



**NMLS Ombudsman Meeting**  
**2020 NMLS Annual Conference & Training**  
**Hilton San Francisco Union Square, San Francisco, CA**  
February 20, 2020, 9:00 a.m. to 12:00 p.m. PT

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***Agenda***

1. **Scott Corscadden, *NMLS Ombudsman & Supervisor, Bureau of Loans, Alabama State Banking Department***
  - Welcome, Ombudsman Update & Issue Review
  
2. **Katy Ryan, *Buckley LLP*** Exhibit 1
  - NMLS System & Process Improvements
  
3. **Cindy Corsaro, *Promontory Fulfillment Services LLC*** Exhibit 2
  - Regulator Communication, State Examinations & NMLS Improvements
  
4. **Robert Niemi, *Bradley*** Exhibit 3
  - State Temporary Authority Overlays
  
5. **Kobie Pruitt, *Mortgage Bankers Association*** Exhibit 4
  - Nationwide Implementation of Temporary Authority
  
6. **Open Discussion**

January 24, 2020

**Via Electronic Mail to [ombudsman@nmls.org](mailto:ombudsman@nmls.org)**

Scott Corscadden, NMLS Ombudsman  
Conference of State Bank Supervisors  
1129 20th Street NW, 9th Floor  
Washington, DC 20036

**Re: Topics for February 20, 2020 NMLS Ombudsman Meeting**

Dear Mr. Corscadden:

We appreciate the opportunity to provide topics for discussion during the February 20, 2020 NMLS Ombudsman Meeting in San Francisco, California. We would like to discuss the following topics: (1) financial statement classification for startups; (2) apostrophes in legal names and Fieldprint appointments; (3) other business start date; (4) Advance Change Notice (ACN) Requirements Chart; and (5) marking license items as “PRIVATE” in NMLS.

### **Financial Statement Classification for Startups**

A company is unable to submit an NMLS Company Form requesting a license unless it first submits a financial statement of the required classification. For a number of licenses, the required financial statement classification is “audited.” However, for these same licenses, there is typically an exception for startup companies. Specifically, such companies are commonly permitted to submit an initial statement of financial condition or balance sheet in lieu of an audited financial statement.

The issue here is that the NMLS financial statement functionality does not recognize this exception for startup companies. And so, a number of startups have had to designate their balance sheets as audited financial statements when they are in fact not. While these companies will typically explain in the description field and/or in a top sheet to the balance sheet that it is not an audited financial statement, we are concerned about the mischaracterization forced by the system. As a solution, we propose that the system allow startups (perhaps defined as companies with a formation date within the past year) to submit NMLS Company Forms requesting a license no matter the classification of financial statement submitted.

### **Apostrophes in Legal Names and Fieldprint Appointments**

We recently encountered an instance of an individual being unable to schedule a Fieldprint fingerprinting appointment because their last name contains an apostrophe (e.g., O’Harris, O’Sullivan). To resolve this issue, the individual had to amend their legal name in the system to remove the apostrophe from their last name. While we suspect that this may have been a “one-

off” (considering the sheer number of individuals with apostrophes in their last names who have made Fieldprint fingerprinting appointments to date), we are concerned about the mischaracterization forced by the system. And so, we respectfully request that the applicable logic and process be reviewed to ensure that this does not happen to others.

### **Other Business Start Date**

The other business section of the NMLS Individual Form requires an individual to provide a start date for other business in a MM/DD/YYYY format. It is often difficult for individuals to recall/confirm exact start days. It is much easier for them to recall/confirm start months. We request that this field be amended to a MM/DD format (like the employment history section of the NMLS Individual Form) to ensure accuracy and facilitate completion.

### **ACN Requirements Chart**

The ACN Requirements Chart available on the NMLS website groups direct owners and executive officers (presumably, because they are grouped in the NMLS Company Form). However, the underlying state statutes and regulations often have different notice requirements when it comes to these types of changes. For example, state law may require 60 days’ advance notice of a direct owner change, but may not require any advance notice of an executive officer change. Accordingly, we request that the chart be amended to have separate columns for direct owners and executive officers, and that the number of days’ notice required for each change be confirmed and updated by state agencies accordingly. State agencies could complete this exercise in connection with the broader Key Individual Wizard (KIWI) initiative where the agencies are confirming the percentages that trigger direct and indirect owner disclosure obligations. This will help ensure that all of the requirements that are communicated in the chart and KIWI are consistent with the underlying state statutes and regulations.

### **Marking License Items as “PRIVATE” in NMLS**

Recently, we have encountered a number of license items that have been marked “PRIVATE” in NMLS for items that are unrelated to credit report or criminal background check (CBC) items. We understand that some items may warrant this designation of “PRIVATE” beyond credit or CBC, but a number of states mark basic license items for open invoices, reminders about surety bond coverage, and pending branch applications. Because “PRIVATE” license items are not viewable by the sponsoring company, this slows the process for companies to assist the MLO resolve these issues that may or may not be within their control. We request that states mark license items as “PRIVATE” only in situations where the company is unable to assist in the resolution of the item or if disclosing the information in the license item to the company would be inappropriate.

Thank you for your consideration of these topics. We look forward to presenting them during the NMLS Ombudsman meeting.

Mr. Scott Corscadden  
January 24, 2020  
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Sincerely,

A handwritten signature in blue ink that reads "KRyan". The signature is written in a cursive style with a large, looped "K" and a trailing flourish.

Kathryn L. Ryan



January 24, 2020

NMLS Ombudsman  
Conference of State Bank Supervisors (CSBS)  
1129 20th Street NW  
Washington, DC 20036

Re: NMLS 2020 Ombudsman Meeting topics – Cindy Corsaro

Dear NMLS Ombudsman:

Thank you for your request for discussion topics for the Ombudsman Meeting at the NMLS 2020 Annual Conference in San Francisco, CA. These are the topics I would like to address:

Regulator Communication:

- 1) First, I would like to thank all state regulators (50 states and DC) for being so responsive to a survey we sent out related to the need to license our new DC branch location, since it would be an administrative office only. Your quick responses to our questions allowed us to plan accordingly and narrow the field from 50 states and DC to only 4 states that required licensure.
- 2) On a related note, thank you to Brian Rouse and the DC DISB for working with me to help identify available Approved-Inactive MLOs to fulfill the Branch Manager brick and mortar requirements for our new DC branch office – even though DC was not one of the states requiring licensure! As a non-originating third party fulfillment services entity, we always have a hard time locating an MLO who resides outside of our home state who does not want to originate loans, and regulators like Brian have helped us locate qualified individuals in all of our brick and mortar locations.
- 3) My last regulator to thank is Brandye Sedelmaier from Michigan for being so proactive regarding our recent entity reorganization. We just underwent a change of name, change of control and a change of officers and control persons which impacted all 60 licenses in our 51 jurisdictions. All changes were effective 1/1/2020 ... right after the renewal period ended! It was a massive project and juggling all of the state-specific requirements was quite a challenge. Brandye formalized everything required by the Michigan DFS to approve these changes in a notification letter sent to our CEO. I truly appreciated this, as it gave us the best chance of providing all the required documents in a timely fashion.

State Examinations:

- 1) Compliance Examinations: A request to all regulators ... please, please, please do not conduct compliance examinations with deadlines during the NMLS renewal period! For those of us who are small entities, and I am sure for those that are large entities, this puts an extra burden on us to deliver both renewals and examinations by the deadlines imposed.



NMLS Improvements:

- 1) ACN Notices: More clarification is needed for Advance Change Notices filed in the NMLS. More than half of the state regulators still do not go into the NMLS to Approve the ACN filing(s), even though all requirements have been met and the ACN date has passed. So, this poses the question – if the ACN date has passed, there are no related Deficiencies posted, and all requirements on the Amendment Checklist have been submitted, are we to *assume* that the changes have been Approved in all states? More guidance and participation from regulators is truly needed in this area! It would be beneficial to industry if regulators were required to update this field with a status of Approved, Pending or Rejected once the ACN deadline has passed.

There is also a discrepancy between ACN timeframe requirements on the Amendment Checklists and the chart provided in the NMLS listing these timeframes per state. It would be valuable to get both the Checklists and the spreadsheet synced to avoid any possible Deficiencies or regulatory actions for not providing sufficient notice for certain changes in the NMLS.

- 2) Invoices section in NMLS: Finally, a suggestion to improve navigation in the NMLS. In the Invoices section, include a column for the state related to the payment. If it is for multiple states (i.e. when renewals or new applications in several states are submitted at the same time), if each state can't be listed then simply put "multiple" next to the invoice line item. In addition, it would be useful if a more inclusive description could be included under the "Source" column, i.e. "New Applications", "Annual Assessments" or "Name Change Fee", rather than just listing "Filing" or "Agency Invoice". The way it is now, when searching for an invoice, you have to open each one to see what it is for, which can be very time-consuming. Finally, it would also expedite the invoice search process if you could add a search field by Branch location or MLO name rather than having to look up NMLS ID numbers each time you need to obtain a copy of an invoice for an expense report.

Thank you as always for the opportunity to present these observations, questions, and concerns.

Sincerely,

*Cindy Corsaro.*

Cindy Corsaro  
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JANUARY 24, 2020

**VIA EMAIL: OMBUDSMAN@NMLS.ORG**

Scott Corcadden, NMLS Ombudsman  
State Regulatory Registry LLC  
129 20th Street, N.W., 9th Floor  
Washington, DC 20036

RE: State Temporary Authority Overlays

Dear Scott:

First, let me again thank you for your efforts as the NMLS Ombudsman and also thank you to the team at CSBS that support your work. The industry sincerely appreciates the opportunity to share questions and concerns through these open meetings. Those questions as well as the discussions generated have shown to find solutions from the NMLS Community. Sometimes that topic may lay outside the direct authority of your office, but your role and this meeting allows the discussion has shown impact. I also hope significant discussion can follow my specific request on state overlays implemented in response to Temporary Authority.

My specific request is for creation of an additional resource within the NMLS Resource Center to correlate the state agency implementation of mortgage loan originator temporary authority. There have been several states who passed state law and regulatory updates in the months leading up to November 24<sup>th</sup>, 2019. But in final weeks prior to the effective date, we saw a flurry of state implementation with overlays and requirements for Temporary Authority.

The States of Georgia, Colorado and New York were all active in layering additional restrictions, notifications and documentation on top of the NMLS required for eligible mortgage loan originators who wish to continue to originate mortgages while move from one state to another or from a bank mortgage group to become state licensed. In addition, there have been more than ten other state actions by rule or legislation to modify the NMLS process or augment the process within their state. Even CSBS shared from that the outset that no implementing state law was necessary, states have lined up to add their unique state prerequisite. We expect this list to grow as well as the unannounced interpretations and replicated requirements and disclosures.

These state requirements could have severe implications on both the eligible mortgage loan originator and the licensed mortgage company sponsoring them. To aid the industry in the

understanding and compliance with these new state laws and licensing requirements, more is needed. The creation of an addition tool to the NMLS Temporary Authority to Operate page. The NMLS policies, tips, resources and training would be augmented with this imperative collection of requirements.

While no checklist or online guidance can substitute for review of the state statutes and website, the NMLS already correlates state licensing application checklists and provides links to state codes and state regulator websites. The NMLS Resource Center also regularly shares both NMLS and State Agency News in the identified role of the “official gateway to the Nationwide Multistate Licensing System & Registry”. These tools, tips, news and updates provided make the resource center a fundamental element in the licensing process.

We acknowledge that no tool or catalog on the NMLS Resource Center will replace state or federal regulation, but the correlation of additional data on state Temporary Authority implementation will enhance the process for both eligible mortgage loan originators and the licensed mortgage companies sponsoring them.

This would be in line with the stated efforts of the Resource Center and the recent CSBS Vision2020 online database of state licensing guidance for fintech companies and the State Regulatory Guidance Portal the CSBS website. When critical licensing correspondence or implementation is shared, that should be imbedded and available online within the NMLS Resource Center as to be easily obtainable by all.

To be clear, let me restate my specific request. Please add a state regulatory and implementation resource within the NMLS Temporary Authority to Operate webpage. After creation of such a resource, please coordinate with state regulators to collect this information in one central point on the webpage.

In addition, I would ask each state in attendance at the Ombudsman meeting share their implementation updates and then follow-up the Ombudsman team for inclusion of your state resources and requirements for anyone utilizing temporary authority.

Thank you for the opportunity to make this suggestion and thank you to everyone for your time and attendance today. I am happy to answer any questions and look forward to the discussion that follows.

Sincerely,



Bob Niemi, CMB®  
Senior Regulatory Compliance Advisor



MORTGAGE BANKERS ASSOCIATION

Kobie Pruitt  
Associate Director, State Government Affairs  
Mortgage Bankers Association  
1919 M Street, NW  
Washington, DC 20036

Scott Corscadden  
NMLS Ombudsman  
c/o Conference of State Bank Supervisors  
1129 20<sup>th</sup> Street, NW  
Washington, DC 20036

RE: Nationwide Implementation of Temporary Authority

Background

MBA has long advocated for the establishment of rigorous standards and qualifications for all MLOs, regardless of whether they are employed by federally- or state-regulated lenders and has urged the United States Congress for many years to repair an incongruity it created between those two systems as it related to testing and qualifications of MLOs. Specifically, MBA worked with the Conference of State Bank Supervisors (CSBS) to successfully amend the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act)<sup>1</sup> to address the asymmetrical requirements for qualified job seekers wishing to work for a state-licensed company versus their federal counterparts by providing MLOs with the temporary authority to operate (TAO).

MBA appreciates the work over the last 18 months of the CSBS, individual state regulators, and the staffs of their respective agencies to prepare for implementation of temporary authority. MBA is also grateful to this community for working with industry in previous years to develop the language of the temporary authority legislation that was suggested to Congress. Significant effort was made by the states and the NMLS to ready the System for the implementation of temporary authority. However, there are still some issues that still require the attention of CSBS and state regulators.

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<sup>1</sup> 12 U.S.C. § 5101 et seq.

## Temporary Authority Issues and Action Items

### 1. Obstacles to Implementation

- a. How do we ensure aggregators are comfortable with accepting loans originated under the temporary authority to operate (TAO) designation?
- b. What tools are still needed to disseminate accurate information and avoid confusion about TAO?
- c. Will CSBS regularly release data on the implementation of temporary authority, which shows the impact on timelines and the proportion of MLOs that are able to move through this expedited process without any background check issues?

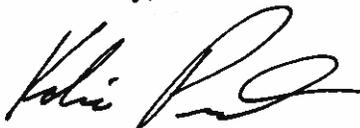
### 2. Temporary Authority to Operate Disclosure

- a. MBA does not believe any disclosure is necessary as federal law clearly permits TAO.
- b. If regulators choose to follow Georgia's recent example and require state-specific disclosures regarding a loan originators TAO status, it is imperative that the standard be that state regulators use NMLS ID numbers and direct consumers to Consumer Access to determine a MLOs qualifications to originate loans.
- c. MBA is willing to work with states and provide model language that would direct potential homebuyers to Consumer Access and other NMLS resources.

3. CSBS and state regulators should consider developing system functionality that enables states to use temporary authority for intrastate transitions. This would provide states with an option to allow MLOs that have already fulfilled state requirements to continue working without a break in service to consumers.

Thank you for your consideration. Please contact me at (202) 557-2870 or [kpruitt@mba.org](mailto:kpruitt@mba.org) if you have any questions.

Sincerely,



Kobie Pruitt  
Associate Director, State Government Affairs  
Mortgage Bankers Association