

## **Proposed Changes to Company and Branch Filing Attestations**

*Request for Public Comments*

### **Proposal 2016-1**

March 29, 2016 – April 28, 2016

The State Regulatory Registry invited public comments on the proposed changes to the Company and Branch Filing Attestations during a public comment period from March 29, 2016 to April 28, 2016. Fourteen 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. All responses will be reviewed by the NMLS Licensing Forms Working Group, the SRR Lawyers Committee, and recommendations will be made to the [NMLS Policy Committee](#). The NMLS Policy Committee, after consultation with all participating NMLS state regulatory agencies will make final approvals for any changes to the Company and Branch Filing Attestations and publicly respond to comments received.

NMLS

Request for Comments on

Proposed Changes to Company and Branch Filing Attestations

#	Date	Name & Company	Comments
1	3/30/2016	Melinda B. Wilde Lincoln Loan Co./Principal Holding Co. LLC	I think this change is unnecessary. If the company has branch offices that are not properly listed, the company is responsible and will be fined. It has a vested interest in assuring the third party has the information necessary to properly file even if the third party is not an employee. Let's not make an already over-regulated industry even worse.
2	3/30/2016	Robyn Malsbury Northstar Lending Group	We are a small mortgage broker in the State of Nevada. I have been licensed since day 1 and have been in the industry for over 30 years. The call report is supposed to assist State Regulatory agencies. In Nevada we still have to submit a Monthly Activity Report. Although it is not as detailed, we have had to purchase software to accommodate all of the information required on the quarterly reports. Since we are a small mortgage broker, a lot of the information does not apply to us. I'm really not sure who looks at these reports or compares them to reports sent in monthly. I feel that although statewide licensing is beneficial, the costs of the NMLS versus the benefits do not add up. With regard to the Attestations, the administrators filing the reports are licensed with background checks. Why would the information not be correct or up to date? I believe the attestations along with most of the information on the quarterly reports are unnecessary. The time and money it takes to generate these reports could be better spent in advertising.
3	3/31/2016	Matt Humphrey Core Financial Inc.	When you change a address on a branch, or any information on anything, you should be able to do it all in one location and it should populate throughout the NMLS site. Attestations should be where your logged in the first-time, you should not have to logout of the company and re-log back in as a individual to attest, just require a security question. Too many steps for a lot of things in the NMLS system, multiple things need to be simplified in the NMLS system.  Added comment:  Withdraw/Turndown section of MCR reports are the worst. Nobody understands all those questions, we have to keep going to the definitions, there not easy to remember. Every Mortgage Company owner I have met says they doubt that the info they entered for that section is correct, they say they do the best they can, but usually guess. Sorry to add this into the comment section, but change is needed if you want the info to be correct. Every lender convention that I have attended that subject comes up and it's always the number one complaint when it comes to NMLS site.
4	3/31/2016	Jim McMahan McMahan Mortgage	I have the following comments in regards to the strengthening of the language when filing MCR reports. I support the strengthening of the language and want our industry to hold licensed individuals accountable for wrong doing. I read the document that accompanied the proposed change and need to better understand why the old language was not effective? Did employees or business owners state they were misinformed or misunderstood what was being asked of them when uploading MCR's? What specifically will the new language address that the old language did not? Thank you for asking for public input and I hope to hear from you soon.

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#	Date	Name & Company	Comments
5	4/4/2016	Lynn Kamuda Security Credit Systems Inc.	<p>I find the NMLS very confusing and set up specifically people dealing with mortgages. We are a very small collection agency and find the wording used to renew collection agency licenses very un-user friendly. The wording seems to be directed to mortgages which if you are not in that business the requests I receive from the different States for downloads and forms are foreign to me.</p> <p>When I renew a license I would like to go into a system that shows a step by step process to renew. What does MU1 mean. In the heading when I read Filing I would know that is the screen to do my filing under that it would be new license or renewal. At that point I would pick renewal. I just noticed that there is a new screen with a list of different collection activities. We are a Third Party Collection agency. We are not adjusters, negotiators, brokers or servicers just collectors. If we do not click on one of those that are listed the systems will not let me go forward and complete the process even though the listings is not right.</p> <p>I was just in the system and got aggravated because it is taboo hard to maneuver through the different screens. I have to take a break and come out of it because it is so frustrating to work the NMLS system. I am not a stupid person but because I don't need the system but a few time a year what I learn and remember doesn't stay with me causing the frustration I feel right now. I have too much other work related to my job to spend hours a day to become proficient in the NMLS system. Right now I have 4 tasks that I must complete but because I can't get through the many different screens easily I am putting the tasks off for yet another day.</p> <p>I hate when I have to renew through NMLS but I know if it was easier to get through the system I would renew all 40 licenses through NMLS.</p>
6	4/21/2016	Jon Galloway Veterans United Home Loans	<i>See Attachment 1</i>
7	4/25/2016	Kevin Pezzani Union Home Mortgage	<i>See Attachment 2</i>

NMLS

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Proposed Changes to Company and Branch Filing Attestations

#	Date	Name & Company	Comments
8	4/26/2016	Kevin M. Lutkins  MEMO Financial Services, Inc.	<p>Dear Sir/Madam,</p> <p>NMLS is proposing a change to the NMLS attestation believing that the language set forth in Exhibit C, the Initially Proposed Company and Branch Attestation Language, is inadequate as some companies use third party firms to assist with licensing compliance. To eliminate the third party attestation and to strengthen NMLS policy that filing attestations and submissions should be completed by an employee of the company, NMLS has altered the attestation language in a way that eliminates the possibility of delegating the completion and submission of items to NMLS to anyone outside the company.</p> <p>Perhaps the biggest impact of the proposed language is that it puts the company and the individual submitting and attesting to the information provided NMLS in an untenable position. The language in questions is as follows: "I solemnly swear (or affirm) under the penalty of perjury or un-sworn falsification to authorities, or similar provisions as provided by law that I have reviewed the foregoing responses for accuracy, and that they are true and correct." This language does not recognize that people make mistakes or that facts can be later discovered which would require an amendment to a previous submission. The language is so broad that it does not recognize that the submitted and attested information is accurate at the time submitted. Instead, the attestation is that the information is true and correct for all time.</p> <p>By way of example, a company and an employee submits and attests to information on June 1, 2016. That company and employee discover facts or other circumstances on June 30, 2016 that the information submitted and attested on June 1, 2016 is incorrect and should be amended. The company and employee must choose between not filing amended information and allowing the regulators to have erroneous information which is now knowingly incorrect, or filing amended information and admitting perjury; that the information submitted and attested to on June 1, 2016 was not true and accurate.</p> <p>The language does not reflect the realities of business. It eliminates an employee's ability to rely upon those company experts when compiling and providing the information for submission. The person who will attest to the information submitted must have or acquire the same level of knowledge and expertise as the Chief Financial Officer, Chief Operations Officer, Chief Compliance Officer, etc.</p> <p>At this time, we would propose the following language:</p> <p>"On this &lt;&lt;SYSTEM DATE&gt;&gt;, I verify that I am the named person above and that I am authorized to attest to and submit this filing on behalf of the Applicant. I solemnly swear (or affirm) under the penalty of perjury or un-sworn falsification to authorities, or similar provisions as provided by law that I have performed a reasonable investigation and have reviewed the foregoing responses for accuracy, and that as of the date of this submission, the responses are true and correct to the best of my knowledge, information and belief.</p> <p>"</p>
9	4/28/2016	Costas A. Avrakotos  Mayer Brown LLP	<i>See Attachment 3</i>
10	4/28/2016	Adam Fleisher  Morrison & Foerster LLP	<i>See Attachment 4</i>

NMLS

Request for Comments on

Proposed Changes to Company and Branch Filing Attestations

#	Date	Name & Company	Comments
11	4/28/2016	Nancy Pickover Weiner Brodsky Kider PC	<i>See Attachment 5</i>
12	4/28/2016	Haydn J. Richards, Jr Bradley	<i>See Attachment 6</i>
13	4/28/2016	Amy Greenwood-Field Bradley	<i>See Attachment 7</i>
14	4/28/2016	Greg Webber Academy Mortgage Corporation	<i>See Attachment 8</i>

April 21, 2016

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

RE: Proposed Changes to Company and Branch Filing Attestations

Mr. Doyle:

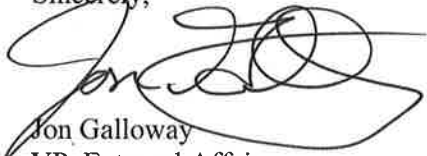
Thank you for the opportunity to comment on CSBS's Proposed Changes to the Company and Branch Filing Attestation.

Veterans United Home Loans encourages SRR to maintain language regarding "...to the best of my knowledge, information and belief..." Without this language or something to this affect the requirement could result in a sort of strict liability for a legitimate mistake in which the person did not know the correct information and could not know the correct information.

Additionally, there are procedures to ensure that the individual is qualified to make the attestation or certification that applies without removing this language entirely. Language to the effect of "I am in a position to know, or have done the reasonable due diligence to obtain..." the information required for this certification could be inserted to ensure that the person is truly in a position to know the correct information "...to the best of their knowledge, information and belief."

Again, thank you for the opportunity to comment on this proposal.

Sincerely,



Jon Galloway  
VP, External Affairs  
573-445-7999  
jon.galloway@vu.com



April 25, 2016

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

**RE: Proposed Changes to Company and Branch Filing Attestations**

Dear Mr. Doyle:

Union Home Mortgage Corporation ("UHM") thanks the State Regulatory Registry ("SRR") for the opportunity to comment on the content of the Company and Branch attestation language published on December 23, 2015. While UHM understands and appreciates the efforts of SRR to amend the attestation language, UHM has concerns with both the procedural and substantive aspects of the final changes published on December 23, 2015.

System attestations are required when filing submissions through the Nationwide Mortgage Licensing System ("NMLS") and serve to provide assurance to state agencies that the information contained in a record is true, accurate and up to date. By attesting to a filing, UHM makes a legal attestation to all states in which the Company is applying for or maintaining a license through NMLS. UHM is required to attest to its record multiple times during the year, including when the Company applies for additional licenses, submits amendments its Company or branch records, requests renewal of approved licenses, and when submitting quarterly Mortgage Call Reports ("MCR") or financial statements.

On May 1, 2015, SRR solicited public comments on the Uniform NMLS License Forms and Mortgage Call Report. The comment request, which ended on June 1, 2015, contained proposed changes to the attestation language as part of the Company Form (MU1), Branch Form (MU3) and Individual Form (MU4 and MU2) filing submissions. Based upon feedback received during the first comment period, SRR decided the proposed changes would go out for a second thirty-day comment period prior to finalization.

Union Home Mortgage Corp.  
8241 Dow Circle West  
Strongsville, Ohio 44136  
440-297-2210 (phone) 770-234-3988 (fax)  
kpezzani@unionhomemortgage.com (email)

On July 21, 2015, SRR solicited the second request for public comments on the Uniform NMLS Licensing Forms and Mortgage Call Report, which contained proposed changes that resulted from the initial open comment period and regulator discussions. Based upon comments received and additional recommendations made by the SRR Lawyers Committee and approved by the Forms Working Group, the NMLS Policy Committee ("NMLSPC") published the approved and final changes to the Licensing Forms and Mortgage Call Report.

The final changes published on December 23, 2015 contained language to the Attestation language that was not contained in either the May 1, 2015 nor the July 21, 2015 comment periods. Specifically, the final changes removed "to the best of my knowledge, information, and belief" from the attestation statement. UHM is very concerned with the removal of this material and important statement from the attestation language.

UHM has always appreciated the efforts of the SRR Board and the Policy Committee to discuss NMLS changes with industry participants and provide the opportunity to comment. UHM was surprised and disappointed that this process was not followed in this situation. Moreover, the comments accompanying the final language on December 23, 2015 provide no justification for or explanation of why the approved attestation language was significantly different from the proposal. A change such as this is significant and UHM feels it would have been appropriate for the Company, and industry, to review, consider and comment on the language before it was finalized.

UHM is concerned that the removal of the "to the best of my knowledge, information, and belief" language places an unreasonable burden on UHM and its Partners. The UHM Partner(s) submitting and attesting to filings should only be required to attest to the truthfulness and correctness of the information submitted to the best of the person's knowledge, information, and belief. It is not reasonable to expect anything more. UHM is licensed in thirty-one (31) states, has thirty-nine (39) active company licenses, has fifty-nine (59) active branches, and has three-hundred three (303) sponsored mortgage loan originators. Requiring a person submitting a filing to attest that "the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, are current, true and complete and are made under the penalty of perjury, or unsworn falsification to authorities, or similar provisions as provided by law" would be a nearly impossible statement to satisfy. The removal of the "to the best of my knowledge, information, and belief" language is also not consistent with the practices most states use when requiring UHM to attest to other filings, such as exam questionnaires.

Union Home Mortgage Corp.  
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UHM understands its responsibilities and obligations to make sure its record is true, accurate and up to date. UHM also appreciates the importance of the attestation process. While we understand a reasonable amount of due diligence and review is necessary prior to submission, we also recognize that any such review has its limitations. We are concerned that the new attestation language will create an endless cycle of review. Things that were true one minute may be untrue the next, but the new language does not account for this reality. It basically requires someone to verify, re-verify, re-review, and verify again before hitting "submit". Even after completing an extensive and diligent review, it is possible that something changed but the information didn't yet make its way to the reviewer. It is not reasonable or practical to ask or require a person to attest to something beyond what they know, review or believe.

We think the changes approved without prior notice on December 23, 2015 are significant and material. We respectfully ask that you reconsider the attestation language and amend to include "to the best of my knowledge, information, and belief".

We thank you again for the opportunity to comment. If you have any questions, please feel free to contact me directly to discuss.

Regards,



Kevin Pezzani, CMB  
Enterprise Risk Manager

CC: Bill Cosgrove, CMB, Chief Executive Officer

# MAYER • BROWN

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April 28, 2016

State Regulatory Register  
Conference of State Bank Supervisors  
Attn: Tim Doyle, Senior Vice President  
1129 20<sup>th</sup> Street, N.W., 9<sup>th</sup> Floor  
Washington, D.C. 20036

Re:

Dear Mr. Doyle:

This letter is submitted in connection with the Notice published by the State Regulatory Registry, LLC (SRR) on March 29, 2016 for comments to the proposed attestation to the Company MU1 Form.

We appreciate that the SRR was willing to post for comment the proposed attestation that is being considered, as the regulated companies that obtain and maintain their licenses through the NMLS did not have an opportunity to review and comment on the attestation language that was considered and initially adopted. Soon after the new attestation language was unveiled, procedural and substantive concerns about the attestation were raised at the Ombudsman session of the February CSBS NMLS Conference. Procedurally, the concerns focused on the SRR adopting an attestation that was not proposed for comment, and deleting a key clause that of the proposed attestation was based on the person's best knowledge, information and belief. Substantively, the adopted attestation greatly broadened the scope of the information covered, going from an attestation that the person making the filing was authorized to attest and submit the filing, to an attestation where the person was attesting to the accuracy of all the information in the MU1.

We were pleased that the SRR recognized that certain procedural requirements were not followed in proposing and adopting the new attestation, and welcomed the announcement that SRR would withdraw the final attestation language, and re-issue attestation language that SRR proposes to use. For this opportunity to allow interested parties to comment, we appreciate the consideration given.

We are disappointed, however, at the "new attestation" language proposed, as it is nothing more than what the SRR had tentatively adopted earlier this year. The proposed attestation language provides that:

"On this [SYSTEM DATE], I verify that I am the named person above and that I am authorized to attest to and submit this filing on behalf of the Applicant. I solemnly swear and

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affirm under penalty of perjury or un-sworn falsification to authorities, or similar provisions as provided by law that I have reviewed the foregoing responses for accuracy, and that they are true and correct.”

While procedurally SRR has done the right thing, allowing interested parties to comment on the language that is actually contemplated, the proposed attestation language still falls far off the mark, and going well beyond anything to which a person could reasonably attest. The attestation should be based on the person’s best knowledge, information, and belief, (herein “a knowledge standard”), but the proposed attestation language still excludes this clause. In my August letter to the Ombudsman, I set out a number of substantive reasons as to why the attestation language should include a knowledge standard. I am not going to reiterate each of those points, but I think they continue to be very valid and important reasons, and respectfully request that my comments on this issue be considered as part of and incorporated into this submission.

We find it particularly revealing that other regulators base the attestation on a knowledge standard or on inquiry. Certain of HUD’s certifications are based on a knowledge standard. HUD’s existing and proposed annual certification language is based on “the best of my knowledge” representation. HUD’s existing and upcoming loan level certifications also are based on a knowledge standard.

With this submission, let me address a couple other reasons as to why we believe a knowledge standard should be included in any attestation. In connection with the CFPBs Certificate of Compliance with respect Interrogatory Answers, the certificate is based on the information identified through the search ... of certain documents. Other filings may be based on the attesting party having conducted diligent inquiry of all persons who likely had possession of responsive documents.

In addition, in connection with this submission we also reviewed the attestation requirements of the annual reports of some states, and found a number of states had adopted attestation language that the included “knowledge, information or belief” language. We did not examine this issue in every state, and did not do an exhaustive search in each state. Additionally, in each state in which we looked for this language as part of the annual report we did not find a knowledge standard, but such language may be included in some other submission to the state.

In any event, we have found a number of the states and statutes associated with the annual report filing in which the attestation was based on some knowledge and belief standard. We found this compelling for a number of reasons, and it raised a number of questions. Significantly, we do not understand how the SRR can adopt an attestation that is inconsistent with what some states have found to be acceptable, or legally required in their state. Can a state have a knowledge standard for a state specific filing, but abandon such a standard for NMLS purposes? Is a state permitted to do so under its own laws? Has the proposed attestation language passed muster in the states that require a knowledge, information or belief clause.

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If a knowledge standard was required by a state for the filing of a periodic or annual report, how could that state require anything less for the MU1 attestations? The filing of a state required report is much more limited in frequency and content than a filing associated with the MU1. Unlike the MU1 where an attestation is required every time a filing is made in the NMLS that involves attesting to the truthfulness of all of the MU1 information related to the applicant and others, the filing of a state-required report may be filed annually or periodically, perhaps quarterly, but no more frequently than that, and it will contain certain production information that may be readily obtainable, but certainly is more limited than the MU1 filing. Yet state regulators believe it is important that the attestation for such a more controlled report filing be based on the filer's best knowledge, information and belief. How could it be acceptable to apply a different standard for the NMLS MU1, given (i) the voluminous amount of information on the applicant or licensee that is included in the MU1, (ii) the number of the control persons, control affiliates, affiliates and subsidiaries that are covered by the MU1, and (iii) the expansive period of time covered by the MU1. It is unrealistic to expect the person attesting to the MU1 to be able to swear and affirm to the accuracy, truthfulness, and correctness of all of the information in the MU1 each time an attestation is made. Therefore, it is unreasonable to require an attestation without a knowledge clause. A person should not be compelled under penalty or perjury to make an attestation that goes beyond any reasonable expectation of accuracy.

By dropping the clause, the SRR may be looking to convert an attestation based in the person's best knowledge, information, and belief to one based on personal knowledge so as to be able to hold the attesting person to sanctions. Unless an attestation allows a person making the attestation to state the factual basis upon which the person reached the stated conclusion, such as actual personal knowledge or upon diligent inquiry, we question whether the attestation would have legal significance. We have not examined the issue, but believe that SRR and its lawyers should do so, and if they do so, interested parties should be permitted to review and comment on that analyses.

We recognize the concern of state regulators that the best of my knowledge, information, and belief clause "may allow applicants to argue that the individual did not have the requisite knowledge, information, and belief, and therefore made false attestation." We do not see that this concern is alleviated by requiring an individual to attest to something that is only outside his or her knowledge. The person could still claim that he or she did not knowingly make a false statement of fact given that the person, by any reasonable measure, could not have known the accuracy of the information in the MU1. Accordingly, we do not find the reasons for the SRR dropping the knowledge clause as being persuasive. Indeed, it may be counterproductive to obtaining truthful and accurate information of the knowledge clause is not included. We therefore, request that the SRR re-instate the clause "to the best of the person's knowledge, information, and belief," as part of the attestation.

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Thank you for the opportunity to comment and for giving consideration to our request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Costas A. Avrakotos", with a horizontal line extending to the right from the end of the signature.

Costas A. Avrakotos

**Exhibit A****Annual Report Attestation Language**

Below is a list of states which use similar language in connection with the attestation sections of the requisite annual reports of licensed mortgage lenders, brokers and/or servicers. The annual reports require the signature of an authorized officer of the licensee who attests, at least in part, to the following statement: I hereby swear and affirm that the information contained herein is true and correct to the best of my knowledge and belief.

Alaska Mortgage Lender/Mortgage Broker License Annual Report

Kansas Mortgage Company License Annual Report

Kansas Supervised Lender License Annual Report

Kentucky Mortgage Company and Mortgage Broker Annual Activity Report

Louisiana Consumer Loan License Annual Report

Massachusetts Mortgage Lender License Annual Report

Montana Consumer Lender License Annual Report

New Hampshire Mortgage Banker / Broker Servicer License Annual Report

Vermont Loan Servicer License Annual Report

Wisconsin Consumer Act Registration Annual Invoice

MORRISON | FOERSTER

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MORRISON & FOERSTER LLP  
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NEW YORK, NORTHERN VIRGINIA,  
PALO ALTO, SACRAMENTO, SAN DIEGO,  
SAN FRANCISCO, SHANGHAI, SINGAPORE,  
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April 28, 2016

Writer's Direct Contact  
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BLui@mofo.comVia email to [comments@csbs.org](mailto:comments@csbs.org)State Regulatory Registry, LLC  
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 Regarding Proposed Changes to Company and Branch Filing Attestations**

To Whom It May Concern:

The Money Services Round Table (TMSRT)<sup>1</sup> appreciates the opportunity provided by the State Regulatory Registry LLC (SRR) to submit comments on proposed changes to Company Form (MU1) and Branch Form (MU3) filing attestations. As described in the request for public comments issued on March 29, SRR has proposed to require persons submitting those forms to provide the following attestation when the forms are submitted through NMLS:

*On this <<SYSTEM DATE>>, I verify that I am the named person above and that I am authorized to attest to and submit this filing on behalf of the Applicant. I solemnly swear (or affirm) under the penalty of perjury or un-sworn falsification to authorities, or similar provisions as provided by law that I have reviewed the foregoing responses for accuracy, and that they are true and correct.*

TMSRT understands that SRR is, on behalf of state regulators, seeking to obtain some assurance that information submitted through NMLS is accurate. The proposed language, however, raises significant issues for money transmission licensees. It is very difficult to ascribe—to one person—actual, individualized knowledge of the operations of an enterprise and all of the legal requirements in every relevant jurisdiction in which the licensee, or its

<sup>1</sup> TMSRT is comprised of the leading national non-bank money transmitters, including RIA Financial Services, Sigue Corporation, American Express Travel Related Services Company, Inc., Western Union Financial Services, Inc., and MoneyGram Payment Systems, Inc. These companies offer a variety of non-bank funds transmission services, often in locations not served by banks and other depository institutions. Examples of offered services include bill payments, international remittances, or other funds transfers through retail points of sale, the internet, mobile phones, stored value devices, and other avenues.

State Regulatory Registry, LLC

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“control affiliates,”<sup>2</sup> are operating. Consequently, it is unlikely that a single person would be able to attest with personal knowledge regarding the information required with respect to all of the jurisdictions in which the licensee is operating.

For instance, U.S. laws and the laws of other jurisdictions do not align perfectly, and as a result any analysis of required and appropriate disclosures must be conducted on a case-by-case basis and will inevitably involve human judgment. In addition, NMLS requires licensees to make such disclosures not only about the licensee itself, but also about its control affiliates, which further complicates the disclosure picture. Thus, any individual submitting an affirmation will need to rely on the judgment of others to develop the required information in this scenario.

While of course every TMSRT member strives to 100% accuracy at all times, as a general matter, any absolute certification by an individual on behalf of a corporate entity is problematic. Indeed, many licensed money transmitters are large, multinational entities with operations in multiple countries that may have significantly different legal regimes from the United States. The distributed, global nature of these types of corporate entities as a practical matter makes it impossible for any one individual to provide an absolute certification based on personal knowledge. Existing regulations requiring attestations recognize this. For example, while Sarbanes-Oxley requires officers of a public company to certify that financial reports are accurate and complete and that the company has established and maintained adequate internal controls for public disclosure, such certification is based only on the knowledge of the signing officer—it is not absolute.

With these considerations in mind, TMSRT thus respectfully suggests that the attestation language presented to company users affirm that such attestation is to the best of the “*knowledge, information, and belief...*” of the user. For example, the language could track more closely the original proposed language to read:

*On this <<SYSTEM DATE>>, I verify that I am the named person above and that I am authorized to attest to and submit this filing on behalf of the Applicant. **The information set forth herein was provided by others acting at the direction of the Applicant, and such information is not necessarily within my personal knowledge. Nevertheless, I solemnly swear (or affirm) under the penalty of perjury or un-sworn falsification to authorities, or similar provisions as provided by law that I have reviewed the foregoing responses for***

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<sup>2</sup> As SRR has explained, a “control affiliate” is a “partnership, corporation, trust, LLC, or other organization that directly or indirectly controls, or is controlled by, the applicant. This includes companies that are ‘up or down the ownership ladder.’ In effect, this requires applicants to . . . disclose for relationships that go up (parent and grandparent) or those that go down (subsidiary) . . .” See NMLS, Individual Disclosure Questions Definitions, available at: <http://mortgage.nationwidelicencingsystem.org/slr/resources/Documents/Individual%20Disclosure%20Questions%20Definitions.pdf>



State Regulatory Registry, LLC  
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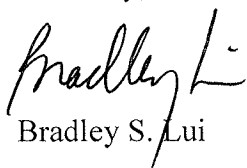
~~accuracy~~, and *am informed and believe after a reasonable review that they are true and correct to the best of my knowledge, information, and belief.*

This type of language would be consistent with the practices of most money transmission licensee and would accurately reflect that individuals can truly make affirmations on behalf of a company only to the extent of their knowledge, information, and belief with respect to the relevant practices of the company.

+++

On behalf of TMSRT, we reiterate our appreciation that SRR has reopened this issue for public comment. Though only a small change in wording, the knowledge qualifier discussed herein is of considerable significance for our members, as we would expect it to be for all other users of NMLS. We would be happy to further discuss our concerns or to work with SRR and the Conference of State Bank Supervisors on this issue.

Sincerely,



Bradley S. Lui



April 28, 2016

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

## **Proposed Changes to Company and Branch Filing Attestations**

### **Comments**

On March 29, 2016, the State Regulatory Registry LLC (“SRR”) issued a request for public comment regarding proposed changes to company and branch filing attestations. Weiner Brodsky Kider (“WBK”) appreciates this opportunity to comment on the proposed changes.

#### **I. Initial Proposed and Approved Language**

We understand that the modified attestation language initially proposed by the SRR was, in relevant part, as follows:

*I, <<NAME>>, am employed by/an officer of <<COMPANY>>, and am authorized to verify the foregoing responses on its behalf. The information set forth herein was collected by others, and such information is not necessarily within my personal knowledge. Nevertheless, I solemnly declare and affirm under the penalties of perjury that I have reviewed the foregoing responses, and am informed and believe that the foregoing responses are true and correct to the best of my knowledge, information, and belief.*

This language was further modified after public comment and the final approved language was, in relevant part, as follows:



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*On this <<SYSTEM DATE>>, I verify that I am the named person above and that I am authorized to attest to and submit this filing on behalf of the Applicant. I solemnly swear (or affirm) under the penalty of perjury or un-sworn falsification to authorities, or similar provisions as provided by law that I have reviewed the foregoing responses for accuracy, and that they are true and correct.*

The final approved language removed certain elements from the initial proposed language, including “to the best of my knowledge, information, and belief.” WBK believes that this language should be added back into the attestation language.

## **II. Comments**

As the SRR is aware, there are generally several individuals involved when a company determines that a company or branch filing needs to be submitted through the NMLS. This can include officers, administrators, and clerical staff, as well as third party firms.

Often, administrators and clerical staff, or third party firms, are charged with preparing filings in the NMLS. However, the individual preparing the filings is not always the individual that submits the filing. This may be due to an individual not being available when the filing is ready for submission, or because the person preparing the filing has not been authorized by the company to submit the filing. As a result, there could be information that was entered incorrectly due to simple human error, of which the individual submitting the filing would not be aware. Under such circumstances, it is important that the individual submitting the filing be allowed to attest that the information being submitted is true and correct “to the best of [their] knowledge, information, and belief.”

In addition, the individual submitting the filing cannot possibly attest that information in an individual form (MU2) for another individual is accurate. The NMLS contains not just information specific to an entity, but also



information specific to individuals, which is found on the MU2. Each individual is required to attest to the information in his or her MU2. However, once this is complete, the MU2 becomes a part of the company filing, the MU1, and the individual submitting the MU1 would be required to attest to the accuracy of information in each individual MU2. By requiring the individual submitting the filing to attest that the information is “true and correct,” without qualification, the individual is put into a vicarious position, whereby he or she would be required to affirm that MU2 information entered into the NMLS regarding another person is “true and correct.”

Further, the NMLS is a static system. The submission of an MU1 is a final act showing current information for the licensee. However, a business is not static and changes can occur on a daily or even hourly basis. Generally, filings are made for a specific reason, such as to upload required documents or revise certain discreet pieces of information. In such cases, it is impractical to hold the individual submitting the MU1 responsible for the truth and correctness of all information contained in a licensee’s record at the time of any given submission.

Moreover, we note that requiring an individual to attest that the information is “true and correct” under the penalty of perjury subjects the individual to unreasonably broad potential liability. For example, it would appear that such liability could potentially exist in cases where a submission simply contained typographical errors. If an individual were found to have made a “false statement” in this manner, such a finding could in turn trigger a “yes” answer to certain NMLS Disclosure Questions for that individual and/or the company. The attesting individual, and the company, need to be provided certain protections because, as noted above, the attesting individual may not be directly involved in preparing the NMLS filing, and cannot reasonably confirm that each individual piece of information in an MU1 or MU2 is “true and correct.” The additional language - “to the best of my knowledge, information, and belief” - needs to be added back to the attestation language.

We further note that other similar types of license applications, and even notarizations, use the language “to the best of my knowledge and belief” or



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similar language. Examples of other applications that use similar language are as follows:

- Illinois Division of Professional Regulation, Collection Agency Registration Application (Certifying Statement);
- Kansas Consumer and Mortgage Lending Division, Supervised Loan License Application and Credit Notification Form for Non-Mortgage Lenders (Signature and Oath of Applicant by Authorized Individual);
- Nebraska Collection Agency Board, Initial Collection Agency License Application (Oath of Applicant);
- New Mexico Financial Institutions Division, Application for Original Collection Agency and Manager License (Company Oath and Statement);
- Oklahoma Department of Consumer Credit, Deferred Deposit Lender License Application (signature and attestation of application).

Accordingly, it appears that the inclusion of such language has previously been found to be acceptable and appropriate under similar circumstances.

In this vein, we respectfully note that these certifications need to be based upon enacted statutory law. While we have not conducted a 50 state survey in crafting these comments, it is our understanding that not every states' mortgage banking laws require these types of certifications. Thus, for the SRR to impose certification requirements that will have regulatory or administrative consequence, without legislation, offends fundamental precepts of due process.



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### III. Conclusion

In conclusion, for the reasons stated above, WBK believes that the language “to the best of my knowledge, information, and belief” should remain in the attestation language.

Respectfully submitted,

Weiner Brodsky Kider

/s/ Aldys London

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April 28, 2016

Mr. Tim Doyle, Senior Vice President  
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Conference of State Bank Supervisors  
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Washington, DC 20036  
[comments@csbs.org](mailto:comments@csbs.org)

RE: Request for Public Comments  
Proposed Changes to Company and Branch Filing Attestations

Dear Mr. Doyle:

We represent a variety of companies that utilize the NMLS to manage their financial services licenses in various jurisdictions. We appreciate the opportunity to comment on the proposed changes to company and branch filing attestations. According to the request for comment, “[s]ystem attestations, required as part of filing submissions through NMLS, serve to provide assurance to state agencies that the information contained in a record is true, accurate and up to date.” State Regulatory Registry, LLC (“SRR”), the entity that owns and maintains the NMLS, seeks feedback on the content and use of the company and branch attestation language and has specifically requested input on the inclusion of “. . .to the best of my knowledge, information, and belief. . .,” to the company and branch attestation language. Our comments respectfully follow below.

**The Current Attestation Language Sufficiently Holds the Company Responsible for the Accuracy of its Record**

As you are aware, the NMLS serves as the system of record for many different types of financial services-related licenses, including licenses that regulate activity in each of the fifty (50) states, the District of Columbia, and various United States territories. Since the original implementation of the NMLS, the company and branch attestation language has been updated to include the Company NMLS identification number and to add language with respect to advance change notification process.

The request for comment suggests that the contemplated changes are made “[t]o reduce attestation by third-party firms, such as compliance personnel who are not employees of the entity licensed within NMLS, the NMLSPC recommended strengthening Company and Branch attestation language.” In response to concerns expressed by regulatory agencies, a new user role is being added to the system to “allow designated third party users to assist with completing company and branch filings without having the ability to attest and submit the filing.” This new user role mirrors what those law firms and third party compliance firms who understand the limitations and requirements of the attestation language have long ago put in place – that such

institutions can prepare an initial or amendment filing in NMLS but the review and submission of any filing ultimately must be completed and attested to by an authorized individual of the company. Implementation of this new user role alone demonstrates that the concerns that potentially lead to the proposed language change will be corrected without the drastic step of excluding language that allows an attestee to submit a filing to the best of his or her knowledge, information, and belief. Thus, in our view, this important step will assuage any concerns by the regulatory agencies and there is no reason to exclude the proposed language.

**Proposed Inclusion of “...to the best of my knowledge, information, and belief. . .” within Attestation Language**

The proposed attestation language referenced in Addendum C to the current request for comment, contains the following attestation language: “I, <<NAME>>, am employed by/an officer of <<COMPANY>>, and am authorized to verify the foregoing responses on its behalf. The information set forth herein was collected by others, and such information is not necessarily within my personal knowledge. Nevertheless, I solemnly declare and affirm under the penalties of perjury that I have reviewed the foregoing responses, and am informed and believe that the foregoing responses are true and correct to the best of my knowledge, information, and belief.” According to the request for comment, regulatory agencies expressed concerns that the inclusion of “...to the best of my knowledge, information, and belief...” regarding any errors in a submitted filing. While the language does qualify the submission that accompanies any particular filing, we respectfully disagree and believe that practical examples, as set forth below, clearly demonstrate that the language should be included in the certification. Specifically, removing the language has several practical effects. First, individuals that attest to an NMLS record may not be aware of every single nuance in an entity’s NMLS record. Second, even if an individual is overly familiar with their company’s NMLS record, he or she may not receive information in a most timely manner so as to ensure that an NMLS record is updated. These practical consequences, as demonstrated below, demonstrate that the qualifying language so that submissions can be made to an individual’s knowledge, information, and belief is both important and necessary.

- A Licensing Manager submits a Company (MU1) filing on Friday afternoon at 5pm EST so that the company may apply for a new mortgage license in Pennsylvania. Unbeknownst to the Licensing Manager, across the country at 1pm PST/4pm EST, the company’s Qualified Individual in Nevada informed Human Resources of his immediate resignation. The Licensing Manager is not made aware of the change until 8am EST Monday morning. This does not impact the MU1 filing that was made and the company has time under Nevada legal requirements to disclose the change to its Qualified Individual to the Nevada Division of Mortgage Lending. Nevertheless, without inclusion of the language “to the best of my knowledge, information, and belief,” the Licensing Manager has submitted a false attestation, potentially subjecting the company and the Licensing Manager to legal action.
- A Control Person of the Company (its President) submits a Company (MU1) on Saturday at 2pm EST. The filing is so that the company can apply for a California Finance Lenders Law License, which obligates license applicants to have one of their control persons (and not a designee such as a Licensing Manager) submit filings pursuant to that license. Although she is generally aware of the NMLS, she is not overwhelmingly familiar with the



nuance associated with the system. When she submits the filing, she is not aware of the following:

- Another control person of the Company has not updated his NMLS record to show his new residential address that he moved to thirty-two (32) days ago.
- A third control person recently changed cell phone service providers and had a disruptive experience requiring him to change his cell phone number. He has not updated his cell phone in the NMLS to reflect the new number.
- A third party vendor where the company maintains its books and records has expanded, so that it now occupies multiple floors within its existing facility. While the vendor has notified its customers of the expansion and the accompanying address change from Suite 100 to Suites 100 & 200, such correspondence was received on Friday and have not yet made its way to the appropriate personnel.
- The Company executed a Consent Agreement on April 1, 2016 requiring the payment of a \$1,000 penalty. The Company has not received affirmative notice that the agreement has been countersigned by the regulatory agency and the agreement is only effective upon signature by both parties. In fact, the Consent Agreement was countersigned on April 15, 2016 but a copy has not been provided to the Licensee because the individual responsible for providing a copy is on vacation. Consequently, while the company has disclosed the matter in its Regulatory Action section as a pending matter, it has not updated its record to reflect that it is now final.

While these “real world” examples are technical violations that are, in our view, not material to the filings that were submitted, they clearly underscore the importance of the proposed language. In each of these scenarios, the proposed language protects the party submitting the filings as such party has, in good faith, submitted a materially accurate filing that may include an inaccuracy that it was not in a position to be aware of. In short, we believe that these practical examples demonstrate that the language is both important and necessary. We feel this is incredibly important to underscore in the current regulatory environment, where regulatory agencies are much more inclined to require formal consent agreements and to take action against licensees than had been the case several years ago. Because of the changing environment, licensees and any individual submitting a NMLS filing must be much more aware and concerned regarding inaccurate NMLS filings.

Thank you for the opportunity to provide these comments to the proposed attestation language. Should you have any questions or require additional information, please feel free to contact me at [hrichards@bradley.com](mailto:hrichards@bradley.com) or at (202) 719-8217.

Sincerely,

**HJR /s/**

Haydn Richards  
Partner

**Amy Greenwood-Field**

Senior Attorney  
afield@bradley.com  
202.719.8238 direct



April 28, 2016

Mr. Tim Doyle, Senior Vice President  
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[comments@csbs.org](mailto:comments@csbs.org)

RE: Request for Public Comments  
Proposed Changes to Company and Branch Filing Attestations

Dear Mr. Doyle:

Our firm represents many users of the NMLS and I welcome the opportunity to comment on the currently proposed changes to company and branch filing attestations. According to the request for comment, “[s]ystem attestations, required as part of filing submissions through NMLS, serve to provide assurance to state agencies that the information contained in a record is true, accurate and up to date.” SRR is seeking comments on the content and use of the company and branch attestation language and has specifically requested input on the inclusion of “. . .to the best of my knowledge, information, and belief. . .,” to the company and branch attestation language. My comments follow below.

**The Responsibility of a Company for Accuracy of its Record is Already Clear Under Current Attestation Language**

NMLS currently serves as the system of record for non-depository, financial services licensing or registration for 61 state or territorial government agencies. NMLS is the official system for companies and individuals seeking to apply for, amend, renew and surrender licenses in those jurisdictions. With each filing made, an individual attestation must be present. As you are aware, the company and branch attestation language has been updated since the initial implementation of NMLS to include the Company NMLS ID and to add language with respect to advance change notice filings.

The request for comment states that, “[t]o reduce attestation by third-party firms, such as compliance personnel who are not employees of the entity licensed within NMLS, the NMLSPC recommended strengthening Company and Branch attestation language.” Attestation language currently in use in the system indicates that the attesting individual “executed this form on behalf, and with the authority, of said Applicant. . .” Several representations follow. Under current system functionality, no individual that is not authorized by the company is able to attest to filings in that the company alone controls who is given access to its NMLS record. As such, if an individual has a login and password assigned to them to access a company’s record, they can be presumed to have the authority to make filings on behalf of the applicant. In that respect, the current attestation language is accurate. However, as set forth in the current request for comment, it appears that regulators want not only an individual who has been authorized by the company to make the filing to attest but now want only employees, officers or control persons of the company to be able to attest to filings.

In response to regulator concerns, a new user role is being added to the system to “allow designated third party users to assist with completing company and branch filings without having the ability to attest and submit the filing.” This new user role mirrors what many third party compliance firms have implemented into their own business practices, that while the third party may prepare an initial or amendment filing in NMLS, the review and submission of said filings is completed and attested to only by an authorized individual of the company. Implementation of this new user role alone reinforces the fact that the burden is on the company to ensure that it has appropriately identified individuals who are authorized to submit filings on the company’s behalf. As such, there is no reason to change current attestation language at this time.

### **Inclusion of “...to the best of my knowledge, information, and belief. . .” within Attestation Language**

The proposed attestation language referenced in Addendum C to the current request for comment, contains the following attestation language: “I, <<NAME>>, am employed by/an officer of <<COMPANY>>, and am authorized to verify the foregoing responses on its behalf. The information set forth herein was collected by others, and such information is not necessarily within my personal knowledge. Nevertheless, I solemnly declare and affirm under the penalties of perjury that I have reviewed the foregoing responses, and am informed and believe that the foregoing responses are true and correct to the best of my knowledge, information, and belief.”

According to the request for comment, regulators expressed concerns that the inclusion of “...to the best of my knowledge, information, and belief...” “may allow applicants to argue that the attesting individual did not have the requisite “knowledge, information, or belief” and therefore has not knowingly made a false statement of fact.” Respectfully, even if an individual made the argument that they did not have the requisite “knowledge, information, or belief” and therefore did not knowingly make a false statement of fact, the company would ultimately be responsible for any inaccuracies found in its record. As noted above, no individual can make a filing on behalf of a company without the company first giving the individual access to the company’s record. When the proposed new user role is added to the system, individuals will have to also be given authority to file on behalf of the company before they could do so. If the intention of NMLS is to contain the accurate record of a company, allowing an authorized individual to submit a corrective filing “to the best of my knowledge, information, and belief” will only encourage submission of accurate information. Should the attestation be updated, to remove this qualifying language would only discourage and delay corrective filings as individuals review the entire company record with exhibits for accuracy before filings could occur without risking making a false attestation.

### **Limitation of Attestation to Individuals “Employed By” or Officer or Control Persons of a Company**

The most recent “approved company attestation language” approved by the Policy Committee in December 2015, in applicable part:

I, <<NAME>>, <<TITLE/POSITION>>, am employed by or am an officer or a control person of <<COMPANY>> (Applicant). I am authorized to verify the foregoing responses, attest to, execute and submit this filing on the Applicant’s behalf. (emphasis added)

The proposed language limits attestation to an individual who is “employed by” or is “an officer or a control person” of the company. Our firm represents several large nationwide clients that, because of their business structure, may have one set of compliance individuals responsible for the records of multiple affiliated entities. These individuals may be only employed by one of several licensees, or may be employed by a parent entity (for insurance and benefits purposes) that does not hold any licenses at all.

Additionally, the proposed language also allows for attestation to be completed by an “officer or a control person” of the company. Currently, the term “control person” is defined by the NMLS Policy Guidebook as “[a]n individual (natural person) named that directly or indirectly exercises control over the applicant.” Taking into account the definition of a “control person” the proposed language would allow filing by an individual who may exercise indirect control over the company. Given the current regulatory environment, it is unclear whether this is truly the intention of agencies participating in NMLS. Furthermore, the term “officer” is not specifically defined in the NMLS Policy Guidebook. Many companies routinely provide officer titles and signing authority to individuals who may not be named as senior officers of the company.

With that in mind, I would propose that the language, “am employed by or am an officer or a control person of” be changed to read “am an authorized agent of” in order to accurately reflect the relationship that these individuals may have with multiple licensed entities and to reduce the opportunity for confusion in which officers or control persons are authorized to submit filings. Entities can provide authorization to file for individuals by properly granting them access within NMLS once the new user roles are implemented. If the concern is still that a true non-affiliated third party would be granted access, I would suggest that NMLS also tie the individual’s NMLS ID to the attestation and provide functionality within the company form for the company to authorize individuals who may not be named officers, collect minimal information about these individuals, and assign them unique NMLS ID numbers.

### **Proposed Additional Review and Accuracy Attestation**

The most recent “approved company attestation language” approved by the Policy Committee in December 2015, also implements a duplicative review and accuracy attestation. It reads, in applicable part:

Applicant agrees to and represents the following:

- (1) That the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, are current, true and complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or similar provisions as provided by law;
- (2) To the extent any information previously submitted is not amended, such information remains accurate and complete;
- (3) To the extent any information submitted is part of an advance change notice with a delayed effective date, such information is accurate and complete as of this submission;
- (4) That the jurisdiction(s) to which an application is being submitted may conduct any investigation into the background of the Applicant, and any related individuals or entities, in accordance with all laws and regulations for purposes of making a determination on the application;

- (5) To keep the information contained in this form current and to file accurate supplementary information on a timely basis; and
- (6) To comply with the provisions of law, including the maintenance of accurate books and records, pertaining to the conduct of business for which the Applicant is applying.

If the Applicant has knowingly made a false statement of a material fact in this application or in any documentation provided to support the foregoing application, then the foregoing application may be denied.

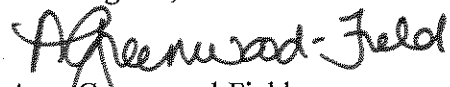
On this <<SYSTEM DATE>>, I verify that I am the named person above and that I am authorized to attest to and submit this filing on behalf of the Applicant. I solemnly swear (or affirm) under the penalty of perjury or un-sworn falsification to authorities, or similar provisions as provided by law that I have reviewed the foregoing responses for accuracy, and that they are true and correct." (emphasis added)

The current responses, when read with the proposed attestation language, contain two instances of language referring to the information being accurate, true, or complete under penalty of perjury. Though the wording is a bit different, there seems to be no reason for the penalty of perjury to be referenced twice. Should the determination be made that the proposed language be adopted, I would suggest that the original perjury language be removed entirely from item (1).

In the pre-NMLS paper world, in most jurisdictions, the president or other authorized officer was required to sign attestations on any new or renewal application. In the post-NMLS world, we have taken this a step further and require companies filing amendments to re-attest to each filing made, regardless of how simple or complex the filing may be. Regardless of whether the filing corrects a spelling error in a street address or reflects 100% change in control with new officers, the attestation is the same. The current language proposed, adds the additional burden that the individual clicking the box has "reviewed the foregoing responses for accuracy." While the individual certainly should be able to attest that the current filing is accurate to the best of their knowledge, the burden should not be to review the entire company record with all exhibits and information filed each time an amendment filing is necessary in order to keep the company record accurate. Perhaps, at this point, we need to implement a different attestation level for filings that contain new applications or meet certain triggers (changes to direct or indirect ownership) than those that contain more routine non-material changes.

I appreciate the opportunity to submit comments on the current proposed attestation language. Should you have any questions or require additional information please feel free to contact me at [afield@bradley.com](mailto:afield@bradley.com) or (202) 719-8238.

Best Regards,

  
Amy Greenwood-Field



EMAILED TO [comments@csbs.org](mailto:comments@csbs.org)

April 28, 2016

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

Re: Proposed Changes to Company and Branch Filing Attestations  
Comments of Academy Mortgage Corporation (NMLS ID 3113)

Dear Mr. Doyle:

We, Academy Mortgage Corporation, appreciate the opportunity to submit our comments regarding the proposed changes to Company and Branch Filing Attestations.

We are not in favor of the initially approved Company Attestation Language (Addendum D):

I verify that I am the named person above and that I am authorized to attest to and submit this filing on behalf of the Applicant. I solemnly swear (or affirm) under the penalty of perjury or unsworn falsification to authorities, or similar provisions as provided by law that I have reviewed the foregoing responses for accuracy, and that they are true and correct.

We are, however, in favor of the initially proposed Company and Branch Attestation Language (Addendum C):

I, <>, am employed by/an officer of <>, and am authorized to verify the foregoing responses on its behalf. The information set forth herein was collected by others, and such information is not necessarily within my personal knowledge. Nevertheless, I solemnly declare and affirm under the penalties of perjury that I have reviewed the foregoing responses, and am informed and believe that the foregoing responses are true and correct to the best of my knowledge, information, and belief.

In particular, we are in favor of the inclusion of "...to the best of my knowledge, information, and belief..." to the Company and Branch attestation language for several reasons.

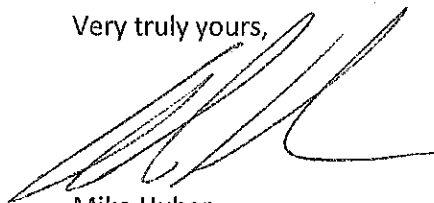
First, an attestation should not require an attester to possess absolute knowledge regarding the information to which they are attesting when the nature of the information itself is subject to change. For example, companies are required to file unaudited financial statements every quarter. Due to the fact that these statements are unaudited, they are subject to change through the audit process. It would not be reasonable to expect an attester to *know* that every piece of information in such a filing is true and accurate. The fact that certain elements of every filing are open to interpretation and correction argues in favor of an attestation that is made in good faith but not with absolute knowledge of every element therein.

Second, it is not reasonable for an attestation to require an attester to have personal knowledge of every detail of a filing, especially considering that filings are often based on the collaborative work of many individuals. For example, prior to preparing a Mortgage Call Report, a company employee in one department might assign a certain disposition to a loan, in good faith, when the loan should have received an entirely different disposition. In this example, it would be unreasonable to expect the attester to *know* what the disposition of that particular loan should have been when the subject matter expert employee who worked on it got it wrong. Given the potential scope and complexity of filings in the NMLS, where the input and collaboration of many employees and sometimes even third-parties is involved, the idea that an attester must have personal knowledge of every detail of a filing may not always be reasonable.

Lastly, the language that is included in the attestation that is ultimately adopted by the NMLS Policy Committee (NMLSPC) should be consistent with the language that is included in attestations that are commonly used in other areas of commerce. The language "...to the best of my knowledge, information, and belief..." is commonly used in attestations in *business and government*. We believe it would be unreasonable to expect industry to abide by a different and much higher standard than that which is commonly used in other areas of commerce.

We appreciate the opportunity to submit these comments. Should you have questions, please contact me at (801) 233-3764 or [mike.huber@academymortgage.com](mailto:mike.huber@academymortgage.com).

Very truly yours,

A handwritten signature in black ink, appearing to be 'Mike Huber', written over a horizontal line.

Mike Huber  
General Counsel