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## **Request for Public Comments Electronic Surety Bond Tracking**

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October 1, 2014

On behalf of the state regulatory agencies participating in NMLS,<sup>1</sup> the State Regulatory Registry LLC<sup>2</sup> (SRR) invites public comments on implementing electronic surety bond tracking in NMLS.

### **Background**

Many state laws or regulations require financial service licensees to obtain a surety bond<sup>3</sup> as a condition of licensure. State regulators or consumers can file claims against a surety bond to cover fines or penalties assessed or provide restitution to consumers due to the failure of a licensee to comply with licensing or regulatory requirements.

In addition, Title V of P.L. 110-289, *the Secure and Fair Enforcement for Mortgage Licensing Act of 2008* ("SAFE Act")<sup>4</sup> requires applicants to meet "...either a net worth or surety bond requirement..." in 12 USC §5106(b)(6). Currently 48 state agencies require mortgage loan originators to either have their own surety bond or be covered under a company's surety bond in order to originate mortgages. State regulations define the specific surety bond requirements (e.g. amount of coverage) that must be satisfied in order to obtain, maintain, and renew a license in the state.

Currently, 177 license authorities managed on NMLS require the company to obtain and maintain a surety bond as a condition of licensure. As more state agencies choose to manage license authorities on NMLS, SRR expects this number to grow.

One of the primary goals of NMLS is to serve as the comprehensive system of record for licensing-related information. NMLS's current functionality is limited to the uploading of a surety bond document through NMLS, but does not allow for the tracking of surety bond requirements or the maintenance of surety bond information validated by authorized Insurance Companies and/or Surety Bond Providers (providers)<sup>5</sup>. Tracking surety bond compliance is cited as a reason for processing delays in license applications, amendment filings and renewal approvals.

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<sup>1</sup> Information about NMLS can be found at <http://mortgage.nationwidelicencingsystem.org/Pages/default.aspx>

<sup>2</sup> Information about the State Regulatory Registry LLC can be found at <http://www.csbs.org/srr/Pages/default.aspx>

<sup>3</sup> The Merriam-Webster dictionary defines surety bond as "a bond guaranteeing performance of a contract or obligation."

<sup>4</sup> The full text of the SAFE Act can be found at

<http://mortgage.nationwidelicencingsystem.org/SAFE/NMLS%20Document%20Library/SAFE-Act.pdf>

<sup>5</sup> For purposes of this proposal, a *surety company* is defined as "a company whose primary business is acting as a surety for the performance of obligations especially by the issuing of surety bonds" and a *surety bond provider* is defined as "an agent or broker acting on behalf of a surety company to issue and maintain surety bonds for the bond principal."

Additionally, SRR believes that the hard copy requirement for ensuring the validity of a surety bond is outdated and can be transformed to a fully electronic process that will provide efficiencies for industry and certainty for regulators.

State regulators anticipate that the proposed NMLS Electronic Surety Bond (NEBS) functionality will:

- Provide the ability for regulators to track surety bond compliance
- Streamline the process through which a regulator may make a claim against a surety bond
- Streamline surety bond forms and processes while maintaining the ability to support state specific needs where appropriate
- Reduce state reliance on paper surety bonds
- Monitor and enforce surety bond thresholds through other information in NMLS such as the mortgage call report (MCR) and automate the surety bond process by implementing the appropriate notifications, deficiencies, reports and other system functionality
- Contribute toward NMLS becoming the single system of record for licensing related information
- Create a nationwide standard for electronic surety bond delivery, tracking, and maintenance.

The NMLS Policy Committee has made electronic surety bond tracking in NMLS a priority to close the gaps among the SAFE Act requirement, state law and current NMLS functionality.

This request for public comment provides an overview of the proposed functionality to electronically track surety bonds in NMLS, the potential implications for this new method of managing surety bonds for both industry and regulators, and requests responses on specific areas related to this functionality.

## **Overview of Proposed Electronic Surety Bond Tracking in NMLS**

This section provides an overview of the process insurance companies and providers will use in electronic surety bond tracking in NMLS. This includes how insurance companies can designate surety bond providers as authorized providers for their company, how these entities interact with licensees in NMLS and how companies create and manage bonds electronically through this functionality. SRR provides diagrams where appropriate to better illustrate these areas.

### *Entitlement process*

SRR intends to create an entitlement process through which all insurance companies and providers in the business of issuing, brokering or underwriting surety bonds for financial services will undergo before being able to provide surety bonds for licensees through NMLS. These entities will be required to submit a request for entitlement in NMLS specifically for providing electronic surety bonds. At a minimum, requests for entitlement related to providing surety bonds electronically in NMLS will require the submission of: surety bond provider or

surety company legal name and other trade names, federal employer identification number (FEIN), legal address, contact information, states where authorized to conduct business and license information (including types of bonds, amounts, etc.).

SRR will review requests and validate information such as the submitting entity's ability to conduct business in a state, their corporate and organizing information as submitted by the company, ensure the company is not already entitled in NMLS and identify any outstanding regulatory issues with the company.

Companies that submit complete, accurate and verifiable requests will receive an account in NMLS that allows them to perform a limited number of functions directly related to the issuance of electronic surety bonds in NMLS. They will not have access to any licensed entity's record in NMLS until a licensee provides them permission to see a certain portion of their NMLS information. This information is necessary for the surety company or provider to complete the surety bond forms electronically through NMLS and will minimally include: licensee NMLS ID, licensee legal name and other trade names, licensee legal address, license types held in NMLS and licensee contact information.

Surety companies not entitled by SRR will not be able to sell surety insurance through NMLS to licensees required to have it for state licensure.

Addendum B provides an overview of the entitlement process.

#### *Create surety company/surety bond provider association*

Once an insurance company or provider has been entitled in NMLS, they can create associations with other insurance companies or providers who may act on their behalf to issue surety bonds. These associations are necessary to validate that a surety bond provider is duly authorized by an insurance company to underwrite bonds on their behalf. When an insurance company creates this association, they are indicating that the provider is legally able to act on their behalf in those states, for those bond amounts and for those bond types.

NMLS will verify through publically and commercially available means that the requests for association are valid. For example, a provider can only provide bonds in a state on behalf of an insurance company if that insurance company already is authorized to conduct business in that state and the insurance company has indicated through NMLS that the provider is authorized to act on their behalf.

Addendum C provides an overview of the ability for a surety company to create an association with a surety bond provider.

#### *Create surety company or surety bond provider and licensee association*

Once an insurance company or provider is entitled in NMLS and SRR has verified it is able to do provide surety bonds in a state and has the correct associations established as needed, licensees will be able to search for appropriate providers related to their license types and

surety bond obligations. When the association has been established, the provider will be able to create and manage surety bonds in NMLS with their clients. NMLS will not facilitate the process of “shopping” for surety companies or client solicitation and will not facilitate payments between licensees and surety companies.

Addendum D provides an overview of a licensee granting access to a surety company.

### *Create and manage bond*

Once a licensee has granted access to a surety company, these entitled insurance companies and providers will be able to use NMLS to present to the licensee a list of bonds they are eligible to provide for the license types the licensee holds. It is anticipated that any information related to the bond – name of licensee, license type held by the licensee, bond amount, expiration date of bond if applicable, name of insurance company and provider, authorized persons with the insurance company or provider, state specific language related to a surety bond – will be captured in NMLS through information already existing in NMLS or some additional minimal information will be captured specifically through the electronic surety bond process in NMLS. Licensees and surety companies will be required to review and accept the information that is provided on a surety bond or rider before it becomes part of the licensee's NMLS record and accessible by state regulators.

The insurance company or provider will also be able to use NMLS for the issuance of bond riders, provide notice of cancellation of the bond and will be able to receive claim information against the bond from state regulators. Insurance companies and providers will not be able to use NMLS to obtain any fees from licensees for their services.

Addendum E provides an overview of the surety bond issuance and amendment process.

## **Potential Implications for Implementing Electronic Surety Bond Tracking in NMLS**

This section provides an overview of the potential implications for implementing electronic surety bond tracking in NMLS. These are issues that have been identified but are provided for informational purposes. Additional implications may be identified during the comment and development periods for this functionality.

- Insurance companies and surety bond providers not entitled in NMLS for electronic surety bonds will not be able to provide bonds through NMLS to their clients who are licensees in NMLS
- Some state agencies will be required to adopt rule changes in order to accept electronic surety bonds instead of paper bonds
- State agencies must opt into accepting surety insurance through NMLS.
- Insurance companies and surety bond providers that do not stand behind the information provided to regulators through NMLS will have their eligibility removed from participating in this program.

## Request for Public Comments

On behalf of the state regulatory agencies using NMLS, SRR is seeking comments from the public on the proposal for electronically managing surety bonds in NMLS as defined in this proposal.

SRR is particularly interested in input on the following three questions:

1. Is the information proposed to be collected for the entitlement process adequate to validate information on surety companies?
2. Is the licensee information proposed to be available for surety companies adequate for a surety company and licensee to properly create electronic surety bonds acceptable to state regulators in NMLS?
3. What other items should state regulators consider in order to promote adoption of electronic surety bonds in NMLS and replace paper based, outside NMLS requirements?

Comments are requested to be limited to the proposal as contained in this document.

Persons submitting comments must include their contact information. Comments received, as well as the submitter's name and company or organization (if applicable), will be posted on the NMLS Resource Center for public view. Comments submitted without contact information will not be considered.

All comments will be reviewed by the Surety Bond Working Group of state regulators (Addendum A) and discussed with all state regulators. The regulator working groups will consult with industry representatives during the comment evaluation period. The recommendations final electronic surety bond tracking from the regulator groups will be sent to the NMLS Policy Committee for evaluation and approval or rejection.

Persons submitting comments are encouraged to provide these comments electronically via email to: [comments@csbs.org](mailto:comments@csbs.org)

Comments may also be submitted in physical form to:

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

**Comment submission deadline: October 30, 2014**

SRR will provide 30 days for public comments on electronic surety bond tracking.

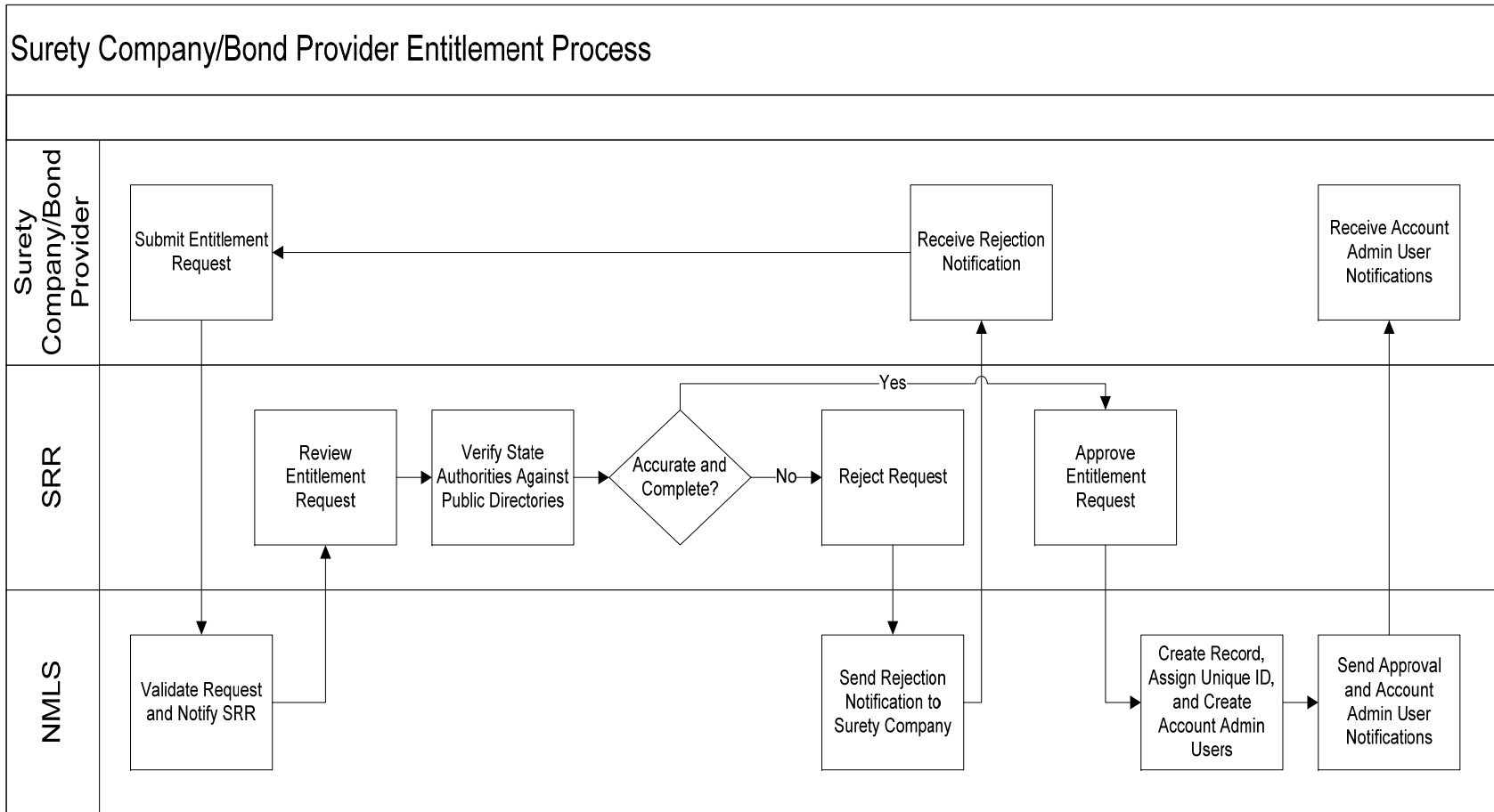
SRR expects to publish the final approach on electronic surety bond tracking in the fourth quarter of 2014. SRR expects to integrate entitlement changes for surety companies in NMLS starting in the second quarter of 2015 and the ability to track surety bonds electronically in NMLS in the third quarter of 2015.

**Addendum A**

**Surety Bond Working Group**

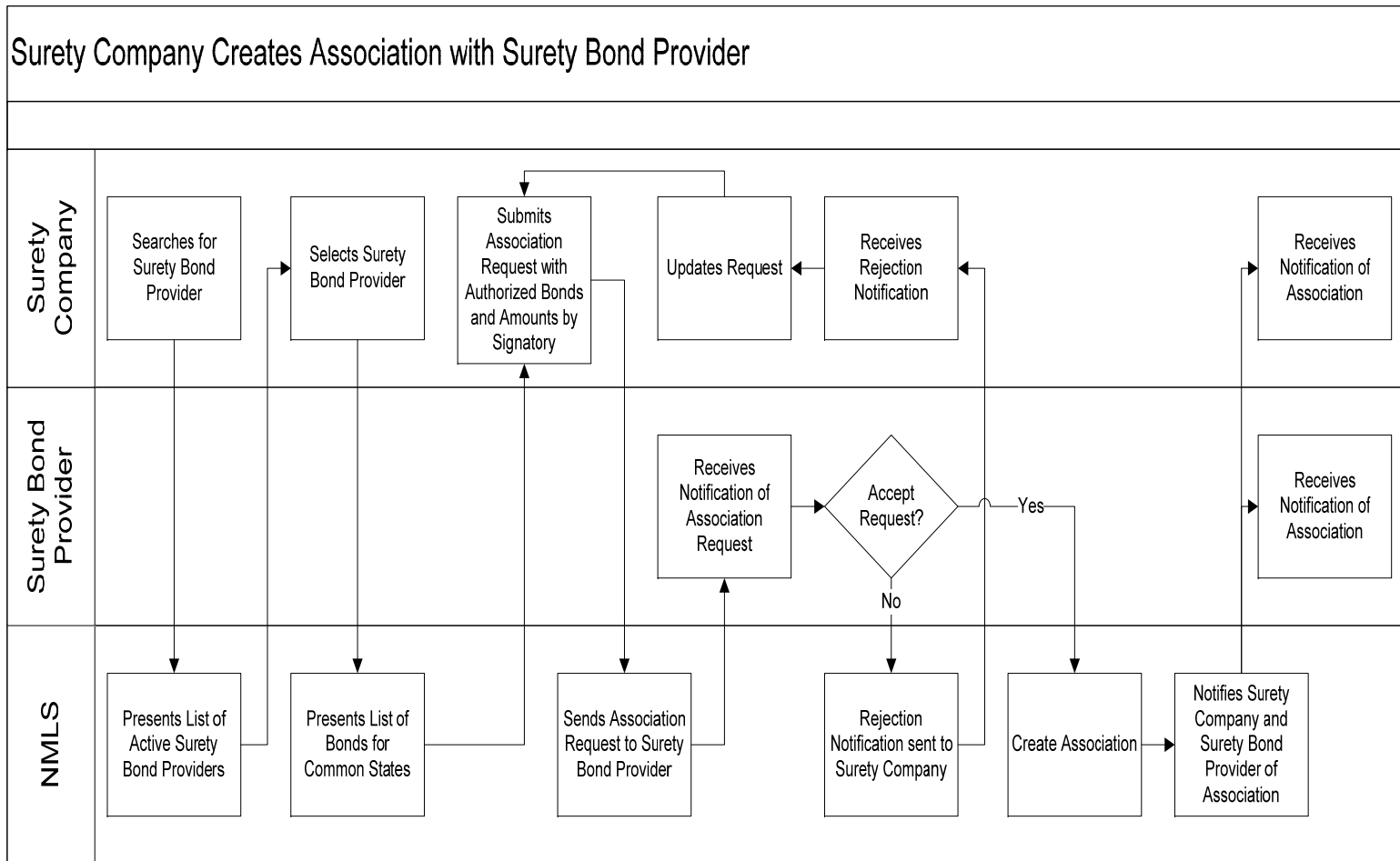
<b>REPRESENTATIVE</b>	<b>AGENCY</b>
Kirsten Anderson	Oregon Division of Finance and Corporate Securities
Maureen Camp	Washington Department of Financial Institutions
Myra Delaune	Louisiana Office of Financial Institutions
Sarah Driscoll	Wisconsin Department of Financial Institutions
James Harrell	Indiana Department of Financial Institutions
Michelle Hickman	Wyoming Division of Banking
Michele McGhuey	Washington Department of Financial Institutions
Daniel Schuster	New Jersey Department of Banking and Insurance
Mark Weigold	Michigan Department of Insurance and Financial Services

ADDENDUM B – SURETY BOND PUBLIC COMMENT

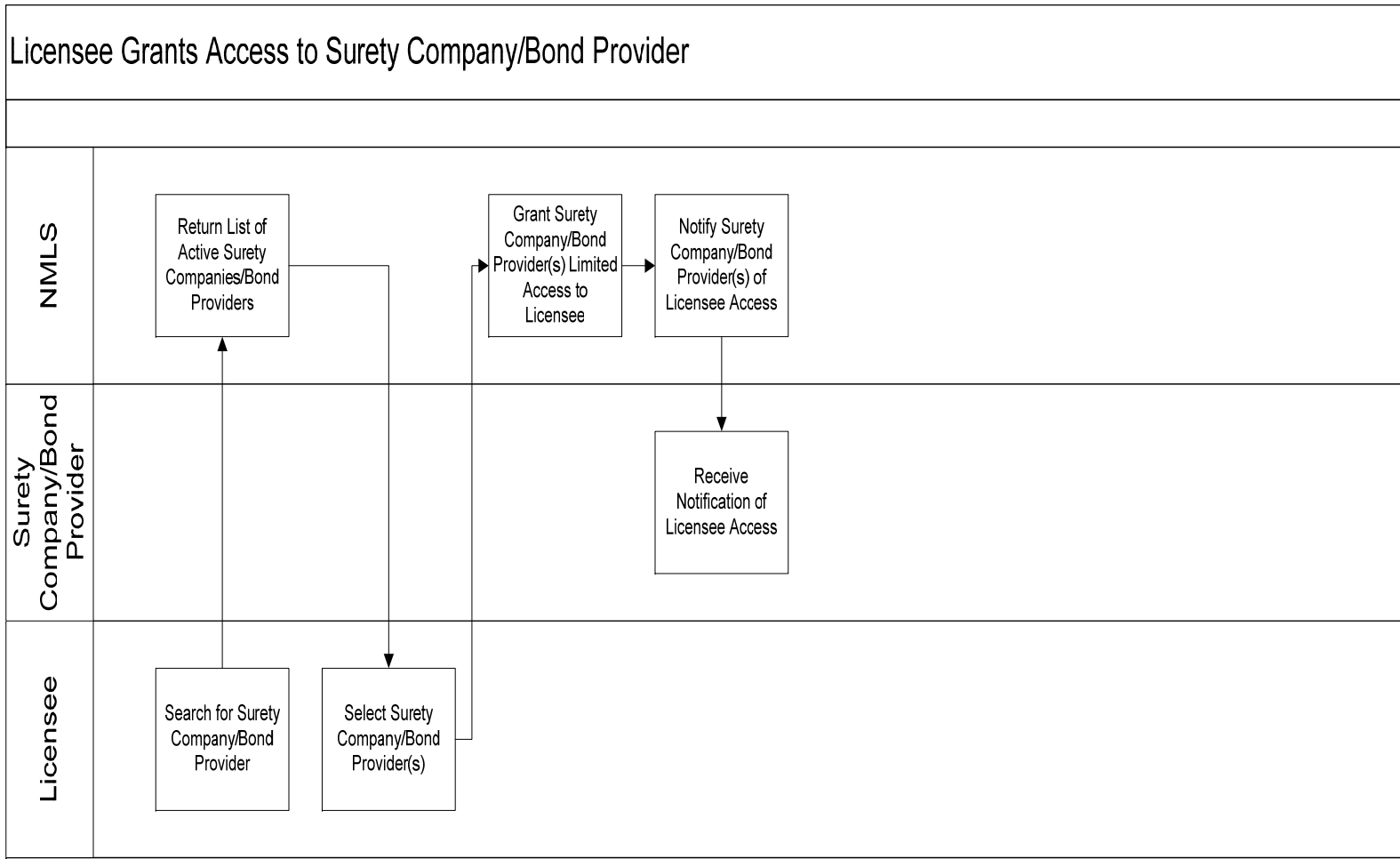




ADDENDUM C – SURETY BOND PUBLIC COMMENT



ADDENDUM D – SURETY BOND PUBLIC COMMENT



ADDENDUM E – SURETY BOND PUBLIC COMMENT

