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## NMLS Ombudsman Meeting Summary

2023 NMLS Annual Conference & Training, Phoenix, Arizona

April 5, 2023

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The NMLS Ombudsman, Jim Payne, called the meeting to order at 9:00 a.m.

### 1. Welcome and Updates

*Jim Payne, NMLS Ombudsman*

*Director Of Examinations, Consumer & Mortgage Lending, Kansas Office of the State Bank Commissioner (Kansas OSBC)*

Jim Payne started by welcoming attendees to the meeting and offered initial opening remarks before introducing Jim Cooper (CSBS CEO and President).

Cooper welcomed attendees and said a goal of CSBS is to have all stakeholders work together to create modern financial services operations. Cooper then provided key CSBS staffing updates. He provided a brief history of NMLS, and informed attendees that as of 2022, there are nearly 700,000 companies and individuals licensed in the system. Cooper indicated that CSBS is continuing to look at ways to improve the licensing process and provided updates on improvements, including the move to a cloud-based system allowing for ongoing operational support and modernization development. He also reminded attendees that the Mortgage Business-Specific Licensing Requirements Proposal Public Comment period is open until May 15, 2023. Lastly, Cooper indicated that CSBS is finalizing a new development plan for NMLS Modernization, which includes incremental improvements and prioritizes known pain points using a business value framework.

Chuck Cross (CSBS) informed attendees that Tony Vasile (CSBS) was promoted to lead the Non-Bank Supervision and Enforcement team at CSBS. Vasile thanked Cross for his professionalism and effectiveness and all he has done for the state system.

Lindsay Schmidt (CSBS) provided an update on usage and enhancements for the State Examination System (SES). Currently there are:

- 53 agencies have been onboarded.
- 4,300 supervisory activities.
- 16 agencies using SES to process their agency's consumer complaints, accounting for 3,300 complaints.

Schmidt then walked through SES highlights. There have been two new work programs added to SES, CSBS's nonbank cybersecurity and NACCA's consumer finance work program. CSBS has also

developed the ability in SES for MSB examiners to indicate their use of the MTRA work program and to provide other agencies and companies with insights into their exams. The QuickIR functionality was rolled out this year, which allows companies to create and maintain standard answers to use for exams. The first One Company, One Exam (OCOE) was conducted in SES resulting in a number of improvements made to the system, which will help accommodate larger multi-state exams. There has been an increase in agencies accepting and leveraging each other's exams. Anya Tabb (Washington Department of Financial Institutions) is leading an initiative around improving and right sizing the standard mortgage information requests in SES. There is hope that these new standards will be implemented in the fall of 2023. CSBS launched a new help portal providing SES user guides and policies. Three in-person agency visits have been conducted and three more are scheduled for 2023. Lastly, SES's development partner Groundswell Consulting Group won two awards last year at the Appian World Conference. Three of the goals of SES this year are the implementation of the mortgage standards, continuing enhancement of the system based on feedback from users with five scheduled releases, and continuing agency in-person visits and other conference speaking opportunities.

Vickie Peck (CSBS) provided an NMLS Program Update. She informed attendees that the modernization effort will focus on building an intuitive, user focused system, with particular attention paid to smaller companies and mortgage loan originators (MLOs). There will be a thorough review of policy and known pain-points, and efforts to address those will be made incrementally to provide value to users more quickly. Dan Valerian (CSBS) provided an overview of the development approach and strategy for the modernization effort. CSBS has identified and prioritized improvement opportunities and is working to develop a high-level approach. He indicated that login and password issues are high on the prioritization list. Valerian noted that this is the restart of stakeholder engagement and that there will be ongoing opportunities for feedback.

Rich Cortes (Mortgage Call Report Subcommittee Chair & Connecticut Department of Banking) gave an update on the Mortgage Call Report (MCR). Form Version 6 will be implemented in Q1 of 2024 and includes the removal of the expanded/standard form division, increases data, and other logistic improvements. Cortes acknowledged that Form Version 6 will be a longer form for smaller companies, but zeros can be entered for items not required.

Payne provided an update on the Money Services Businesses Call Report (MSBCR), which has been updated to Version 3 and should be used for 2023 Q1 filings. Guides and FAQ documents can be found on the NMLS Resource Center, and the NMLS Call Center can address questions.

## **2. Ombudsman Update**

*Jim Payne, NMLS Ombudsman*

*Director Of Examinations, Consumer & Mortgage Lending, Kansas Office of the State Bank Commissioner*

Jim Payne reviewed the role of the NMLS Ombudsman and reported that since the previous meeting in August 2022, the Ombudsman received 156 emails. The top five categories of the last 8 months, in order of frequency were state licensing, including requirements, license status and process questions, entitlement issues (password resets, account access), MLO education, the annual renewal, and how to file consumer complaints testing and education.

### **3. Ombudsman Meetings & Work Remote**

*Bob Neimi, Weiner Brodsky Kider PC*

Bob Neimi raised a concern that the Ombudsman meetings have become less of an open forum, specifically citing the use of the term “if selected” for agenda topics and the format of the meetings. He also advocated for remote work with the modernization of the mortgage world and for standardization of remote work in the industry.

Jim Payne (NMLS Ombudsman) responded to the concern regarding ombudsman meetings, indicating that the reason for the more structured meetings was to have the correct people at the table, however, there has always been an open component to the meeting. Payne explained that the COVID-19 pandemic had an impact on the structure of the meeting, as purely open sessions did not work well in a virtual setting. He informed the attendees that the intention of the meeting is to have a dialog and allow people to be heard. He also indicated that he plans to host at least one virtual meeting a year moving forward to allow more people to participate, even when they can't attend conferences. The ombudsman will continue to host one in-person meeting in conjunction with the NMLS Conference.

Payne then asked the regulators at the table to review how they are addressing remote work in their states. Each regulator reviewed their state's policy and/or process. William Kooper (Mortgage Bankers Association) offered his team's assistance with advocating remote work for the industry.

### **4. Individual Records Associated with Multiple Company Records & Audited Financial Statements Delays**

*Trish Lagodzinski & Austin Briggs, Chartwell Compliance*

Trish Lagodzinski (Chartwell Compliance) presented an issue with Individual Form (MU2) filings associated with multiple company records, noting that this is a long standing NMLS pain point. They recommended adding an automatic system alert when an MU2 is recalled, alerting associated company users that the record has been updated. Philip Whims (CSBS) attested that there are several pain points around simultaneous filings and indicated that this is something the modernization project plans to address. He indicated that he would see if there is something that can be done to address the issue in the meantime.

John Larami (Chartwell Compliance) then expressed a concern that many companies missed the requirement to upload audited financial statements due to recent backlogs with financial auditors. The recommendation was made to align the financial statement requirements with each state deadline, rather than a standard 90-day requirement. Jim Payne (NMLS Ombudsman) asked regulators what their states are doing when they receive late annual financial statement submissions. Jeff Jacob (Kentucky Department of Financial Institutions) indicated that Kentucky does not have a statute with a date, but that the statute says it is dependent on NMLS policy and procedures, so if it were revised to align with state's statutes, they would have to revise their statute. He also indicated that if it has not been submitted within 90 days, they do look at the file and consider it late if not submitted. Rebecca Specht (Rhode Island Department of Business Regulation) indicated that her agency has a statutory requirement for a March 31 deadline, but that if the financials are not audited, they should upload the unaudited file with a note that the file will be updated once the audited file is available. Kristen Anderson (Oregon Division of Financial Regulation) stated that their statute is based on the system policy, and that they will not renew a license if the audited financials are not available. She indicated that they do not have the resources to

review prior to renewals. Amy Greenwood-Field (McGlinchey Stafford) asked if this is an issue due to backlog and which states are penalizing companies for late financials. Larami indicated that there are several states which have it in their statutes that the deadline is based on NMLS system policy, which gives NMLS power as a statutory setting body, even though NMLS is not a regulator. Karyn Tierney (Arkansas Securities Department) indicated that her agency will penalize \$250 if the audited financials are not submitted on time. Allison Bellucci (Connecticut Department of Banking) stated that the deadlines are different for various license types, but the majority are 90 days after the company's fiscal year end. She specified that they do send out compliance letters, and that if it is not submitted renewals can be denied. Payne indicated that Kansas has moved financial reviews to the summer to make the renewal process smoother. Kelly O'Sullivan (Montana Division of Banking & Financial Institutions) said that Montana statutes refer to NMLS policy, and that it was done that way because they would have to make a policy change anytime NMLS updated a form. If your audited financials are not submitted, they will contact the company to discuss. Payne stated that this issue will be brought to the NMLS Policy Committee to review. Rich Cortes (Connecticut Department of Banking) indicated that for the financial information reported through the Mortgage Call Report, companies are told to file the most accurate numbers they have and then to amend if needed. If there are significant differences, the agency has a conversation with the company.

## **5. Regulator Communication in Connection with Policy Changes and Law Updates**

*Amy Greenwood-Field, McGlinchey Stafford*

Amy Greenwood-Field presented a concern that industry members are not being fully informed of changes or updates to regulations that would affect current business models, citing the adoption of the CSBS Model Money Transmission Modernization Act (MTMA) and the difficulties she has had tracking updates made to individual state laws as an example. She indicated that, while CSBS is tracking legislative introductions and adoptions on their website, it is very high level and not immediately available via Google. Greenwood-Field requested an increase in communications from regulators around changes that may affect businesses, particularly urging regulators to provide notification via their public websites and sharing information with regulatory associations. She acknowledged the use of "Agency News" on the NMLS Resource Center but indicated that there are limitations around archival information.

Jim Payne (NMLS Ombudsman) acknowledged the news item archive issue. Stephanie Buonomo (CSBS) explained that it is going to be investigated and agreed that it is an issue. Courtney Gifford (CSBS) provided an overview of the new license type process and the communication plan CSBS works with agencies to develop when onboarding a new license. Agencies are also encouraged to start reaching out to licensees as early as possible. CSBS also posts a news item to the NMLS Resource Center, but the timing of that post is determined by the agency. Mary Pfaff (CSBS) provided information on why the MTMA information is located on CSBS's website. As NMLS is a license system, MTMA information would not be posted there, but would be located on the CSBS website. The MTMA page on the CSBS website includes links as well as blog posts and is regularly updated. The MTMA team is also working with an industry group which has been helpful in spreading the word. A full page on the MTMA is available with the data that is being requested within the exhibit, and Pfaff will continue to see what else is possible. Buonomo stated that a link to the MTMA page from the NMLS Resource Center can be added.

## 6. Open Discussion

William Kooper (Mortgage Bankers Association) commented on the CFPB Repeat Offender Registry and raised concerns about the proposed supervisory framework. He acknowledged the work that went into CSBS's response letter and shared his agreement with the letter. Kooper appreciated CSBS's full-fledged protection of the state system. Mary Pfaff (CSBS) and Jim Cooper (CSBS) acknowledged the group that wrote the letter. Kooper also asked CSBS about their thoughts on the CFPB Prudential Standards and the fact that they represent a supervisory conflict. Chuck Cross (CSBS) indicated that while the proposed supervisory framework has not been a part of the CFPB workstream, Dodd-Frank may give them authority around this work. Kooper disagreed.

Jedd Bellman (Orrick) raised a concern about the MTMA implementation plan, and its impact on system functionality and policy. He indicated that there seems to be uncertainty on what implementation of the MTMA looks like, and that there are policy implications for companies. Vickie Peck (CSBS) stated that policy discussions are being held, but development has not started, however, when it does, efforts will be made to include industry feedback. Pfaff emphasized that states are discussing implementation of the MTMA. Bellman said that he was concerned that the work states are doing now to create uniformity will be undone later by policy work. Cooper said that the first thing that needs to be done is passage of the MTMA, so there are common standards and practices. Bellman raised concerns about the unintended consequences of moving to get it passed without implementation plans and concerns about losing collaboration. Kathy Tomasofofsky (Money Services Business Association) said that when the working group was developing the MTMA, it was under the impression that the new policy would be implemented on the modernized system, which is causing concern with the current state of development. Tomasofofsky also questioned what of the past MSB work on requirements would be used. Tomasofofsky indicated that she is thankful that the MTMA is being passed, but a regulator group that looks at consistent implementation and receives feedback from industry is needed. Pfaff responded that there is a group that is working on that, and they will be reaching out to get input from industry.

Stacey Valerio (Ballard Spahr LLP) requested an update on the amended Disclosure Questions. Janine Bjorn (CSBS) stated that the public comment period has closed, she is making some adjustments to the questions based on the feedback received. The response will be published in a few months, and then system implementation will be determined, making sure there is no overlap with the Renewal season. Valerio emphasized the magnitude of the ask for industry and the need for revised answers in relation to the MTMA that has not been implemented. Jim Payne (NMLS Ombudsman) responded that the NMLS Policy Committee has had discussions around these issues, particularly around the retroactive question responses. Bjorn stated that CSBS is also working on a guide that would help industry through how to answer the questions without offering legal advice. Valerio raised the issue of new questions applying to statutory issues that have not yet been adopted. Bo Fears (Georgia Department of Banking and Finance) indicated that in Georgia there is a provision around character fitness, under which the question could be grounded. Valerio raised further concern that this is allowing the NMLS system to drive state policy, and that the disclosure questions could introduce new areas of risk in other asset classes.

Haydn Richards (Bradley Arant Boult Cummings LLP) raised a concern about the length of time it can take state agencies to process license applications, indicating that some states are taking over a year. He asked that states review their processes for efficiencies, as companies cannot run their businesses while waiting for approval. He also questioned if processes times is considered in CSBS accreditation/reaccreditation for states. Kirsten Anderson (Oregon Division of Financial Regulation) responded that during the pandemic, Oregon had large application numbers and not enough staff or budget. Erin Van Engelen (Idaho Department of Finance) indicated that in one year, MLO applications

increased by 53% but staff resources remained the same. Amy Greenwood-Field (McGlinchey Stafford) asked where automation and/or networked supervision could fit into the modernization effort. Robert Savoy (McGlinchey Stafford) noted that automated closing documentation can help process when everything else on an application is clean. Pfaff indicated that in the MTMA there is a provision for streamlined change of control. Arlene Williams (Maryland Office of the Commissioner of Financial Regulation) indicated that two of the biggest reasons for delays in approval of licenses is receiving incomplete applications and the substantial number of applications being received. Rick St. Onge (Washington Department of Financial Institutions) said that he would bring this discussion to the Performance Standard Committee for accreditation. Dave Dwyer (CSBS) indicated that NMLS Modernization efforts are prioritizing the MLO application process, with a focus on making sure applications are complete. Dyann Osowski (University Bank) commented on the difficulty of communicating with regulators about application issues, as sometimes the contacts provided no longer match who is available. Dwyer responded that CSBS plans to work on improving communication in the system. Kathryn Camp (Block, Inc) indicated that checklists are inconsistent, which creates further confusion, and recommended coordination with agencies to have more consistency. Dwyer responded that there is a checklist project currently in the works to bring more consistency in formatting and requirements.

Savoy raised concerns about the Mortgage Business-Specific Requirements Proposal. He indicated that the proposal includes some requirements that are not required across all states. Bjorn clarified that the Mortgage Business-Specific Requirements do not create a requirement but revise the definition of a start-up. Savoy raised further concern that there are system wide reporting requirements that do not exist under state law. Bjorn clarified that it would depend on the Reportable Incident Requirements by state. Savoy asked why that needs to be in NMLS. Anderson responded she wants everything to be done in the system to have a central repository and for ease of tracking. Savoy asked why this would be done through a system change rather than a change in statutes and regulations. Anderson responded that the proposal attempts to bring everyone to the same place, rather than a race for the bottom for regulation to act. Savoy raised concerns about Location Reporting, indicating that he thought we were moving away from branches, and concerns about legal location reporting requirements. Anderson responded that they need to know where records are kept and that they are going to be secure if something goes wrong. Payne said that there will be optional boxes that will require industry to mark which locations are being reported.

Dyann Osowski (University Bank) asked if the definition of business activities is being looked at. Lisa Tinsley (CSBS) responded yes, and that wholesale lending has been looked at several times without enough responses as to why it is needed, and asked Osowski to contact her directly.

Holly Millar (MCAP Mortgage) raised a concern about usage of ACH for payments. She stated that there could be potential license application delays, and then additional delays due to a ten-day hold for ACH processing. She questioned the need for the hold when companies have submitted financials and have documentation that the money is available. Anderson indicated that they will not process anything until the hold is cleared. Payne informed attendees that there are often circumstances where the ACH does not clear. Peck informed attendees that in the modernization project they will be looking at all requirements. She also stated that this topic has been approached before, CSBS is looking to states as to what they can stand behind, and that the hold does not prohibit review. Millar asked if the length of the

hold can be reduced, to which Peck replied that it is changeable, but up to the state regulators as to what they are comfortable with.

Matt Kownacki (American Financial Services Association) commended regulators for making it easier to contact them, encouraged agencies to reconsider convenience fees and how they are structured, and encouraged review of state law for differentiation around validation notices for creditors and third-party debt collectors.

Payne thanked all the attendees and participants at the meeting and reminded everyone about the public comment period on the Mortgage Business Specific Requirements proposal (due May 15). The meeting adjourned.