

## **SRR Public Comment Policy**

### *Request for Public Comments*

#### **Proposal 2016-2**

August 30, 2016 – October 31, 2016

The State Regulatory Registry invited public comments on the adoption of policies governing the procedures and processes for requesting public comments on issues related to NMLS during a public comment period from August 30, 2016 to October 31, 2016. Eight 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 [NMLS Policy Committee](#) will review the comments received and after consultation with all participating NMLS state regulatory agencies will respond to comments providing the final approved policy. The final approved policy will be posted on the NMLS Resource Center.

NMLS

Request for Comments on

SRR Public Comment Policy

| # | Date       | Name & Company  | Comments   |
|---|------------|---|--|
| 1 | 10/25/2016 | Laura Zitting<br>Primary Residential Mortgage, Inc.           | <p>To whom this may concern,</p> <p>I would like to begin to say that I feel very grateful that SRR / NMLS gives the public the ability to participate with our feedback and comments. I agree that with the feedback from industry, together we can tackle issues that directly impact all parties that use the NMLS. I have with other members from my company participated in public comment submissions. I have read the 'request for Public Comments, SRR Public Comment Policy' in its entirety, and in reading the policy itself has answered my questions around process and publications etc. I feel that it is a carefully outlined and executed policy, and I have trust in its contents. My only comment is, I have found that email notification to industry with specific comment deadlines has been very helpful in scheduling time to review and participate in making comments to SRR /NMLS.</p> <p>Thank you again for the opportunity to participate,</p> |
| 2 | 10/31/2016 | Glen S. Corso<br>Community Mortgage Lenders of America (CMLA) | See Attachment 1   |
| 3 | 10/31/2016 | Jon Galloway<br>Veterans United Home Loans                    | See Attachment 2   |
| 4 | 10/31/2016 | Costas A. Avrakotos<br>Mayer Brown LLP                        | See Attachment 3   |
| 5 | 10/31/2016 | Matt Kownacki<br>American Financial Services Association      | See Attachment 4   |
| 6 | 10/31/2016 | Lily Swift<br>Blackhawk Network                               | Blackhawk Network appreciates and values the opportunity to comment on proposed NMLS changes. Blackhawk Network agrees with the proposed policy on SRR requests for public comment as presented with no changes.   |

NMLS

Request for Comments on

SRR Public Comment Policy

| # | Date       | Name & Company                                    | Comments         |
|---|------------|---|------------------|
| 7 | 10/31/2016 | Nicole Ehrbar<br>Quicken Loans                    | See Attachment 5 |
| 8 | 10/31/2016 | William Kooper<br>Mortgage Bankers<br>Association | See Attachment 6 |



## PRESERVING FAIR STANDARDS FOR COMMUNITY LENDERS

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October 31, 2016

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

Re: Proposed Policy on SRR Requests for Public Comment

Dear Mr. Doyle:

The Community Mortgage Lenders of America (CMLA) is pleased to submit these comments on the Proposed Policy on SRR Requests. CMLA is a trade association for community-based small and mid-size mortgage lenders, both community banks and independent mortgage banking companies.

### **Public Hearing**

At the outset we would like to advocate for the addition of a requirement of a public hearing to be held for all SRR requests for public comment. We believe that a public hearing would allow all interested parties the opportunity to provide their comments directly to SRR and would be particularly useful for an exchange of viewpoints that cannot be adequately captured in a written submission. It would also allow members of the SRR and NMLS to ask questions of those offering live comments in order to clarify certain points, or seek additional information. We believe this could be quite useful in the subsequent consideration of public comments by SRR as proposed in the draft policy.

A public hearing could be conducted both in person and electronically, to make the most efficient use of everyone's time and allow participation even by those parties unable to travel to the location of the hearing.

What follows are our more detailed comments on the proposal on a section-by-section basis.

### **Applicability**

We agree with the proposed criteria, that the policy should apply to any updates that impact outside parties.

### **Roles and Responsibilities**

The proposed roles and responsibilities appear to be straightforward, sensible and entirely appropriate.

### **Effective and Sufficient Notice**

We have several comments on the proposal in this section. First we suggest that you consider a standard 90-day comment period, rather than 60 days. Our suggestion is based on the idea that 60 days is bit too brief for a comment period, particularly if the matter is complex.

Second, while we agree with the proposal that urgent consideration of a proposed policy could necessitate a shortened comment period, with 21 days as the minimum, we suggest you state in the policy that the instances of this exception being utilized should be for extraordinary circumstances only and will be rarely invoked.

Third, with regard to notice to the public, it is not clear to us that a press release will be issued announcing items or issues available for comment. We suggest that a press release be issued and that this be clearly stated in the policy.

Fourth, we suggest that you create an opt-in email list, which will permit interested parties to submit their names, organization affiliations and email addresses, so they can receive an electronic notice of all issues or items set for public comment.

### **Collecting and Receiving Public Comments**

We agree with this section as proposed.

**Consideration of Comments**

We agree with this section as proposed.

**Adoption of a Rule or Policy of General Applicability**

We agree with this section as proposed.

Thank you for this opportunity to comment.

COMMUNITY MORTGAGE LENDERS OF AMERICA



October 31, 2016

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

RE: Request for Public Comments SRR Public Comment Policy

Mr. Doyle,

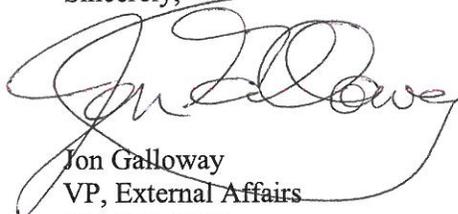
Thank you for the opportunity to provide on the updated comment policy, and thank you for your attention to the critically important process.

The company feels the process should more closely adhere to the federal Administrative Procedures Act and Freedom of Information Act government entities use to ensure all interested members of the public have sufficient notice and opportunity to comment. Versions of these two laws exist at the state level as well. Specifically, we believe the following are particularly important:

- **Stakeholder impact study** to determine cost to implement in terms of impact to processes, staffing requirements and compliance costs.
- **Cost-benefit analysis** to determine if the new regulations will provide enough benefit to justify the cost to consumers and stakeholders.
- **Mandatory in-person public hearings** to allow for more engaged dialogue and discussion pertaining to proposed rules.
- **Mandatory effective date of 60 days** after rule adoption to allow for full and effective compliance from regulated entities.
- **Emergency rules process** to be used when non-major NMLS functionality is implemented or the NMLS Policy Committee believes time is of the essence, and the 60 day commenting period and a mandatory effective date is not possible.
- **Mandatory proposed rules publication** in industry media and newspapers of record so all stakeholders may have opportunity to comment.
- **A definition for Major NMLS functionality update** as referenced in the policy.
- **A rule defining how NMLS Working Group and the NMLS Policy Committee** are appointed and how they will consider rules to be considered for emergency and non-emergency status.

Again, the company appreciates the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Galloway". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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

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October 31, 2016

Tim Doyle  
Senior Vice President State Regulatory Registry LLC  
Conference of State Bank Supervisors  
1129 20th Street, N.W., 9th Floor  
Washington DC 200036

Dear Mr. Doyle:

We welcome the opportunity to submit comments to the State Regulatory Registry LLC's ("SRR") request for comments on the proposed policy (the "Proposal") that would govern the procedures and processes by which it would request and consider comments on issues related to the Nationwide Multistate License System (the "NMLS").

In reviewing SRR's request, I am struck by the fact that SRR has published 23 requests for public comments on issues related to policy, functionality, and enhancements of the NMLS since 2008. I am surprised by the number of request that were made, more than I recall. I know our practice group has taken the opportunity to submit comments on behalf of clients on number of such requests over the years. We appreciated the opportunity to do so, and were greatly pleased that some of our comments were adopted. However, we also found it disheartening when few comments were submitted. I do not know if this Proposal will lead to others in the industry submitting comments to future requests, but it is laudable that SRR has listened to the concerns of industry that a more formal system be establish to enhance the procedure and processes for publishing requests and considering comments to changes to the NMLS.

We have heard from clients who saw little consistency with, and had little understanding of, the comments process. Requests for comments were on occasion issued with little public dissemination, or with a short time frame by which to comment. On occasion, changes were proposed with little sense of why the changes were necessary, or what information or process in the NMLS was insufficient, with no understanding of who considered the comments or what factors went into evaluating the comments. To many companies in the industry, it seemed SRR was going through the motions in issuing a request for comments-- a "fati accompli" once the comments were published—in that they would be adopted regardless of the comments submitted, the necessity for the change, or the burdens imposed for compliance. I am certain that many were discouraged from submitting comments, in that they did not (i) have the time to comment, (ii) believe the comments would be considered, or (iii) want to receive the attention of the regulators.

We recognize that it is not an easy task to provide an objective framework by which changes and updates to the NMLS will be presented to the public for consideration, while preserving some degree of flexibility in making changes when absolutely necessary, and allowing state regulators to administer the NMLS in keeping with the requirement of the state law that they enforce. We offer our comments in recognition of this effort, and trust some will be found to have merit. (Our comments track some of the headings in the Proposal.)

Tim Doyle  
October 31, 2016  
Page 2

### **Applicability**

I generally agree with the list of the changes or updates that would warrant notice and public comments: (i) major NMLS functionality updates, (ii) Call Reports, (iii) impacts to usability of NMLS, (iv) Uniform Form changes, and (v) fee changes.

However, it is unclear when notice for comments will be issued. On the one hand, the Proposal suggests that “any updates that impact outside parties (not strictly limited to the internal operations of SRR) will be published for comment, but then the Proposal states that such updates will be published when such comments “are determined by the NMLS Policy Committee as requiring public comment.” The Proposal further states that the “policy does not apply to any SRR updates that do not have an impact on external users or that the NMLS Policy Committee has determined as not requiring public comment.” So we come away not really knowing when updates will warrant notice and allow for public comment. Will each of the changes and updates noted above always be afforded a notice and comment period, or only those that the Policy Committee has determined warrant such consideration?

Moreover, it is unclear what constitutes “impacts to usability of NMLS.” Any change or update that is being considered that would result in any new information being added or required for any of the MU Records should always require notice and comment, and justification, without any discretion on the part of the Policy Committee as to whether such an update requires public comment. Thousands of companies, and tens of thousands of individuals, have been licensed through the NMLS for years, and are in good standing. If an entity or individual has been licensed through the NMLS, there should be no need to require additional information in the entity’s or person’s MU record. Any future events are captured when updating the current MU Record. If, for some reason, a change in the MU record is needed, then notice and an opportunity for comment must be provided. For example, in August 2015, SRR proposed to amend the MU2 to ask a question as to whether the control person had any tax liens. Thousands of control persons had filed MU2s without needing to report tax liens. We were able to comment and question the necessity for this new item, and it was not adopted. Had an opportunity not been presented for comment, scores of approved control persons may have had to go back and amend their MU2 Form without ever having been given a chance to object.

With respect to the proposal about the NMLS Working Group, and that it generally consists of state regulators and may include industry representatives, is the SRR referencing the Industry Development Working Groups (“IDWG”) in existence today when it speaks of including industry representatives, or some other group of industry representatives? The Proposal suggests that industry representatives would work with state regulators in evaluating comments, as the Proposal states that “the Working Group analyzes comments... and makes recommendations...” From our perspective, the IDWG’s have worked reasonably well since the inception of the NMLS, providing a valuable “sounding board” to possible NMLS changes, and should be expanded and consulted.

If the Lawyers Committee will stay involved, then the Proposal should set out the role of the Lawyers Committee, when their consideration would be requested, if some legal analysis is required, and who comprises the Lawyers Committee. If a change or update has been submitted to the Lawyers Committee, or if a legal analysis has been requested, then industry should be given an opportunity to comment on the findings or analysis of the Lawyers Committee.

Tim Doyle  
October 31, 2016  
Page 3

### **NMLS Policy Committee**

We recognize the NMLS Policy Committee has played an instrumental role in the development of the NMLS over the years, and, of course, will continue to do so. The description of the Policy Committee's role in the Proposal, however, gives us pause as to what its role may be.

As proposed in the section dealing with applicability, the Policy Committee will continue to determine which NMLS "updates that impact outside parties" will require public comment. Further in the description of the Policy Committee, the Proposal states that the "Committee may approve a comment period of less than **30 days**, under limited circumstances and when good cause is determined as provided in this Policy." Is this statement regarding the number of days correct, as it is inconsistent with the next section covering the Comment Period? Moreover, as worded, this paragraph on the Policy Committee's role suggests that the Policy Committee does not need to approve any comment period, as it can approve a period of less than 30 days, which could be zero. There is no need to reference that the Policy Committee can reduce the comment period, as that information is set forth in the next section of the Proposal.

We recognize that the SRR has sought to establish a Policy Committee that is diverse in terms of geography and experience, among other criteria. We do not know how state regulators who serve on the Policy Committee are appointed, or how they may make the decisions, but we have heard that, on occasion, decisions of the Committee may bend to the will of one member and the most restrictive position. A full airing of the changes and considerations is appropriate, and the Policy Committee should also represent a diversity of thinking as to the requirements that must be met to obtain a license. Some states have unique requirements that must be met for a license, which requirements serve as a barrier to entry, and restrict competition in that state. We recognize establishing one uniform set of policies, practices, and requirements is a goal of the NMLS, but adopting the restrictive policy of one state as the requirement for all states imposes hardships for companies who have no intention of engaging in mortgage finance activities in all states. Providing for a wide diversity of regulatory thought, experience, and approach in the Policy Committee will better provide for a more balanced view in adopting or amending NMLS requirements.

In the paragraph about the role of the Policy Committee, a reference to the SRR Board of Managers is made. This passage essentially provides that, upon a determination of the Policy Committee to approve the NMLS updates, the Committee, if appropriate, shall "present the determination to the SRR Board for their approval prior to adopting the updates." Prior to this reference, the role and responsibilities of the parties involved in the Proposal makes no mention of the SRR Board of Managers having final approval of those changes, or that the Policy Committee's determination would be presented to the SRR Board for consideration. It is unclear why the role of the SRR Board of Managers is not stated where the role and responsibilities of other parties is so indicated. In addition, no mention is made as to the basis upon which the SRR Board of Managers may approve or disapprove the updates.

### **Effective and Sufficient Notice**

#### **A. Comment Period**

The section of the Proposal on the Comment Period provides that "at a minimum, SRR will, in most instances, provide for a period of public comment of **no less than 60 days for all updates**. When good cause is demonstrated in writing by the NMLS Policy Coordinator to the Policy Committee, a comment

Tim Doyle  
October 31, 2016  
Page 4

period of less than 60 days can be approved, but **“under no circumstance shall the period of public comment be less than 21 days.”** The comment period also can be extended for up to 180 days at the discretion of the Policy Coordinator, or longer when good cause is demonstrated.

Given these provisions, the duration of the comment period is unclear, and should be stated more clearly. Sixty days is a reasonable base period for allowing for the submission of comments. SRR appears prepared to allow for at least a 60 day comment period, but wants the flexibility of having a comment period of less than 60 days, which would appear to be no less than 21 days. So, will each notice provide for a 60 day comment period unless a shorter or longer comment period is expressly set forth in the notice?

The Proposal indicates the considerations that may arise that would warrant an extension of the comment period, but the Proposal does not identify the “good cause reasons” by which the 60 day comment period will be reduced, other than allowing SRR to “respond to time sensitive matters in an appropriate manner.” Is this the only “good cause reason” to reduce the comment period? If there are other “good cause reasons” to reduce the comment period, then they should be stated. If a shorter comment period is set forth in the notice, then the notice should expressly provide, or publish the written request to the Policy Committee that sets out, the “good cause reasons” for approving a less than 60 day comment period. Transparency is important if the comment period is reduced to make sure it was done with justification and not in an arbitrary manner. Changes in the NMLS, more often than not, are raised, considered, and discussed in one “regulator/industry” conference and then the next, before a change in the NMLS is made. If there is change in the NMLS that would need to be put into effect in less time than 60 days, licensees should know the full reasons that some change was of such utmost importance to move so quickly through the process. Moreover, notice to the public of a comment period should be set out in the first paragraph of the notice so, if the comment period is less than 60 days, the public can recognize how quickly the “comment period window” will close. The public should be given an opportunity to challenge or question a “short time comment period” if the reasons for the “clipped” comment period were not reasonable.

#### **B. Notice to the Public**

SRR has put forth a few ways that notice of comments will be issued to the Public. We follow the NMLS and changes to the NMLS and also participate in the IDWG, so we generally know when comments are requested. For others, a bit more removed from the NMLS, providing notice to the trade press will help get the word out to a wider body of interested stakeholders. In addition, we have found that providing notice at the CSBS NMLS Users Conference and the AARMR Conference are good vehicles to use for providing notice of upcoming NMLS changes, as notice about the changes affords licensees the opportunity to discuss the changes with other similarly situated stakeholders, and understand the imminent changes to be presented for consideration. Finally, as noted above, we recommend stating in the first paragraph of any notice when the comment period is due to expire so parties interested in submitting comments will know at first glance when comments are due.

#### **Consideration of Comments**

We appreciate the efforts of the NMLS Policy Committee to post all of the comments received, to provide a written summary of the comments received, and an explanation of why some were accepted or rejected. Undoubtedly this promotes a sense that comments were considered and evaluated fairly. Additional consideration should be given to limit the extent to which new NMLS requirements may conflict with

Tim Doyle  
October 31, 2016  
Page 5

state law, or existing NMLS requirements. Inherent conflicts with existing NMLS requirements may change as NMLS 2.0 moves forward, but the Policy Committee should strive to not adopt NMLS requirements that conflict, or are duplicative, with other state or federal requirements. For example in connection with a change in control, most states do not require the approval of the acquiring entity prior to the acquisition of the licensee. Notice to the state regulators is sufficient. In establishing the Advance Change Notice (“ACN”) in the NMLS, regulators who have considered the ACN filing and processed the change in states that do not need to approve the acquisition have no place to acknowledge that the notice filing has been completed, but only have the option of checking the box where approval is required, even though approval of the acquisition was not required.

### **Adoption of a “Rule” or Policy of General Applicability**

Generally, the process by which the changes will be adopted sounds reasonable. We have three comments. First and foremost, the adoption of new or amended NMLS requirements should always provide for an extended effective date before the change goes into effect. Many companies cannot change the procedures to comply with the NMLS requirements on short notice. Much goes into revising practices and policies for licensees to comply with the NMLS requirements. Often, new or amended requirements cannot be implemented immediately after the change is adopted. Some changes may require costly enhancements to a licensee’s operating systems, or the restructuring of contracts with vendors. Moreover, state regulators are increasingly enforcing the NMLS requirements more strictly than they have been since the advent of the NMLS in 2008. We are concerned about state regulators imposing sanctions for not meeting NMLS requirements while companies struggle to comply during a short implementation period. Optimally, changes in the NMLS requirements should not take effect until the year after they have been adopted, but, at a minimum, a 90-day advance period should be built into the System before changes become effective, and no changes should be scheduled to take effect during the renewal period.

Second, this is a time of a wide array of changes taking place with respect to mortgage and consumer credit compliance requirements. The changes in the NMLS are but one component. In adopting changes, the Policy Committee should be cognizant of other changes taking place as licensees seek to comply with other state and federal requirements. Perhaps, the Policy Committee should coordinate the implementation of new NMLS requirements so as to not unnecessarily burden licensees. We recognize that the states intend to provide for one uniform system by which companies and individuals will obtain and maintain state licenses. Companies, however, are not uniform in terms of size, licensable activities, states in which they do business, or operating systems. In adopting changes in the NMLS, some thought should be given to modifying requirements for different types of licensed institutions depending on the aforementioned and other requirements. Perhaps the consideration being given to NMLS 2.0 is the best time for this idea to be vetted.

Finally, we do not believe that SRR should be labeling its requirements as a “rule” as the word carries much more significance. The terms policy, requirements, guidelines or procedures as used in the NMLS have been fine to date, and should continue as the way to reference these requirements.

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Tim Doyle  
October 31, 2016  
Page 6

We appreciate that the SRR was gone forward and given thought to the process by which changes to the NMLS will be issued publicly for comment and considered by the Policy Committee. We thank you for the opportunity to review the Proposal and submit these comments for consideration.

Sincerely,



Costas A. Avrakotos

October 31, 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: SRR public comment policy**

Dear Mr. Doyle:

On behalf of the American Financial Services Association (AFSA)<sup>1</sup> thank you for the opportunity to provide comment on the State Regulatory Registry's (SRR) public comment policy. We welcome the addition of public commenting process on proposed updates and policy changes.

We request that SRR solicit and accept industry input prior to a proposed rule being formally published. Though the opportunity to provide comments once a change has been formally proposed is important, we believe that affording industry an opportunity to provide input on a proposed rule prior to its initial publishing would allow for more meaningful feedback and result in rule proposals more likely to be supported by all parties.

AFSA also requests that all proposed rules include a minimum 90-day implementation period, which would allow affected parties adequate time to adjust to any changes. We support the proposed shorter process by which the SRR may propose rules to address time-sensitive matters; however, we believe that such rules should be adopted only on an interim basis until they are proposed, commented on, and approved through the standard process.

We appreciate SRR promoting increased transparency with the addition of a public comment process, and in that spirit, we would like to see more extensive reporting on the registry's financial status to provide a more complete picture than can currently be discerned from the annual report and audit. More thorough financial reporting would provide a comprehensive picture of SRR's operations and the extent to which different states and industries use the system.

Specifically, we request additional reporting in the following areas: (i) an in-depth accounting of revenue broken down by industry segment, to include distinct categories for both vehicle retail installment sales and other retail sales finance, both payday lending and traditional installment lending, both first and third party debt collection, and mortgage; (ii) revenue broken down by state; (iii) a more in-depth examination of program expenses than is currently included in the

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

financial audit data, including a more robust breakdown of expenses for system operations and professional services, and an accounting of all legislative efforts at both the state and federal levels; and (iv) an analysis of financial growth to revenue and expenses on a 3, 5, and 10-year basis.

Once again, we applaud the SRR's increased transparency efforts and appreciate your consideration. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 202-469-3181 or [mkownacki@afsamail.org](mailto:mkownacki@afsamail.org).

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive style with a clear first name and a last name that is partially obscured by a horizontal line.

Matthew Kownacki  
State Government Affairs Specialist  
State Government Affairs Department  
American Financial Services Association  
919 Eighteenth Street, NW, Suite 300  
Washington, DC 20006-5517

# Quicken Loans®

Engineered to Amaze™

## VIA ELECTRONIC FILING

October 31, 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: Proposal 2016-2: Notice of Proposed SRR Public Comment Policy**

To Whom It May Concern:

Quicken Loans Inc. ("Quicken Loans") is pleased to submit comments on the State Regulatory Registry LLC ("SRR") proposed Public Comment Policy. The notice would adopt a policy governing the procedures and processes for requesting public comments on issues related to the Nationwide Multistate Licensing System ("NMLS").<sup>1</sup> We thank SRR for the opportunity to comment.

### **I. QUICKEN LOANS INC.**

Detroit-based Quicken Loans Inc. is the nation's second largest retail home mortgage lender and the largest and consistently highest-quality FHA mortgage lender. The company closed more than \$220 billion of mortgage volume across all 50 states since 2013. Quicken Loans generates loan production from web centers located in Detroit, Cleveland and Scottsdale, Arizona. The company also operates a centralized loan processing facility in Detroit, as well as its San Diego-based One Reverse Mortgage unit. Quicken Loans ranked "Highest in Customer Satisfaction for Primary Mortgage Origination" in the United States by J.D. Power for the past six consecutive years, 2010 – 2015, and highest in customer satisfaction among all mortgage servicers in 2014 – 2016.

Quicken Loans was ranked No. 5 on FORTUNE magazine's annual "100 Best Companies to Work For" list in 2016, and has been among the top-30 companies for the last 13 years. It has been recognized as one of Computerworld magazine's '100 Best Places to Work in IT' the past 11 years, ranking No. 1 in 2015, 2014, 2013, 2007, 2006 and 2005. The company moved its headquarters to downtown Detroit in 2010, and now more than 10,000 of its 15,000 team members work in the city's urban core.

### **II. COMMENTS**

Quicken Loans appreciates SRR's responsibility to develop and review policy matters concerning the NMLS. We also agree with fair and responsible regulations, guidance and processes that protect the consumer. Establishing a regulatory process allows those impacted by rules an opportunity to review proposals before the release of a final rule and implementation. Additionally, a sound

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<sup>1</sup> Notice of SRR Public Comment Policy, Proposal 2016-2 (filed August 30, 2016) (SRR Notice).

## Quicken Loans' Comments on SRR's Proposed Policy for Public Comment

regulatory process gives the public a chance to provide feedback prior to unintended consequences, which could harm consumers, damage business practices or disrupt the economy.

Quicken Loans applauds SRR for taking this step in establishing a formal policy for proposed regulations. We believe a strong set of policies in the rulemaking process allows for better regulations for both industry and the consumer. Specifically, we agree with SRR on effective and efficient notice and believe the 60 day comment period proposed would provide the industry time to contemplate how proposed rules will impact day-to-day business.<sup>2</sup> While we appreciate an emergency may require a less than 60 day comment period, the current process outlined in the proposal is unclear and causes concern, and we ask SRR to establish a more defined standard to allow for checks and balances with all interested parties before shortening the time frame.

We also ask SRR to consider effective dates and adding an implementation period with a set minimum number of days. Depending on the scope of policy change, we suggest an implementation period of no less than 90 days. This would allow industry the opportunity to make technology, staffing and other resource adjustments before rules go live. In addition, we suggest similar standards for allowing the NMLS Policy Coordinator to extend an implementation period when good cause is demonstrated.

We also believe that industry input is critical while the NMLS Policy Community develops ideas into guidance and regulations. It allows the industry to provide real-time business implications and feedback to the Committee on ideas that may unintentionally harm consumers or create conflicts with already sound federal and state regulations. We ask the Committee and formal policy proposal to continue to leverage current NMLS Working Group processes already in place before a policy is fully created or proposed.

### III. CONCLUSION

We thank SRR for taking steps to create a Public Comment Policy and for the opportunity to comment. Should you have any further questions, please contact Director of Compliance Kristie Battershell at [KristieBattershell@quickenloans.com](mailto:KristieBattershell@quickenloans.com) or 313-373-0253; or myself at [nicoleehrbar@quickenloans.com](mailto:nicoleehrbar@quickenloans.com) or 313-373-4950.



Nicole Ehrbar  
Vice President of Public Policy  
Quicken Loans Inc.

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<sup>2</sup> SRR Notice, Page 3



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MORTGAGE BANKERS ASSOCIATION

October 31, 2016

Mr. Tim Doyle  
Senior Vice President  
State Regulatory Registry, LLC (SRR)  
Conference of State Bank Supervisors (CSBS)  
1129 20th Street NW, 9th Floor  
Washington, DC 20036  
comments@csbs.org

Re: Proposal 2016-2 — Request for Public Comments, SRR Public Comment Policy

Dear Mr. Doyle,

The Mortgage Bankers Association (MBA)<sup>1</sup> appreciates the opportunity to comment on the August 30, 2016<sup>2</sup> Proposal to adopt a policy governing the procedures and processes for requesting and processing public comments on issues related to the Nationwide Mortgage Licensing System and Registry (NMLS).

MBA values the hard work of state regulators and the staff of CSBS and SRR to create greater certainty and uniformity in regulatory requirements – especially efforts to streamline licensing and reduce duplication among state reporting requirements. In our view, this work has improved the licensing and reporting processes for MBA member companies, mortgage loan officers and ultimately consumers.

In an effort to further improve the process, MBA welcomes this proposal to enhance the current procedures for when a request for comments is appropriate and how the request should be administered from inception through development of final policy. As you may recall, in comment letters<sup>3</sup> and in NMLS Ombudsman meetings, MBA has advocated for a more structured and transparent framework for implementing new requirements. MBA believes that an improved structure with enhanced opportunities for stakeholder input would foster better and wider stakeholder engagement, in turn resulting in more workable requirements.

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<sup>1</sup> MBA is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the Association works to ensure the continued strength of the Nation's residential and commercial real estate markets; to expand homeownership and 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, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's website: [www.mba.org](http://www.mba.org).

<sup>2</sup> <http://mortgage.nationwidelicencingsystem.org/news/ProposalsForComment/Policy%20on%20Public%20Comments.pdf>

<sup>3</sup> May 2, 2016, MBA Comment Letter to NMLS on Proposed Changes to the NMLS Attestations; Jun 1, 2015, MBA Comment Letter to NMLS on Changes to the Mortgage Call Report.

## **Overview of Comments**

MBA strongly supports the process embodied in this proposal that would establish a period of public comment on all updates of no less than 60 days (and in some cases as long as 180 days or even more, subject to SRR-Vice Presidential approval) for future NMLS policy initiatives.

MBA does not believe that comment periods shorter than 60 days provide sufficient time for stakeholders to provide well-considered and thoughtful input. MBA's analysis in its September 1, 2015 comment letter to NMLS shows that when stakeholders are granted 60 day comment periods, the number of comments submitted are much greater; MBA believes that this in turn can be expected to result in a better examination of issues from stakeholders with diverse viewpoints and concerns.

As the comments explain, we believe a comment period shorter than 60 days should only be provided when there is a written finding of an emergency that threatens to harm either the NMLS system or consumers. While MBA appreciates that the proposal already contains a process where the NMLS Policy Coordinator must request an exception in writing to the requirement for less than 60 days comment, the justification is less rigorous than we propose. In any case, where less than 60 days is provided, comments also should be invited following the action, to consider whether there should be adjustment to the policy.

## **Section-by-Section Comments**

The following reflect comments received by MBA from its member companies in the order presented in the proposal for comment.

### **Applicability**

MBA appreciates that the proposed 60 day comment policy would apply to any "updates that impact outside parties." However, we are concerned that the current language also excludes instances where the NMLS Policy Committee determines public comment is not required, without providing examples of circumstances where such a finding would be made. A better approach would be to delete the exclusion and simply say that, "as a general matter, any updates affecting outside parties are covered by the policy." If, however, there remains a concern that an exclusion is needed, specific examples of circumstances warranting an exclusion should be identified. A written finding by a key official specifying the reasons for the exclusion should also be required.

### **Roles and Responsibilities**

#### **A. NMLS Working Group**

MBA appreciates that the proposal indicates the NMLS Working Group "may" include industry representatives. However, the issuance provides no specifics about the considerations that will govern the inclusion of industry representatives. MBA suggests that

that a better approach is to include industry stakeholders unless there is a determination that their participation would not be useful considering the particular effort.

It would also be helpful for the Public Comment Policy to require the establishment of goals and a work plan with a timeline for the Working Group. MBA members have expressed some frustration about the growth, duration, direction and number of such groups among state regulatory bodies without standards or goals being established. Members report that with some working groups there has been limited opportunity for real industry input during policy development, and that regulators have only sought feedback on near-final policy changes.

While recognizing the needs of regulators to control their regulatory processes, MBA requests that any final policy ensure industry input to benefit regulators and industry alike.

B. NMLS Policy Coordinator

MBA's only comment is that in future proposed requests for comment it should be clearly stated in writing who the Policy Coordinator is and how to reach them or a staff person assigned to answer questions during the comment process.

C. Senior Vice President of Policy

MBA has no specific comments on this portion of the Proposal.

D. General Counsel

MBA suggests an addition to the role and responsibilities of the General Counsel in the Effective and Sufficient Notice portion below – that consultation with the General Counsel also be required when consideration is given to shortening the comment period.

E. NMLS Policy Committee

Under the Proposed Policy, the NMLS Policy Committee will serve as the final determiner of updates presented for public comment. The issues considered by the Policy Committee are complex and significant and impact a very large number of companies doing business under the laws and regulations of multiple states. The Committee's decisions frequently require changes to operations and investments in technology, which increase costs that are ultimately borne by consumers. If these decisions are not correctly arrived at or implemented, they may also create significant risks of legal liability and enforcement jeopardy. Thus, MBA believes – wherever possible – only regulators who have broad agency-wide authority should serve on the Policy Committee, and that there should be an explicit effort made to reflect the diversity of regulator/supervisory approaches, and not just the opinions of Policy Committee volunteers.

While MBA appreciates the NMLS' and state regulators' outreach to ensure that the development of system policies appropriately balance consumer protection needs with marketplace realities, MBA urges that the NMLS Policy Committee itself be constituted to

reflect a diversity of regulators. Specifically, its membership should be diverse in terms of geography, statutory authority, regulatory philosophy and approach, and even the sizes of regulated entities. Given that the members of the NMLS Policy Committee will be exercising authority over the requirements of MBA member companies in states other than their own, it is in the interests of the NMLS to ensure the right mix of high ranking regulators serving on the NMLS Policy Committee where decisions are made.

MBA further believes the Policy Committee should in any comment process make a commitment to transparency in its decision making. For example, when issuing final requirements, a final issuance setting forth requirements should summarize the comments considered and explain how each comment was addressed.

Last, under the Proposal the Policy Committee would have authority to approve a comment period of fewer than 30 days “under limited circumstances and when good cause is demonstrated.” As explained below we think the standards for limiting the comment period are too undefined and insufficient. It is also unclear from the Proposed Policy what the group’s role is in selecting policy changes for comment. Section A indicates that it will be the responsibility of the NMLS Working Group. MBA believes that any final document should clarify the role of the Policy Committee in relation to the NMLS Working Group at the front end of policy changes, and consequently the role – if any – of the industry in determining the proposals published for comment.

## **Effective and Sufficient Notice**

### **A. Comment Period**

As discussed above, MBA and its member companies strongly support the proposal to move “at a minimum” “in most cases” to a comment period of “no less than 60 days” on all updates and the ability of the NMLS Policy Coordinator to extend a comment period to as long as 180 days.

However, MBA is concerned about the circumstances and standards that will be used to shorten a comment period to as few as 21 days. The “good cause” standard proposed is undefined. We believe a more suitable standard would establish that 21 days should only be provided when there is a written finding that there is an emergency that threatens to harm the NMLS system and consumers.

Notably, while there is a clear process expressed in this section of the proposal for the NMLS Policy Coordinator to follow when extending the comment period, there is no similar clear path laid out for instances when comment periods of fewer than 60 days are to be established. MBA believes that the same exigency standard noted above should pertain here, i.e., less than 60 days should only be provided when there is a written finding that there is an emergency that threatens to harm the NMLS system and consumers.

As a general matter, MBA opposes comment periods of fewer than 60 days for NMLS policy initiatives unless there is a very strong and compelling reason. At the very least, if a “good cause” standard is adopted, NMLS should provide examples of the limited circumstances

that constitute “good cause” and circumstances that do not. Examples might include a change in federal or state law or regulation with a short implementation period that requires a concomitant NMLS systems change or a court decision which mandates immediate systems modification. MBA suggests that the final public comment policy include consultation with the General Counsel to ensure there is indeed a compelling reason to shorten the comment period.

Notably, there appears to be a degree of conflict between the NMLS Policy Committee’s authority to shorten a comment period to fewer than 30 days (expressed in Section E of the Roles and Responsibilities portion of the Proposal), and the authority of the NMLS Policy Coordinator (in this portion of the Proposal) to request shortening the comment period. The latter requires good cause be demonstrated in writing, while the former only requires good cause be demonstrated. MBA believes whenever the comment period is to be shortened, the reasons should be put in writing by a key official, regardless of who is acting to shorten it.

Also, in all cases where less than 60 days is provided, comments also should be invited following the action, to consider whether there should be adjustment to the policy. If there is an emergency or other compelling reason to require a comment period of fewer than 60 days, MBA believes that the resulting policy should be assigned a reasonable sunset date – to allow a more thoughtful consideration of the change, and a re-proposal issued after the emergency has been addressed, to provide a more reasonable opportunity for stakeholders to comment.

On the other hand, MBA would also like to point out that there are good reasons to consider comment periods of longer than 180 days or for extending existing comment periods. For example, significant federal rulemakings by the Consumer Financial Protection Bureau or other federal regulators can, and sometimes have had a dramatic impact on NMLS system changes and the resources needed among MBA member companies to consider, discuss and prepare thoughtful input to state regulators. Additionally, in some cases an advance notice of a proposal concerning an NMLS initiative may be warranted considering the scope and importance of the initiative. Such a notice will allow careful thinking and input well ahead of the comment period on the proposal.

#### B. Notice to the Public

In addition to the new process requirements in the proposal, MBA also suggests that NMLS begin issuing press releases at least to the real estate finance trade press of any proposed system changes. Such activity would help raise industry awareness of proposals and opportunities for industry input. Press releases could also help bring into the process the views of other stakeholders. MBA publicizes NMLS initiatives but additional publicity from NMLS would garner additional attention.

In the past, MBA has noted that state regulators ought to consider issuing some measured form of advance notice of future proposals. As suggested above, such a process would assist industry and other stakeholders to focus more attention on forthcoming policy changes and their subsequent opportunities for comment. This might take the form of

advance public presentations pre-proposal at NMLS Ombudsman meetings or similar events such as industry conference calls.

MBA suggests that the advance notice should include:

- a general review of the findings that necessitate the proposal;
- a preliminary assessment of the costs (generally, and to small business in particular);
- the perceived benefits; and
- the legal authority appropriate to the proposal.

### **Collecting and Receiving Comments**

MBA has no specific comments on this portion of the Proposal.

### **Consideration of Comments**

MBA applauds the efforts of state regulators, when making NMLS system changes through a public comment process, to promptly provide the public with all comments received via the NMLS Website ([www.mortgage.nationwidelicencingsystem.org](http://www.mortgage.nationwidelicencingsystem.org)). This openness has also included presentations during NMLS Ombudsman meetings and presentations at the Annual NMLS User Conference. MBA strongly supports this commitment to transparency and suggests that it be made more formal in the Proposed Policy.

Additionally, and as noted in previous comment letters, MBA has suggested to state regulators other specific factors that should be considered during the process of establishing requirements (as well as in determining which policies should be proposed). These include reviewing:

- potentially duplicative or conflicting federal requirements;
- potential conflicts with, or instances of new NMLS requirements exceeding, individual state laws or rules;
- the burden or impact on small business, defined as those with fewer than 25 employees, to implement new NMLS requirements in the time period provided; and
- the legal authority for the action.

MBA again urges state regulators to incorporate these considerations into this process. Moreover, as noted above, the notice issuing a final policy should discuss the comments and these factors and how they were addressed.

### **Adoption of a Rule or Policy of General Applicability**

MBA is opposed to the use of the term “rule” in this section of the SRR Proposed Policy. Regulators, acting in a voluntary capacity to support the NMLS system required by Congress via the federal SAFE Act of 2008, establish system requirements for mortgage lenders. To call NMLS system requirements “rules” should be the subject of further discussion and legal review before the term is included in the final Proposed Policy. MBA

instead prefers the term used in the document “Policy of General Applicability” or “System Requirements.”

Additionally, in this new policy, MBA believes attention should be given to effective dates and implementation periods that allow a reasonable time before a requirement must be met. Ninety days should be established as a minimum time frame for any implementation. However, such a time frame will be far too short for certain changes that will necessitate modifications to policies and procedures, training and systems. Guidelines for time frames that are reasonable should be required of NMLS to allow lenders and their vendors to make what can be costly technology investments and/or system changes. They will also afford MBA members time to test and operationalize system changes before going live with new requirements. In establishing effective dates, a final policy should provide that NMLS will:

- assess the complexity of the new policy and its impact on lenders, their systems and operations;
- consult with institutions of all sizes and business types and vendors; and,
- assess other federal or state rulemakings that are underway and could compete for industry resources and industry’s ability to reasonably implement the new NMLS requirements.

#### Concluding Comments

Again, MBA greatly appreciates the establishment of the process outlined in the August 30th Proposal, especially its embrace of a 60-day comment period as the norm. This comment period will help facilitate greater industry engagement as well as more diverse and useful comments. MBA believes better industry input will assist state regulators in establishing more rational market oversight while maintaining and improving important consumer protections.

In this spirit, MBA has offered these comments in support of a process. If regulators choose not to adopt these suggestions, we respectfully ask to include a discussion of these items on the agenda of the next NMLS Ombudsman meeting in February 2017.

Thank you again for this opportunity to provide MBA’s views. We greatly appreciate your work. If you have any questions, or need more information, please feel free to contact William Kooper or Ken Markison on the MBA staff at [wkooper@mba.org](mailto:wkooper@mba.org) or [kmarkison@mba.org](mailto:kmarkison@mba.org).

Sincerely,



Pete Mills  
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Residential Policy and Member Engagement