



**NMLS Ombudsman Meeting**  
2019 NMLS Annual Conference & Training  
Hilton Orlando Lake Buena Vista, Orlando, Florida  
Palm Ballroom 1/2  
9 a.m. to 12 p.m. (ET)  
February 20, 2019

The NMLS Ombudsman, Scott Corscadden, called the meeting to order at 9 a.m.

**1. NMLS Ombudsman Update**

*Scott Corscadden, NMLS Ombudsman*

*Supervisor, Bureau of Loans, Alabama State Banking Department*

Scott Corscadden reported there had been 95 emails between August 1, 2018 and February 1, 2019. The emails were reviewed by the Ombudsman, who either responded directly to the submitter or referred the question to SRR or state agency staff. Many of the questions were answered by referring the individual to the internal Regulatory User Group (RUG), NMLS Call Center, the NMLS Resource Center, a specific state regulator, or the Consumer Financial Protection Bureau (CFPB). Sixty-nine of the emails were responded to directly by the Ombudsman. The top five categories were license application, consumer complaints, system log in issues, renewal and testing.

Rich Cortes, principal financial examiner with the Connecticut Department of Banking and chair of the Mortgage Call Report (MCR) Working Group provided an MCR update. Key items: (1) Implementation of MCR development; going in a different direction (2) MCR version 6 will be implemented in the first calendar quarter of the year following completion of development; (3) Form is on the NMLS Resource Center; (4) Reminder to bring questions to the MCR Open Forum later in the day. There were no questions.

Kyle Thomas (CSBS) gave an update related to development of the State Examination System (SES) and the upcoming pilot program. Key points: (1) Hope to pilot in a handful of states by year-end; (2) If pilot is successful, nationwide deployment will be next year; (3) Key aspect of SES is information sharing. One challenge the SES team foresees is the comparability of one state's review of a company to another state's review; (4) To address the issue may look to standardized reporting, findings and comparability of exams. Comments received:

Rich Cortes (CT) stated there should be a uniform rating system. A standard rating system should alleviate much of the confusion going into an exam. William Kooper (MBA) pointed out the Federal Financial Institutions Examination Council (FFIEC) has a uniform compliance for rating systems and asked if states were looking to align with FFIEC. Cortes indicated he would support this adoption.

David Shirk (Lotstein Legal PLLC) stressed the importance of standardization; the need to distinguish what is federal and what is state and share citations. When findings are shared, responses should be included.

Josh Weinberg (First Choice Loan Services Inc.) stated "standardization requires standards," and consistency with enforcement needs to be established.

Chris Romano (MT) stated the Multi-State Mortgage Committee has adopted FFIEC standards.

Cindy Corsaro (Promontory Fulfillment Services) stated there is a need to provide transparency related to exams from agency to agency. Results say they are confidential and not to be shared. Thomas stated that SES plans to provide the information.

Jedd Bellman (MD) stated the Maryland Commissioner of Financial Regulation has a program book outlining their process. MD is open to best practices. Rick St. Onge (WA) stated the Washington Department of Financial Institutions also publishes their own program guide.

## **2. Regulator Communication & NMLS Improvements**

*Cindy Corsaro, Promontory Fulfillment Services*

Cindy Corsaro summarized the points in her submission. Turning to the item about state required reports outside the system, Gus Avrakotos (Mayer Brown LLP) asked which states have annual reporting requirements outside of the MCR. Rich Cortes (CT) stated the MCR Working Group has made updates that will go live with NMLS 2.0, but he was not aware of any specifics required outside of the MCR. He would welcome states to reach out to the MCR Working Group. Tracy Reno (AK) stated the Alaska Division of Banking & Securities has a statutory requirement that requires an annual report with specific language that must be included.

William Kooper (Mortgage Bankers Association) asked if there was a draft proposal. There is no draft proposal, however, MBA would like the outside requirements to be eliminated. Jedd Bellman (MD) agrees states are eager to get rid of antiquated requirements, but it is not easy.

Elliott Purty (MI) spoke specifically about the exam process for Michigan Department of Insurance and Financial Services. MI gives explicit detail, called a Visitation Outline, to the company to be examined so they can be prepared for the examination, whether the exam is investigatory or not.

Stephanie Buonomo (CSBS) explained SRR is working on implementing functionality to allow state-specific information to be more appropriately included in business plans uploaded to NMLS - this would be an addendum to the general business plan to meet state-specific requirements. This will be included in NMLS 2.0, but SRR is also looking at how this can be accomplished in the current system.

## **3. Accelerated Transitional Mortgage Loan Originator Authority – Exhibit 2**

*Costos Avrakotos, Mayer Brown LLP*

Costos “Gus” Avrakotos asked states that have already adopted Temporary Authority (TA) or Transitional Licenses what they would be doing with their existing laws. Randy Street (VA) advised the group that Virginia Bureau of Financial Institutions made an amendment in 2014 allowing transitional licenses for individuals that already have another state license. This was written with the expectation of a law by federal government; VA law includes a placeholder to adopt federal law once implemented. VA will need to make minor amendments to their existing

law. Traci Washington (OH) stated Ohio Division of Financial Institutions currently has a state-to-state transitional license. They will not allow federal to state until November 2019.

Avrakotos asked, "Are loans originated during the transitional period null and void, if the individual doesn't end up getting licensed?" Lisa Tinsley (CSBS) stated, irrespective of state law, the loan will be "good" as long as the individual was authorized for activity under S.2155. Josh Weinberg (First Choice Loan Services Inc.) stated he was under the impression it was a "transitional License." Tinsley explained this is not a license, but a status.

Avrakotos asked "What if a state licensed individual is going from a state licensed company to a federal registry?" Tinsley responded that there is nothing in the legislation addressing this transition. It was stated that nothing was proposed because of the current instantaneous nature of federal registration.

#### **4. Limiting Access to MLO SAFE Test and Pre-License Course Information**

*William Kooper, Mortgage Bankers Association*

William Kooper (Mortgage Bankers Association) explained NMLS attempted to remedy this issue in 2012. He advocated for limiting employer's access to their MLO's SAFE required testing and education information if these items are not required under their employment. Kooper acknowledged that S.2155/Temporary Authority to Operate would resolve a lot of the issues this access creates.

Josh Weinberg (First Choice Loan Services Inc.) stated his company is federally registered and state licensed. They have access to all information. He further stated that if he is aware someone might be leaving, he is obligated to act and cannot ignore the information. However, he doesn't believe that he should have access to the SAFE testing and education information. This unfairly restricts an MLO from pursuing other employment. He also said the same issue exists with regards to criminal background checks.

Jack Konyk (Weiner Brodsky and Kider) asked everyone to keep in mind that the sponsoring company has "complete liability" over everything the MLO does and further shielding the information puts the company under additional risk. Balance must exist between protecting the MLO privacy and the employer responsibility for MLO actions.

Tim Doyle (CSBS) stated the company is not liable for everything the MLO does, but rather only the activity under the license they sponsor or registration they own. SRR is leaning toward protecting the sovereignty of the individual's information.

#### **5. Timing Requirements for Submitting Secretary of State Documentation**

*Tanya Anthony, APPROVED, Buckley LLP*

Tanya Anthony (APPROVED, Buckley LLP) presented an issue many companies face when processing a name change. The majority of states require a Certificate of Good Standing from the Secretary of State (SOS) within five business days of submitting the name change through NMLS. This deadline is not possible to meet and sometimes results in the company's inability to conduct business.

Kirsten Andersen (OR) stated the Oregon Division of Financial Regulation does not expect advanced preparation of documents; they want them within 30 days of the change taking effect.

Katy Ryan (Buckley LLP) explained when a company changes their name, they are known as that name on the domicile document as of the effective date, but then need to file with the SOS. Andersen indicated a company is not allowed to perform activity in Oregon under the new name unless it has been registered with the Oregon SOS. Jedd Bellman (MD) stated Maryland is willing to work with companies on this issue but agrees with Oregon that until the new name is duly registered, it cannot be used. He suggested using another trade name.

David Shirk (Lotstein Legal PLLC) asked why state agencies need a Certificate of Good Standing and a foreign registry if it is new.

Bellman suggested exploring use of the online searches to validate good standing instead of requiring the document be uploaded in NMLS. Nicole Chamblee (TN) indicated the Tennessee Department of Financial Institutions uses the TN SOS website. Kelly Rainsford (SC-DCA) also stated the South Carolina Department of Consumer Affairs uses their state's SOS website.

Haydn Richards (Bradley) stated there are business leaders who want to use the new name immediately, but states do not allow activity to be performed until the SOS registration process is complete. It is important to have "Formally Known As" to help balance.

## **6. Duplicative State Licensing Systems & Inconsistent Adoption of NMLS**

*Katy Ryan, Buckley LLP*

Citing the roll out of Arizona Department of Financial Institutions' new internal system, Katy Ryan (Buckley LLP) asked what is driving states to build/adopt additional licensing systems, instead of pushing those license types into NMLS.

Mark Murphy (AZ) stated Arizona's new system is not a replacement of NMLS in any way. Arizona created a new internal system for backend processing; the old system has long been outdated. Nothing will change in any way for AZ licensed mortgage companies. AZ's other licensees will be encouraged to use NMLS, but still have the option of managing their license outside of NMLS. If a non-mortgage entity applied for a license through NMLS, they will do everything in NMLS, other than the reporting of authorized delegates for AZ Money Transmitters. Additionally, non-mortgage companies will renew in the new Arizona system because their renewal period does not fall into the NMLS renewal period. The new Arizona system will become available March 18, 2019.

Ryan understands Arizona has different renewal requirements but asks that they push towards conforming to use NMLS exclusively. Ryan also wondered if CSBS could work to accommodate more in NMLS to prevent the need for additional systems. Murphy indicated that Arizona is willing to move to NMLS only, assuming the system is enhanced to allow for flexibility.

Scott Corscadden (AL) stated the Alabama State Banking Department also has an internal system, but it is used beyond licensing. They currently accept complaints and do examinations through the internal system.

Jedd Bellman (MD) said Maryland will not participate in their internal system update; they will be completely on NMLS and SES once available.

Tim Doyle (CSBS) stated it is NMLS's goal to provide as much of the back-office support as

possible. However, so much depends on timing. We also want to avoid duplicative information in multiple systems. The NMLS Policy Committee decided to have a uniform renewal period.

A member of the audience stated Colorado currently uses their internal system for renewal and asked if they are planning to move to NMLS? Shirley Martinez (CO) stated the Colorado Division of Real Estate is working on legislation to consolidate.

Bellman explained it took a long time to get all of Maryland's licenses on NMLS but were able to pass a clean bipartisan bill.

Kirsten Andersen (OR) explained Oregon uses 3 internal "archaic" systems. Oregon requires that the license be printed, but they are hoping to get rid of this requirement soon.

Gus Avrakotos (Mayer Brown LLP) stated the Florida Office of Financial Regulation has an internal system that is difficult to update and asked if Florida has a long-term plan to move exclusively to NMLS. There was no response from Florida.

Kelly Rainsford (SC-DCA) explained the South Carolina-DCA is in the process of implementing a system for licenses not managed in NMLS. This will not require any activity from the licensees in NMLS.

## **7. Open Discussion**

Josh Weinberg (First Choice Loan Services Inc.) stated innovation is critical for this industry. Everyone should rethink information delivery because disclosure agreements are insufficient. He also encouraged states to participate in innovation federal regulators are currently pursuing. Kirsten Andersen (OR) stated they have someone on staff that researches innovation efforts that are being pursued. Jedd Bellman (MD) suggested looking at csbs.org for innovation efforts.

A member of the audience asked if we can do something about states receiving updates/work items on changes they are not concerned with. Additionally, when the company is trying to support their MLOs with updates to their record, the requirement to have the MLO attest causes the change to take effect much later than otherwise would be reported. Simple record changes should not need attestation.

Nancy Pickover (Weiner Brodsky Kider) stated a company they represent is trying to surrender a license for a branch where the branch manager has already terminated their relationship with the company. The branch has multiple licenses, one of which is in an Approved-Inactive status. Although the state has told the company they can continue to hold the license in an Approved-Inactive status without a branch manager, NMLS does not allow the Branch Form (MU3) to be submitted in this scenario. The NMLS Call Center suggested adding another MU2 person to fill the branch manager role and allow the submission, but this would be falsely attesting. They would like the system changed to accommodate this situation. It was explained that the system will require all completeness checks to be cleared for all licenses before the Branch Form (MU3) can be submitted. Stephanie Buonomo (CSBS) advised that branches in general are being looked at for NMLS 2.0 and will look to see if this can be fixed in NMLS 1.0

David Shirk (Lotstein Legal PLLC) reviewed a possible issue with the Document Upload feature in NMLS 1.0. He claims that when someone submits a document upload and puts in too many characters in the comment field, the system displays an error and the upload is not saved, but

the filing is able to be submitted without the PDF attachment. He suggested a character count, or a warning be displayed. Shirk also talked about a client of his who has a 17-year-old DUI which continues to come up during state agency review of the CBC. He would like the system to allow the administrator or others to respond to these inquiries on client's behalf. Lastly, Shirk expressed concerns of regulation by software. He indicated we need to be able to add state-specific "anything" to "anything".

Bre Madsen (Credit Karma) asked how other companies deal with a state agency requesting for a copy of a report of exam completed by another agency. Josh Weinberg (First Choice Loan Service Inc.) and Cindy Corsaro (Promontory Fulfillment Services) mentioned they share both the name of the agency and the examiner in charge with the requester. It is then up to the requester to reach out to the agency to obtain this information.

A member of the audience talked about international CBCs causing a slowdown in the licensing process, asked if there is a plan in place to address this issue. Rich Cortes (CT) stated there are untrustworthy (international) government agencies and reporting agencies. This precipitates additional vetting time. Furthermore, the new information securities laws in the EU inhibits the vetting process for individuals located there.

A member of the audience suggested the use of other independent contractors for reporting. Cortes stated Connecticut is not willing to accept information from a contractor paid for by the subject of the inquiry. Haydn Richards (Bradley) stated that they are exploring options to support clients. Issues are caused based on the reporting country. We need to work with authorities to find a solution.

A member of the audience stated there is an issue in NMLS 1.0 with regards to Relationship Termination. The system requires a reason be provided for the Termination of a Relationship. When the relationship with one of their control persons needed to be terminated, options for the reason accurately described the situation. Furthermore, the company and the control person were under a confidentiality agreement/NDA related to the reason the relationship was being terminated and providing the reason would violate this.

Gus Avrakotos (Mayer Brown LLP) asked if companies will be required to reapply for licenses they currently hold when transitioning to NMLS 2.0. Tim Doyle (CSBS) explained SRR does not have the complete transition plan mapped out for how information will translate from NMLS 1.0 to NMLS 2.0, but certainly licensed companies, MLOs, branches, and federal registered institutions currently and previously licensed or registered in NMLS will not need to "reapply" in NMLS 2.0.

Avrakotos also discussed the increase of state-specific requirements being incorporated in NMLS and asked if this was moving away from uniformity. Stephanie Buonomo (CSBS) stated uniformity and capturing licensing information comprehensively, including state-specific items, are both goals of NMLS.

Josh Weinberg (First Choice Loan Services Inc.) stated there is a need to modernize the disclaimers for digital advertising, including on social media platforms such as Twitter. Dana Melanson (ISGN) stated she has found that some State Licensing Checklists do not match the NMLS system settings. When she reaches out to the NMLS Call Center, she is directed to contact the state agency. Stephanie Buonomo (CSBS) advised that the call center should be escalating these issues to SRR. However, any discrepancies found can be sent to

[ombudsman@nmls.org](mailto:ombudsman@nmls.org) and they will be addressed.

A member of the audience stated that Business Activity definitions for NMLS do not match up with state definitions. Tim Doyle (CSBS) explained that the License Wizard will help to translate state requirements to the NMLS Business Activities. Another member of the audience inquired as to whether the License Wizard will be able to determine if the company is exempt from licensure (e.g. Subsidiaries of a state-chartered bank). It was stated that other questions could be added to the License Wizard.

Dave Allburn (National Fingerprint, Inc.) raised concerns with NMLS's compliance with the General Data Protection Regulation. He feels NMLS is at risk because international fingerprints can be shared and bought.

A member of the audience inquired about the Arizona MLO license fees. Mark Murphy (AZ) explained there are two fees - one of which is prorated - and the individual has three days to pay it. A member of the audience asked if the number of days could be extended or have the monies paid in NMLS. Murphy advised that the number of days can be extended, just contact the agency.

William Kooper (Mortgage Bankers Association) advised that states should reach out to the MBA for assistance with any statutory impediments. He also said they are working on remote online notaries.

In closing, Scott Corcadden advised attendees that with the modernization of NMLS and creation of SES, the three NMLS user agreements (State Agency Terms of Use, Industry Terms of Use and the Surety Bond Terms of Use) need to be amended to account for new functionality and data types in the system. The changes have been shared with the state regulatory agencies that use NMLS and will be shared with the industry once regulator vetting has been completed. Questions should be directed to Buz Gorman (CSBS). Corcadden thanked all the attendees and participants at the meeting and adjourned at 12:00 p.m.