



Request for Public Comments **Reporting of State Regulatory Actions**

July 22, 2011

On behalf of the state regulatory agencies participating in the Nationwide Mortgage Licensing System & Registry (NMLS, or the System)¹, the State Regulatory Registry LLC² (SRR) invites public comments on “Reporting of State Regulatory Actions.”

At the direction of NMLS participating state agencies³, SRR is developing functionality to allow NMLS participating state agencies to post regulatory actions taken by such agency to company and individual records in the system and to make these actions available on *NMLS Consumer Access*⁴.

Goal

The goal of developing Reporting of State Regulatory Actions functionality in NMLS is to provide state regulators, consumers, and the public with information concerning regulatory actions taken by state regulators against companies and individuals through NMLS in order to: (1) improve transparency and information available concerning state-licensed and registered companies and professionals; (2) facilitate the sharing of regulatory enforcement information among state regulators; and (3) meet the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act)⁵ mandate that NMLS provide consumers with easily accessible information regarding publicly adjudicated disciplinary and enforcement actions against mortgage loan originators (MLOs).

Background

Currently, state mortgage regulators make public information describing regulatory actions taken against licensed companies and individuals on their agency website or through other means.

When NMLS was launched in January 2008, one of the stated goals of regulators in creating the System was to provide a central source of standardized information concerning enforcement actions taken by state mortgage regulators against companies and individuals. One of the natural benefits of a centralized system is the consolidation of enforcement action reporting. This goal was further developed by specific language contained in the SAFE Act.

¹ Information about NMLS can be found [here](#).

² Information about the State Regulatory Registry LLC can be found [here](#).

³ Currently 58 state agencies participate on NMLS. The list of these agencies can be found here:

<http://mortgage.nationwidelicensingsystem.org/contact/Pages/StateAgencyContacts.aspx>

⁴ <http://www.nmlsconsumeraccess.org/>

⁵ The SAFE Act is Public Law 110-289 (PL 110-289) and information can be found at:

<http://mortgage.nationwidelicensingsystem.org/safe>

SAFE Act Requirements

Title V of the SAFE Act requires that NMLS:

“Provide(s) consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.” [12 USCA § 5101 (7)]

NMLS must fulfill this mandate for both state-licensed and federally registered MLOs. The focus of this Request for Public Comments and the functionality currently being proposed is solely for state regulators. Functionality for the reporting of regulatory actions against federally registered MLOs will be developed at the direction of the Consumer Financial Protection Bureau (CFPB).⁶ With regards to MLOs under state authority, the SAFE Act provides that:

“The State loan originator supervisory authority is required to regularly report violations of such law, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry. [12 USCS § 5107(d)(3).]”

To support these mandates, the SAFE Act specifically provides that information and material provided to NMLS is protected under state or federal law and may be freely shared among state and federal mortgage regulatory officials without the loss of privilege or confidentiality protections. [12 USCA § 5111.]

CSBS/AARMR SAFE Act Implementation Working Group Recommendations

The SAFE Act Implementation Working Group (IWG)⁷ formed by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR), decided that, as functionality is available in NMLS, all state regulatory agencies participating in NMLS should report significant and/or recurring violations of law and other regulatory actions against both companies and MLOs in a timely manner. Providing easily accessible information about companies, and individuals in a centralized location benefits the public at large and fulfills the objectives of the SAFE Act and state laws.

The IWG also recommended that each state, based on their state statutes or regulations, determine which disciplinary or enforcement actions will be publicly available through NMLS.

⁶ As of July 21, 2011, the responsibility for the requirements of the NMLS Federal Registry and the Final Rules promulgated by the federal banking agencies (Office of the Comptroller of the Currency, (former) Office of Thrift Supervision, Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the National Credit Union Administration, and the Farm Credit Administration) is transferred to CFPB.

⁷ The CSBS/AARMR SAFE Implementation Plan was developed by a working group of 18 state regulatory agencies with the goal of directing the movement of individuals subjected to state licensure as mortgage loan originators in a manner that meets Congressional intent, improves the supervision of mortgage loan originators, and does not disrupt originations.

State Regulatory Actions Working Group

The Mortgage Licensing Policy Committee (MLPC) created a working group composed of state regulators to develop the framework for this functionality and to develop the recommendations and policies to accompany the functionality.⁸ The Mortgage Licensing Policy Committee will make final decisions concerning the functionality and policies regarding the Reporting of State Regulatory Actions through NMLS.

Policies

The initial public reporting mandate of the SAFE Act was met in January 2010 with the launching of *NMLS Consumer Access*. This website provides the public access to license and employment information on mortgage companies and MLOs. Starting August 1, 2011, *NMLS Consumer Access* will contain similar information about federally registered MLOs and their employing financial institution.

The proposed Reporting of State Regulatory Actions will make available the public regulatory enforcement actions taken by state regulators through *NMLS Consumer Access* in the Spring of 2012. In October 2011, functionality will be available in NMLS which will give state regulators the ability to post regulatory actions in the System that are tied to a mortgage company, control person, or MLO for sharing among state regulators.

The following is a list of the major policies and processes associated with this functionality.

1. Each state regulatory agency participating in NMLS will be responsible for inputting their enforcement actions into NMLS. All information will be managed by the state agency that took the action and only the state regulator can update or change information concerning a regulatory action posted to NMLS by their agency. SRR will not verify, validate, or amend any of the enforcement actions entered through NMLS.
2. Each state will determine when to post an action based on their prevailing statutes and regulations. Each state will determine which regulatory actions will be available to other regulators through NMLS and those which will be publicly available through *NMLS Consumer Access* based on the same statutes and regulations.
3. The reporting of regulatory actions by state regulators to NMLS will not be limited to those actions that are public. Functionality will include the ability for a regulator to input, at their discretion, information to be shared only among regulators or only among the employees of the agency.
4. Due to the importance of a consistent standard in the timeframe of posting actions, the MLPC recommends that the information should be posted promptly, but in no case more

⁸ The working group was comprised of state regulators from California, Florida, Indiana, Massachusetts, North Carolina, and Washington. The membership of the Mortgage Licensing Policy Committee (MLPC) can be found here: <http://mortgage.nationwidelicencingsystem.org/about/Documents/MLPC%20Committee%20List.pdf>.

than 5 days after receipt of the final order by the state agency.

5. In posting an enforcement action, a standardized set of information will be required to be completed by each regulator posting information. This set of information is outlined below and indicates the fields that will be viewable in *NMLS Consumer Access* for a publicly-viewable action.
 - Name of agency issuing the action (i.e. "Posted on behalf of...")
 - Date of action
 - Docket Number (state assigned, if applicable)
 - Type of Order
 - Description of Order
 - Fine/Penalty Amount
 - Restitution Amount
 - Multi-state Case Number (NMLS assigned)
 - Action ID (NMLS assigned)
 - PDF attachments of orders and other relevant documents
6. A state regulator may post its own actions taken against a state licensed/registered company or individual through NMLS as well as post an action against a company or individual that is not state licensed or registered through NMLS. A state regulator may not post an action taken by another regulatory agency.
7. With regard to past actions against a licensee, the MLPC recommends that for companies, the actions should be posted on a go forward basis only and that actions taken against loan originators since the effective date of each state's SAFE Act became effective should be posted. However, revocations of a MLO license should be posted regardless of the date of the revocation.
8. All respondents named in an action will be included in the reporting to the System and the action will be tied to the record of the company and/or individuals named. States may link any Control Person or Principal's NMLS record to any action taken against the associated company.
9. A company or individual will be notified of the posting of a relevant regulatory action by a System-generated email and will be able to view in NMLS any publicly posted actions against it. On the composite main page for a company or individual record, the System shall provide a clear indication that the entity has or does not have any regulatory actions. When a company or individual user views a publicly-viewable action through NMLS Composite, the System shall display the fields which are viewable in *NMLS Consumer Access*.
10. State regulators will have the ability to post multi-state actions through NMLS, referencing an assigned identification number which connects all of the related actions. Each state involved in a multi-state action will be responsible for posting the action as dictated by its policies, and each related action will have the same identification number which will identify it as being connected to a multi-state action.

11. At this time, all functionality related to state regulatory action reporting, including the ability to post, share, manage and view information, will be available to only state regulators. If a state has a completed action against a registered entity (such as a state-chartered financial institution which is regulated by the state agency, but is exempt from the mortgage licensing laws) it will be able to post an action against the registered entity.
12. The term “action” or “regulatory action” includes disciplinary and enforcement regulatory actions brought against a company or individual and recorded by a state regulator

Request for Public Comments

On behalf of the state regulatory agencies using NMLS, the State Regulatory Registry LLC is seeking comments from the public, including licensees and regulatory agencies, on the functionality that is being developed to provide easily accessible information about companies and individuals in one location to benefit the public at large and to fulfill the objectives and mandates of the SAFE Act. Any and all comments are welcome from licensees and the public.

Persons submitting comments are requested to 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 suggestions will be reviewed by the Regulatory Actions Working Group comprised of state regulators and discussed with all state regulators. The Regulatory Actions Working Group’s recommendations will be sent to the Mortgage Licensing Policy Committee for evaluation and approval or rejection.

Comments can be submitted by email to: comments@stateregulatoryregistry.org

Comments may also be submitted in physical form to:

Regulatory Actions Public Comments
Attn: Tim Doyle, Vice President
State Regulatory Registry
Conference of State Bank Supervisors
1129 20th Street, N.W.
9th Floor
Washington, D.C. 20036-3403

Comment submission deadline: September 20, 2011