquent debt who undertake to directly collect on the debt. It also would appear that the "First Party Debt Collection" box should be checked as the "active debt buyer" is directly collecting payments for delinquent debt it owns. (A number of states license entities that acquire delinquent debt and directly collect on the delinquent debt acquired. Only a couple jurisdictions impose a licensing obligation to acquire delinquent debt, but contract out the collection of the delinquent debt to a third party.)

Is the first party debt collection box reserved for those creditors who have staff employees who are engaged only in collecting on the creditor's delinquent accounts, which is not generally subject to licensing unless a fictitious name is being used in the collection activity? Do states want to distinguish debt buyers from those who act as collection agencies?

4) To make sure, if an entity is only collecting on delinquent residential and/or commercial mortgage loans, and is not collecting on delinquent non-real estate-secured consumer loans, then the entity does not need to check off either the "First Party Debt Collection" box or the "Third Party Debt Collection" box. Is that correct?

This seems self-evident, as the first party debt collection and third party debt collection categories expressly do not include mortgage indebtedness, but we want to make sure that such is the case. If first party debt collection and third party debt collection do not need to be designated when collecting on delinquent mortgage loans, then does this mean that collecting on mortgage loan payments, whether performing or delinquent, is reserved solely for the Mortgage group of Business Activities?

5) Is the category of "First Party Debt Collection" and of "Third Party Debt Collection" intended to reach an entity that only collects on delinquent non-real estate secured commercial or business purpose loans?

The definitions of these two categories do not distinguish between commercial/business purpose debt obligations versus consumer debt obligations. Debt collection is generally thought of as involving consumer debt collection activities, and therefore these two categories may be intended to only apply to consumer debt.

6) In connection with the Business Activity of "Short Sale," does agreeing to accept a short sale amount as an investor fall into this activity?

The short sale category is another ambiguously worded Business Activity description. To date, we have not seen or heard of a state taking the position that an investor or noteholder who agrees to a short sale amount is subject to licensing. States impose mortgage broker, as well as some other state licenses, on a third party servicers or independent contractors (and MLO licensing obligations on their employees) who negotiate, assist, or arrange a short sale (as well as a deed in lieu). We believe that such third party activities are intended to be covered under this Short Sale category. We do not think this Short Sale Business Activity is intended to reach an investor or noteholder that merely agrees to a short sale, but the language that applies to the making of a short sale, as well as facilitating a short sale, merits clarification as to its intent.

7) As there is no separate “deed in lieu” category, would that activity be covered in the “Mortgage Loan Modification” category?

8) Is the "Electronic Money Transmitter" category intended to apply to a mortgage loan servicer that hold funds in escrow for the payment of hazard insurance premiums or property taxes?

We do not believe this is the intent of this Business Activity, as the maintenance of escrow accounts is a typical servicing activity, and is captured in the four mortgage servicing categories.

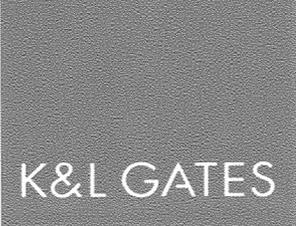
9) Is the "Electronic Money Transmitter" category intended to apply to a securities firm that holds the investment and other funds of its clients in client accounts, and transfers the funds when acquiring stock or making purchases of goods for the client?

As with the prior category, we do not believe that the intent of this category is to capture securities firms in their daily activities with their clients, as the funds are held for other business purposes and are otherwise regulated.

10) It would appear that the Business Activities category of “Escrowing Agents” is not intended to reach a mortgage loan servicer that holds funds in escrow for the payment of hazard insurance premiums or property taxes. Is this correct?

This seems self evident, as the category's description does not include a transaction related to the financing of real or personal property, and because escrow administration is covered in the four servicing categories in the Mortgage group.

We would welcome any guidance that can be provided by the Policy Committee as to those activities. If you need more background or information as to a question, please let me know. If some questions are more readily answered than others, we would appreciate receiving the settled guidance of the Policy Committee, while other questions are being considered. Thank you for your consideration.



K&L GATES LLP
 1601 K STREET, N.W.
 WASHINGTON, DC 20006-1600
 T 202.778.9000 F 202.778.9100

Costas A. Avrakotos
 D 202.778.9075
 F 202.778.9100
 costas.avrakotos@klgates.com

June 11, 2013

VIA EMAIL AND COURIER

Stacey L. Riggin
 D 202.778.9202
 F 202.778.9100
 stacey.riggin@klgates.com

Tim Doyle
 Senior Vice President
 State Regulatory Registry
 Conference of State Bank Supervisors
 1129 20th St. NW, 9th Floor
 Washington, D.C. 20036

Dear Mr. Doyle:

We are writing to provide comments regarding the Mortgage Call Report ("MCR") that is required of entities that are licensed, registered and/or registered exempt through the Nationwide Multistate Licensing System ("NMLS") in connection with mortgage related activities. We recognize that the MCR is still in the process of being developed and appreciate the opportunity to provide comments that we hope will be constructive to the Conference of State Bank Supervisors ("CSBS") in considering changes to the MCR that will eliminate redundancy and some unintended issues that have arisen for entities subject to filing the MCR. We address below certain general issues that have come to our attention since the MCR was first implemented in the third quarter of 2011, as well as certain specific issues, some of which were raised in our February 27, 2013 memorandum to the Ombudsman in the connection with the February 2013 NMLS Users Conference.

GENERAL ISSUES AND OBSERVATIONS

As a general matter, the full objective of the MCR remains somewhat unclear. While we understand that CSBS intends to use the data captured through the MCR to provide aggregate reports that will be helpful to regulatory agencies and industry members, we are not aware that CSBS has provided any specific information as to how it is using the aggregate data collected through the MCR. Moreover, when the industry was made aware that the MCR would apply to entities, rather than just the state licensed Mortgage Loan Originators ("MLOs"), we understood that the MCR would serve to replace many of the state specific reports, thereby fostering uniformity. However, because some of the state specific statutes and regulations did not provide the state regulators with authority to eliminate the state specific reports or to collect data in the same manner as the MCR, we understood that it would take some time to eliminate seemingly duplicative reporting.

Tim Doyle
June 11, 2013
Page 2

Since the MCR was implemented in 2011, it seems that little progress has been made in this regard and the end result is an increase in the burden of reporting.

In addition, based on informal comments and feedback, we understand that some states are not making use of the MCR data because (i) the MCR does not provide the data the state agencies require, (ii) the MCR contains data that is not useful, and/or (iii) the state agencies do not have the resources to harness the data provided in the MCR in a meaningful way. Given the resources that licensees and registrants devote to creating these reports, it is somewhat frustrating to hear that the information being provided may not be used in a productive manner and even more frustrating to find it has added to the reporting burden rather than eliminating state specific reports. With this in mind, it would be helpful if CSBS could address the following to provide industry with a better understanding of the purpose, utility, and long terms plan for the MCR:

- To what extent is the MCR providing states with information that is being used effectively?
- Which states have eliminated jurisdiction specific reports due to the MCR and/or what states are actively working on a legislative or regulatory change to do so?
- Which states are using information provided in the financial reporting section that is not otherwise contained in the audited or unaudited financials that licensees or registrants are required to upload into the NMLS Company Record?
- Have agencies, like industry, devoted additional staff and resources to handle the reporting associated with the MCR?
- Why do state agencies need gross revenue from operations on a state-by-state basis and how is it being used as a regulatory tool?
- Has CSBS cross-referenced the MCR data elements with Home Mortgage Disclosure Act ("HMDA") reporting to determine what redundancy exists? Has CSBS discussed with the Consumer Financial Protection Bureau ("CSFB") whether it would be possible to leverage HMDA reporting with a reduced data set in the MCR to ease the regulatory reporting burden, eliminate redundancy and improve the quality of data?
- Has CSBS conducted an analysis as to the cost associated with the MCR reporting burden, similar to the analysis that federal government agencies are required to perform under the rule making process to assess the impact on small business?

Tim Doyle
June 11, 2013
Page 3

- We have encountered unique circumstances with asset transfers and other situations that require entities to enter information in a field that does not seem appropriate. We have addressed this by adding comments to explain the basis upon which the entity made a determination of how to report. However, these comments would not be reflected when CSBS aggregates data. We also have encountered situations that seemingly result in more than one party reporting on the same loan. Does CSBS has procedures for evaluating the integrity and reliability of the aggregate data extracted from the MCR reports? How is this handled in light of a state agency's discretionary authority to waive the MCR filing obligation? How does CSBS account for the differences in the information that standard and expanded filers have to submit?

In addition to the preceding issues, we note the following as it relates specifically to those entities that file the expanded version of the MCR:

- We understand that the system determines where a licensee or registrant must file the expanded MCR based on whether it holds Fannie Mae, Freddie Mac or Ginnie Mae approval. However, the NMLS does not distinguish whether these entities must file the Mortgage Bankers Financial Reporting Form ("MBFRF") with these agencies. If the licensee or registrant is not otherwise required to file the MBFRF, it should not be compelled to file the expanded version of the MCR.
- CSBS has been made aware that the quarterly MCR for the quarter ending December 31st is due within 45 days, whereas the MBFRF is due within 60 days of the quarter ending December 31st. If the MCR is going to continue to rely on components of the MBFRF, it would be helpful to adjust the MCR filing deadline to coincide with the MBFRF filing deadline.
- As we understand, the use of the MBFRF format in developing the expanded version of the MCR was originally proposed because entities approved by and required to file the MBFRF with Fannie Mae, Freddie Mac and/or Ginnie Mae could easily extract the information from the MBFRF to populate the MCR. However, the expanded version of the MCR has been modified to accommodate some data sets that do not translate well for the MCR. In developing the expanded version of the MCR, it is unclear whether consideration was given to the following:
 - The Residential Mortgage Loan Activity ("RMLA") Section II appears to be based on components of the MBFRF but the MBFRF was designed for

Tim Doyle
June 11, 2013
Page 4

aggregate reporting, not state specific reporting. Thus, entities that operate in multiple states cannot simply extract this information from the MBFRF and must manually compile this information on a quarterly basis.

- Because Fannie Mae, Freddie Mac and Ginnie Mae have participants in both single family and multifamily programs, they have a need to require information relating to certain commercial real estate secured loans. However, the MCR is specifically designed to implement the objectives set forth in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (“SAFE Act”) Act, which pertains only residential mortgage lending activities. As such, it is unclear why commercial loan activities must be included in the RMLA and/or financial component of the MCR.
- Unlike the state agencies, Fannie Mae, Freddie Mac and Ginnie Mae have financial exposure as it relates to counterparties. Thus, much of the data in the MBFRF, particularly as it relates to the components that have been incorporated into the RMLA Section II and the financial reporting section, were designed with very different objectives. It is our understanding that the state agencies are more concerned with whether licensees or registrants are satisfying net worth or working capital requirements. As such, we question the need for the additional information included in RMLA Section II and financial component of the expanded MCR.
- Perhaps we are mistaken, but it seems that the MBFRF format originally was used as a basis for the expanded MCR as a means to streamline reporting for companies that already had to file the MBFRF. In other words, this approach was well intended but given the problems associated with using the MBFRF format, or at least portions thereof, for state-specific reporting (as opposed to aggregate reporting), we question whether the RMLA Section II is suitable and what components of this report are being used in a meaningful way. Moreover, it is unclear why Fannie, Freddie and Ginnie approved-entities are held to a higher standard and reporting burden than their counterparts who may be engaging the same types of activities with private investors. Consideration should be given as to whether RMLA Section II is even necessary.

Tim Doyle
June 11, 2013
Page 5

FORM SPECIFIC ISSUES

Below we address certain issues we have encountered that relate to specific components of the RMLA and financial condition report.

RMLA - Section I

1. The definition of loan application, in some instances, varies from that which is required for HMDA purposes. By way of example, below is an excerpt from one of the Frequently Asked Questions (“FAQs”) posted on the NMLS Resource Center:

Q. What do you mean by “application” for the MCR?
Application is defined in the MCR as “an oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a financial institution for the type of credit requested.” The NMLS Mortgage Call Report primarily relies on the Reg. B use and definition of application and generally follows HMDA reporting requirements.

While the MCR purports to generally follow HMDA reporting requirements, we have encountered circumstances where an entity has been required to report as an application a request for credit that does not include a property address. This is true even though the FAQs state that reporting should be based on the location of the real property that will secure the loan. When inquiring how the entity is supposed to report these credit inquiries on a state-specific basis without having a property address, we were told to use the borrowers current residence or the location or the office originating the loan for the purpose of determining the state specific report under which the application should be reported. This appears likely to result in double counting of applications which we presume would skew the data. CSBS should adopt a definition of application that is wholly consistent with HMDA as opposed to one that generally follows HMDA reporting requirements.

2. Gross Revenue from Operations

As we understand, RMLA Section I is designed to capture origination activity. Yet, gross income from operations was added to the RMLA after the initial release of the MCR and subsequently modified in the midst of the third quarter 2012 reporting period to require that an entity report on all mortgage related activity rather than just income associated with the origination of residential mortgage loans. These changes are inconsistent with a report designed to capture origination activity. Moreover, the instructions are vague and

Tim Doyle
June 11, 2013
Page 6

do not provide clear guidance as to what mortgage activities should be included in this section. For example, it is unclear if a company conducting securitization activity is required to include this income. If it is expected to be included, it seems outside of the scope and intent of a report. Others have encountered problems reporting gross income on a state-by-state basis due to different methods of compensation. In our Memorandum to the Ombudsman dated February 27, 2013, we provided specific examples of problems licensees and registrants have encountered in reporting gross income from operations. We would appreciate if CSBS could articulate the need for this information given that it does not appear to be relevant to any state imposed financial responsibility requirements.

RMLA - Section II

Aside from the general issues we raise regarding the necessity of RMLA Section II, we note this component of the expanded MCR requires information regarding commercial mortgage loan activity. Reporting commercial mortgage loan data on a state-specific basis presents a challenge because commercial finance arrangements often cover property in multiple states and the report does not allow for the information to be captured correctly. This makes it extremely difficult to populate the information required under RMLA Section II on a state specific basis. We further note that commercial mortgage finance activities are not subject to licensing in most states. However, a company that holds a license or registration for other purposes would still be compelled to report on the unregulated activity to ensure the accuracy of its MCR.

Financial Report

As noted above, it seems that the developers of the MCR had the best intentions in modeling the financial component of the expanded MCR after the MBFRF. However, since the MCR was implemented, CSBS has modified certain components of the financial section to address some unintended consequences that did not translate well to the MCR. For example, the report asks for mortgage-related income but is not limited to mortgage-related expenses, thereby creating what appears to be an operating loss for entities that have a principal activity other than mortgage finance activities. To rectify this situation, CSBS proposed to modify the form to allow a licensee or registrant to report all income, not just mortgage related income. For some, this was a welcome change as they prefer to report all income rather than have it appear that they are experiencing an operating loss. For others, the change was not welcome because it would compel an entity to report proprietary and confidential information that is not reported to any other party. This could be problematic for a subsidiary of a publicly traded company if that income information is obtained by the public through overly broad open records laws that may provide access to

Tim Doyle
June 11, 2013
Page 7

these reports. On the one hand, this illustrates CSBS' willingness to find solutions to correct an unintended result. On the other hand, it highlights the difficulties of finding a one-size fits all reporting mechanism for a system designed to accommodate entities and industries that are so diverse.

The above referenced scenario demonstrates just one of the ways that the financial component of the MCR differs from MBFRF format. Given the differences, Fannie Mae, Freddie Mac and Ginnie Mae approved entities cannot simply extract the data from the MBFRF to populate the MCR. As such, it seems that the use of the MBFRF format as a basis for the expanded MCR report is more burdensome than originally contemplated. We recognize that some of the differences may only affect a unique class of users. However, with states seeking to expand the scope of mortgage-related activities they regulate, such as master servicers, debt buyers and passive investors in mortgage-related assets, it seems that these unique issues are going to increase over time. Moreover, as referenced earlier, we are not certain as to the reason for subjecting Fannie Mae, Freddie Mac and Ginnie Mae approved entities to a higher standard of reporting. For these reasons, we ask that CSBS evaluate how and whether the states are using the data provided in RMLA Section II and the financial component of the expanded MCR. Should CSBS determine there is a specific need for certain entities to provide quarterly financial information, we question whether the full extent of financial information included in the financial component of the expanded version of the MCR is necessary or whether a quarterly report that monitors net worth or other financial responsibility criteria that licensees or registrants are required to satisfy as a condition of their license or registration would suffice.

SUMMARY

We sincerely appreciate the opportunity to raise these issues with CSBS. In submitting these comments, we would like to provide more solution-oriented suggestions to "fix" some of the issues we have encountered as it relates to the MCR. However, it is difficult to offer more specific suggestions for modifying the MCR to address some of these issues without a better understanding of the short and long term objectives of the MCR and the interplay of the MCR data relative to other regulatory reporting requirements such as HMDA and state specific reports. To recommend meaningful changes that would ease the regulatory burden while providing the state agencies with data they can utilize in an efficient and effective manner requires a better understanding of the objectives.

We would be happy to coordinate and/or participate in a forum that brings together industry, regulators, members of CSBS and, if appropriate, representatives of the CFPB and/or federal agencies responsible for HMDA (particularly in light of the upcoming

Tim Doyle
June 11, 2013
Page 8

changes in HMDA reporting) to evaluate whether there is a way to modify the MCR form to eliminate redundancy and unnecessary data fields for the purpose of improving the overall efficiency and effectiveness of the MCR.

Sincerely,



Costas Avrakotos



Stacey L. Riggin
Government Affairs Advisor



June 11, 2013

State Regulatory Registry
Conference of State Bank Supervisors
Attn: Tim Doyle, Senior Vice President
1129 20th St NW, 9th Floor
Washington, DC 20036

RE: Uniform NMLS Company, Branch and Individual Licensing Forms and the NMLS Mortgage Call Report

Dear Mr. Doyle:

I am writing on behalf of the members of the American Financial Services Association (AFSA)¹ in response to your request for public comment on Uniform NMLS Company, Branch and Individual Licensing Forms (“Forms”) and the NMLS Mortgage Call Report (MCR). We appreciate the opportunity to contribute to the process and will continue to assist in any way we can. Though we note that you asked for comment on seven specific questions, our member input is a little more broad than that. We have indicated in the text below when our input addresses the specific questions presented in your request.

Minimizing the compliance burden without diluting the efficiency of the system is a focus for our members. Many have strong views that system or form upgrades (other than absolutely critical changes) should not take place during high volume filing times, such as at the end of March or during licensing renewal time periods. The challenge here is to prevent avoidable interruptions to those working on submitting their filings.

Allied to this, we recommend that the State Licensing page in the online Resource Center provide an option to create a consolidated report in addition to the option to choose a single state’s licensing requirements. Such a consolidated report would allow a single report to cover a number of jurisdictions and significantly reduce the compliance burden for many companies. This is a feature that our members have recommended in the past but on which we have yet to see any progress. This adjustment would be a significant boon for the many NMLS companies that operate in multiple states.

Some of our members have expressed concern about the safety of their company data. Their concern centers on the fact that Regulators seem to be able to access company information for NMLS companies that do not operate in their jurisdiction. It is apparent that Regulators can view company-specific NMLS information before the Company requests the transition of its license and before a NMLS relationship exists between the particular State and the Company. This raises significant member concerns and would seem to indicate a failure of data security.

¹ The American Financial Services Association is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA member companies offer vehicle financing, payment cards, personal installment loans and mortgage loans. The Association encourages and maintains ethical business practices and supports financial education for consumers of all ages.

As it relates to the Company Form (MU1), Section 1 *Business Activities*, we request revision to the definition of “Consumer Loan Lending” to make it clear that that it excludes sales finance company activities because if you read it broadly it could include indirect auto lending (Question 2).

Though this comment does not relate to the Individual Form (MU3) *per se*, we believe that the State Regulatory Registry should look once more at the process by which non-US officers/controlled persons are vetted. Currently, the process by which a non-US officer is confirmed on NMLS is tortuous and burdensome, requiring, for example, a certain U.S. Credit Report – something that usually does not exist for non-US officers.

Some of our members have requested clarification that the MCR requirement does not apply to non-mortgage companies. Vehicle finance companies, for example, have no mortgage loans to report. For them, submitting the MCR becomes merely an exercise in bureaucracy (Question 3).

In response to Question 7, AFSA members have suggested that Regulators using NMLS for non-mortgage- related licensing should consolidate (or automate) their annual requests for volume-based business production (including UCCC states that require annual volume based fees/notifications where actual licenses are not required). Most Regulators/states seek similar data (*e.g.* production numbers) and an online option to submit this information would not only streamline the process for companies with multiple licenses/licensees, but also provide some relief from the extremely detailed computations licensees must complete in order to determine volume-based fees in each state.

A final point – AFSA is interested in an update on the status of the usage of the Criminal Background checks and FBI approval thereof. Currently, the online Resource Center and the news section do not provide any information other than the generic message on that page in the Company Forum (MU1), which states that criminal background checks are not required at this time.

If you have further questions, I can be contacted by phone 952-922-6500 or email dfagre@afsamail.org.

Respectfully,



Danielle Fagre Arlowe
Senior Vice President, State Government Affairs
American Financial Services Association
919 Eighteenth Street, NW, Suite 300
Washington, DC 20006-5517
Phone: 952-922-6500

Thank you for the opportunity to provide our feedback on the NMLS Forms and the Mortgage Call Report. Here are our comments:

Question 1: The list of activities and corresponding definitions are sufficient for our company, however, we only are in the mortgage and servicing industry, we do not have activities in the other categories. My only suggestion would be if there was any way to just limit this information if we are only a mortgage company and do not do any of the other types of business to keep it more simple and specific to what we do (which is how it used to be).

Question 2: Forms – I would like to see the **MU2** forms simplified. I always struggle with creating a new MU2, as you have to update the info on other forms/sections of the company forms first, then create individual account, then MU2, etc. Just seems to be too many steps and I always seem to miss doing something, as most of us do not do these very often. **MU4-** We have had occasions when a MLO changes a disclosure answer from ‘yes’ to ‘no’; regulators always require evidence to support the change in disclosure, yet there is not a way to upload documents once an answer is ‘no’. It would be helpful to be able to upload documents to support a change in disclosure.

Question 3: Definition of “application” – there has always been some confusion on whether or not we should include “correspondent loans”, as the lender submitting the report is not the lender on the loan documents. Although in Section 2, they clearly break out which loans are retail, wholesale correspondent and wholesale broker. Most states do not consider our correspondent loans as our loans for other state reporting, they expect the originating lender to report those loans on their reports. It would be helpful if the definition was simplified to all HMDA reportable loans.

Question 4:

I think it should be based on loan volume

Question 5: Mortgage Call Report-

1. For the financial section of the Mortgage Call Report, we would like to see the P&L section changed to have the net of interest income and interest expense +/- from the income, as this is how it is done on the Mortgage Bankers Report. It would also be very helpful to have this P&L section have all of the totals automatically add p (this is for accuracy/check and balance of your numbers).
2. MCR – Pull Through. We have always struggled with the definition of “pull through” and struggle to get this info as required by the MCR, and this definition in NMLS is inconsistent with the Mortgage Bankers Report.
3. We would like to see better definitions on what should or should not be considered “No Docs”, as this too seems to be inconsistent from the MCR to other reports. The states seem to have different definitions on what is truly consider “No Doc” for this reporting. Clarification would be helpful.
4. Income – would be helpful to get clarification on exactly what should be included in this section. Again, seems to vary from state to state and report to report.
5. Lender Fees – Another section that would be very helpful to get some further clarification on what exactly should or should not be included in the MCR.
6. Definitions – I think it would be helpful if all of the definitions mirrored those of HMDA, to the extent possible, to make them consistent and understandable.



June 11, 2013

State Regulatory Registry
Conference of State Bank Supervisors
Attn: Tim Doyle, Senior Vice President
1129 20th St NW, 9th Floor
Washington, DC 20036

RE: Request for Public Comments Nationwide Mortgage Licensing System & Registry (NMLS) Mortgage Call Report

Dear Mr. Doyle:

The Mortgage Bankers Association (MBA)¹ greatly appreciates the opportunity to comment on the Nationwide Mortgage Licensing System & Registry (NMLS) Mortgage Call Report (MCR) and the fact that NMLS has determined to periodically seek comment on it.

As you know, the MCR is an extensive document and requires lenders to report a large amount of loan-level data on loan origination and servicing, as well as company condition information quarterly. In addition to MCR reporting, nearly all lenders are required to also report extensive loan-level data on loan applications and originations under the Home Mortgage Disclosure Act (HMDA) and those data requirements are to increase under Dodd-Frank. Additionally, many lenders also submit the Mortgage Bankers Financial Reporting Form (MBFRF) to Fannie Mae and Freddie Mac as well as state reports.

Considering that companies are submitting significant information to various government agencies in addition to the MCR, MBA urges the NMLS to work to simplify the MCR to the greatest extent feasible so that the MCR complements, and is not unnecessarily additive, to the other reporting requirements. Specifically, MBA urges state regulators to implement the same standards that are used for HMDA and MBFRF reporting and to seek additional material only to the extent it is absolutely necessary.

In this regard, MBA also respectfully asks that NMLS survey state regulators to determine what data or information they are using from the MCR and what additional data and information they are already collecting from lenders. We also request that the NMLS seek input from stakeholders on the costs of collecting and reporting particular elements. Finally, MBA believes

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, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and 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 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

Tim Doyle
June 11, 2013
Page 2

that—considering the forthcoming changes to the HMDA requirements—now is an appropriate opportunity for NMLS to refrain from collecting new data until HMDA expansion is complete.

MBA offers these recommendations in the spirit of cooperation to ensure that regulators have what is needed to carry out their responsibilities while avoiding any undue regulatory burden and costs to consumers. We strongly support a robust dialogue with NMLS on data requirements and information collection standards.

MBA Recommends that NMLS Harmonize the MCR Data Collection Standards with HMDA and MBFRF

In order to review the MCR, MBA assembled a diverse group of lender and non-lender members. As indicated, they expressed concern that much of the loan-level data which NMLS collects through the MCR is duplicative of, although not identical to, data that lenders provide under HMDA and make publicly available. They also expressed concern that they provide condition information to Fannie Mae and Freddie Mac that is similar but not the same as the MCR material. In addition, lenders report they understand some state regulators are unable to use the data collected in the MCR. They also report states require different data and information in addition to MCR data that in some cases are due weekly, and that they are subject to frequent changes in reporting parameters.

HMDA data comprise a unique and comprehensive set of loan-level data concerning most of the mortgage applications, dispositions of applications, and originations of mortgages in the United States. Congress intended that this data be collected, reported, and made publicly available so that financial regulators and the public can monitor the performance of lenders in serving the credit needs of their communities.² HMDA data is reported annually, but HMDA reporters are required to maintain the integrity of loan application registry (LAR) data quarterly.³

All but the smallest lenders—including commercial banks, savings institutions, mortgage companies and credit—with offices in metropolitan statistical areas are required to report HMDA data for home loans and the home loans that they originate or purchase during each calendar year.⁴ In the most recent reporting period, 7,632 lenders reported HMDA data.⁵

Analysis of the HMDA and MCR requirements shows that there is significant overlap between the requirements for loan-level data. For example, both HMDA and MCR capture the following data elements: Application Date, Loan Amount, Final Action Performed, Action Date, Loan

² HMDA was enacted by Congress in 1975 and was implemented by the Federal Reserve Board's Regulation C. On July 21, 2011, the rule-writing authority of Regulation C was transferred to the Consumer Financial Protection Bureau (CFPB).

³ See 12 C.F.R. 203.6; OCC Advisory Letter 97-1; OCC Advisory Letter 98-16; and OCC Bulletin 2000-35a.

⁴ Banks that are exempt from HMDA reporting and Regulation C include institutions with less than \$41 million in assets, are not in the home lending business or have offices exclusively in rural (non-metropolitan) areas. Mortgage companies are required to report unless they extend less than 100 purchase or refinance loans a year or do not operate in at least one metropolitan area. See Home Mortgage Disclosure Data Act, Who Reports HMDA Data? <http://www.ffiec.gov/hmda/reporter.htm> (last accessed June 12, 2013).

⁵ Press Release, FFIEC, Federal Financial Institutions Examination Council Announces Availability of 2011 Data on Mortgage Lending (Sept. 18, 2012) <http://www.ffiec.gov/press/pr091812.htm> (last accessed June 12, 2013).

Tim Doyle
June 11, 2013
Page 3

Type, Property Type, Purpose of Loan, Lien Status, HOEPA Status, Occupancy, Purchaser type, Amortization Type, Annual Percentage Rate (APR), and Rate Spread.

Dodd-Frank will significantly add to the HMDA data since it requires that the HMDA data also include Origination Channel, Applicant's Age, Applicant's Credit Score, Property Value, Loan Term, Term of any Introductory Interest Rate Period, Rate Spread, Total Points and Fees Payable at Origination, Term of any Prepayment Penalty, Negative Amortization, Loan Originator Unique Identifier, Universal Loan Identifier, and Parcel Loan Number (as the CFPB may determine appropriate). The CFPB has said that the rulemaking to implement these provisions is a priority of the Bureau in the coming year.⁶

Accordingly, MBA urges that NMLS should largely confine its requirements to HMDA data. If any additions to the data set are needed, we suggest that NMLS participate in the HMDA regulatory process. We respectfully urge that the goal should be a reduced MCR which would only go beyond HMDA and MBFRF data and information where absolutely necessary.

Therefore, MBA recommends that, to the greatest extent possible, efforts be taken by NMLS to maximize the amount of data lenders use from the HMDA report to complete the MCR. MBA also recommends that considering the forthcoming HMDA rulemaking, additional data at the loan-level should not be added to the MCR until that rulemaking is completed.

NMLS Should Use the MBFRF Report Information to Lessen the Burden of the MCR

The MCR is also similar to the MBFRF. They share many of the same elements. However, lenders currently find that small differences between reporting requirements for the two reports have emerged, often forcing lenders to generate two entirely different data sets; for example, the MBFRF allows lenders to round to the nearest thousand, while the MCR only allows lenders to round to the nearest dollar. MBA, therefore, recommends that, to the greatest extent possible, the MCR conform its information requirements to those of the MBFRF.

NMLS Should Survey Other Regulators

MBA also recommends that NMLS survey state regulators to determine what data or information is actually needed. As stated above, lenders are reporting that they understand some state regulators do not use MCR information and others require additional data and information beyond what is required by the MCR. Efforts at a revised uniform data set should be directed at relieving undue burden and reducing costs.

Other Concerns

Lenders also reported the following concerns about the MCR to MBA:

- Currently, lenders are required to submit MCR data for all states in which they do business simultaneously. There is no option to submit the MCR data state by state, neither for a first submission or any subsequent corrections. Lenders report, however, that they are often prevented from completing the MCR because they are waiting on final information for one or more states. It would be helpful if NMLS added a mechanism to allow lenders to submit data and corrections for the MCR on a state by state basis.

⁶ See 12 USC § 2803.

Tim Doyle
June 11, 2013
Page 4

- Lenders who are approved Fannie Mae/Freddie Mac Seller/Servicer or Ginnie Mae Issuers are required to complete the Expanded Mortgage Call Report (E-MCR). In many cases, however, these organizations do not maintain a servicing portfolio. Lenders should not be required to fill out a form that is not pertinent to their business activities.
- Lenders are required to submit a list of their mortgage loan originators with the MCR. Since NMLS already maintains this information in its own registry, there would not appear to be any reason for lenders to submit data to which NMLS already has access. MBA urges that this requirement be dropped from the MCR.
- The definition of “application” on the MCR is broad and ambiguous as it includes, among others, pre-approval requests and requests that include access to the borrowers’ credit. Moreover, the various states take different positions with regard to whether these types of requests constitute an application for purposes of their own law. MBA suggests that NMLS conform its definition of application to HMDA’s. Under HMDA, application means an oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a financial institution for the type of credit requested.⁷
- The MCR, for the quarter ending December 31st of each year, is due 45 days after the end of the quarter; on the other hand, the MBFRF is due 60 days after December 31st. MBA recommends that NMLS synchronize its due date with the MBFRF.

Conclusion

MBA again appreciates the opportunity to comment on the MCR and looks forward to working with the NMLS to ensure that information sought is consistent with other reporting requirements, additions are required only when necessary, and that undue regulatory burden is avoided.

Please contact Ken Markison, Vice President and Regulatory Counsel, at kmarkison@mortgagebankers.org or Joe Gormley, Assistant Regulatory Counsel, at jgormley@mortgagebankers.org if you have any questions.

Sincerely,



Pete Mills
Senior Vice President, Residential Policy and Member Services
Mortgage Bankers Association

⁷ Regulation C and Official Staff Commentary effective on January 1, 2004, § 203.2.

NJ-PMO

PO Box 8187

Red Bank, NJ 07701

P. 732-687-5656

State Regulatory Registry
1129 20th Street, N.W., 9th Floor
Washington, DC 20036

RE: Uniform NMLS Licensing Forms and Mortgage Call Report

Dear Sirs:

The Association of Professional Mortgage Originators –NJ (NJ-PMO), is grateful for the opportunity afforded by your office for industry to offer constructive comments to the State Regulatory Registry SRR, as requested regarding Uniform NMLS Licensing Forms and Mortgage Call Reports regarding your seven questions open from public comment.

Our Association fully understands and supports the primary need for protecting consumers in the mortgage marketplace. When the primary purpose of a Regulatory body is to protect the consumer, all efforts must be to ensure that an equal level of safeguards are implemented to protect small entities, for without small entities the consumer will be inadvertently harmed. NJ-PMO's members are comprised of Mortgage Loan Originators, Mortgage Brokers, smaller Mortgage Bankers and Wholesale Account Executives. Our members are the frontline point of contact that the consumer has with the mortgage industry.

Questions #1 and #2, we would like to discuss in concert. The biggest hindrance is less the forms and more the avenues that the mortgage loans are originated. Currently the non bank form's, are structured to address a wide swath of business avenues.

Under the Regulatory Flexibility Act (RFA), HUD certified in a letter to the GAO that the SAFE Act had no negative economic impact upon small entities. Completion of the Call Reports and the time it incurs from the operation of small entities should be accounted in SRR's review. NJ-PMO would like to offer for consideration the concept of breaking the "non Banking sector" of NMLS into various groups. The groups could be either by operation; broker, broker/banker, banker or wholesaler, or by origination volume. Currently, the NMLS Call Report forms are designed to be broad in its effort to encumber both small businesses with the same forms and data requirements as the larger entities.

NJ-PMO

PO Box 8187

Red Bank, NJ 07701

P. 732-687-5656

As SSR is aware, NMLS call reports and annual reports are time consuming. Every effort to streamline the required data would be useful to small entities. Even to simply have all “field values defaulting to zero (0)” would be useful to small entities.

As will be touched upon later, under other “Question”(’s), consideration should be given to unify the Annual Report with the required States forms that duplicate the data. Having the Quarterly Call reports automatically defaulting and reconciling into the annual report also would prove to increase time efficiency.

Questions #3: It has been our organizations opinion to strive for a national standard definition of forms and procedures coupled with a single national uniform application. CFPB has offered a National definition that should be utilized across all platforms. All efforts should be directed toward one definition. In “Industry Roundtable Meetings” CFPB has presented their definition of the mortgage application, as the National definition.

Question #4: This reflects some of our concerns raised in the comments to Items #1 and #2. The complexities of operations that apply to the larger institutions do not always apply to the smaller “entities”. As previously noted, we would recommend a breakdown by manner of operation; broker, banker wholesaler and if possible by dollar amount of originators. The SBA has determined that small businesses in 2010 faced an “annual regulatory cost of \$10,585 per employee, which is 36% higher than the regulatory cost facing large firms.”

Questions #5: It is our opinion that data should be separated is the form of origination of loans; bank vs. non bank, then breaking it down further into brokered, retail, wholesale {TPO and correspondent purchase). Counting a wholesalers TPO or correspondent loan as an origination could be viewed as double counting and should be avoided, thus the effort to seek separation.

Questions #6: This presents an excellent opportunity to display the manner loans are originated. Additionally, information on MLO’s should be presented as public data: i.e. non bank as a bank. What percent original loans vs. are dormant? What percent are registered vs. licensed? What are the annual licensing costs per licensed MLO vs. a registered MLO on an annual basis?

Questions #7: This has been a high level of contention to many of our members. Our members are all non bankers. Many are from the states of New York and New Jersey. Both States require the filing of annual State specific origination filings.

A uniform coordination among the States and NMLS, to accept a single annual filing would be greatly welcomed by small businesses operating in States that currently require the filing of both an annual State specific origination report and financials and the seemingly redundant NMLS filing of the Annual Call Report.

NJ-PMO

PO Box 8187

Red Bank, NJ 07701

P. 732-687-5656

As noted previously, it would of great assistance if the NMLS call reports automatically reconciled the date into the annual filings. This type of compilation of data would greatly assist small entities to expedite the process of completing the call reports in a shorter time period while also, assisting all entities regardless of size.

Thank you for this opportunity to offer our comments.

Sincerely yours,

Brian Benjamin

Brian Benjamin
Director