



**NMLS Ombudsman Meeting
Park Plaza Hotel
Boston, MA**

**MEETING SUMMARY
August 14, 2012**

Attendees:

Approximately 150 regulator and industry participants attended the NMLS Ombudsman meeting in Boston.

Introduction and Update, Tim Siwy, NMLS Ombudsman, Pennsylvania Department of Banking

Tim Siwy welcomed the group to the Ombudsman meeting and discussed the goal of the meeting - to facilitate a constructive discussion with industry and regulators focused on NMLS functionality and policy issues in a neutral location. Deb Bortner was also recognized for her time serving as the previous NMLS Ombudsman.

In addition to attending events twice a year as the Ombudsman, Siwy also addresses emails sent to the Ombudsman's inbox and refers individuals to the State Regulatory Registry (SRR), the NMLS Resource Center, or the NMLS Call Center as appropriate. He then updated the group on specific issues that have been brought up since the last meeting and reviewed the actions that have been taken to date:

Transitional Licensing: Regarding the issue of transitional licensing, there are concerns that there is a disadvantage for state-licensed mortgage loan originators (MLOs) who can only conduct business in the states in which they are licensed, while federally-registered MLOs can operate in all 50 states. Steps have been taken to try to level the playing field: a privacy wall has been set up to restrict federal institutions from viewing testing and education information for MLOs seeking state licensure, states are being encouraged to accept license applications and granting an "De Novo Approved – Inactive" license status, thus allowing an MLO to gain license approval prior to gaining company sponsorship, and there is a proposal for a uniform state test so that licensees may not be required to take a new test to move across state lines.

Branch License Surrenders: There have been concerns raised with the inability to surrender a branch license without a branch manager. Functionality is currently being developed to allow for the surrender of a branch license without a Branch Manager on the Branch Form (MU3). This will be available with the 2012.4 release in October.



NMLS Consumer Access: There have also been improvements made recently to NMLS Consumer Access to provide greater access to information to the consumer. An MLO's self-reported employment information was collapsed by default and the sponsorship/linked employment information was moved to the employment section to give a better representation of the MLOs current active employments. Additional information was added for branches (e.g. an easily accessible list of states in which the branch is licensed), and the license list was updated to display only active licenses by default.

Automation of Sponsorship Process: As not all states require sponsorship, this is not a functionality that can be fully automated. However, the NMLS is working towards implementing a linked employment process that will help streamline the flow of the sponsorship process.

Lastly, there have been comments about offering education courses for non-originating MLOs such as those engaged in loan modifications or loan processing and underwriting. Siwy would like industry to encourage course providers to provide this service.

Reciprocal Licensing, Ken Markison, Mortgage Bankers Association of America

The Mortgage Bankers Association of America (MBA) would like to propose that states adopt a reciprocal licensing provision that would allow MLOs to easily transition employment across state lines. The SAFE Act allows states to offer reciprocal licensing, but at this point in time, few states currently offer it.

Markison asked that states look at substantial equivalency of another state's requirements and accept compliance with such requirements as sufficient for obtaining a license in their state. In addition, to extent there are differences he requested that the appropriate choice is not to delay issuance of an out-of-state licensee a license, but offer a transitional license for the individual for 90 – 120 days while the individual completed any variant requirements.

A few suggestions were offered to allow for an easy transition between states. This first is for states to look at equivalent education for licensees. If there is a gap in the education requirements, do not deny the license, but offer a transitional license for a period of 90-120 days in order for the MLO to continue to work while they take the necessary education to satisfy the new licensing requirements. The MBA would like to work with SRR on the implementation of the necessary enhancements for reciprocal licensing and participate in a dialogue moving forward. The MBA would also like to hear comments and concerns from industry and regulators related to this proposal.

The question was asked if the issue is creating a level playing field or getting people to work. The MBA responded that is it both: there is a competitive disadvantage for state licensees to move across state lines that does not exist for federally-registered MLOs. Given this, there is also a desire to level the requirements for both state-licensed and federally-registered MLOs.



Bob Niemi, Ohio Division of Financial Institutions, stated that Ohio does have a bill that has passed the state senate to allow reciprocal licensing for MLOs who are requesting licensure in Ohio. Ohio has supported this bill for the last year and a half, but the details of how this will work are still outstanding. There are also concerns with how this will work during the renewal period.

Rod Carnes, Georgia Department of Banking and Finance, responded that while they understand the benefit of reciprocal licensing, they have some concerns. The first is staffing, they have a staff of 3 who process 200-300 licensing applications a month and this could add a significant burden and delay new applications. There are also concerns with licensees who may have a criminal record or credit issues. There is not a nationwide standard on criminal history and credit, and because Georgia has a high standard, they cannot assure that an individual who is licensed in another state would meet the requirements for Georgia. The processing time for a new license in Georgia is approximately 2 weeks, so this should not be a significant burden on a new licensee.

Rose Patenaude, HSBC asked if the talk of a reciprocal license is in the context of a state license to state license transition. The MBA responded that the proposal is specifically for a state license to state license transition. Rose then asked if there would be consideration for a transition of a federally-registered MLO applying for a state license. The MBA responded that there has been discussion with the Consumer Financial Protection Bureau (CFPB) regarding this, but an employment move from a federally-registered institution to a state-licensed company was not allowed under the reciprocal license rule. Tim Siwy stated that as the education and testing requirements are the most difficult to achieve when moving from state to state, the uniform state test may be a step toward a smooth transition.

Jack Konyk, Weiner Brodsky Sidman & Kider, commented that testing and continuing education are an issue with a state-to-state move and having state-wide recognition of testing and education information would be a vast improvement. He recognized the staffing issues in Georgia, but the hope is that the processing time for these licensees will be decreased and not an extra burden on staff, and asked if it would make sense for a transitional period when moving between adjacent state or intra-company? Gus Avrakotos, K&L Gates, suggested moving forward with a single, nationwide license. The requirements for this license would follow the requirements for the strictest state to adopt the license. Rod responded that they would like to offer a license as quickly as possible to a qualified candidate. However, by statute, they cannot offer a transitional license; they also cannot assume a licensee from another state is qualified to conduct business in Georgia.

The MBA then asked Georgia if they require education for licensees. Rod Carnes responded that Georgia does require education and testing for licensure and all licensees, no matter how experienced they may be, will have to go through the same application process. If they are a felon or have credit issues, Georgia cannot run the risk of these individuals not meeting requirements. Jim Copeland, South Carolina Board of Financial Institutions, also asked if there had been any discussion about requiring federally-regulated MLOs to take pre- and continuing education courses. Gus stated that there is currently an underlying distinction between mortgage companies and financial institutions.



Anne Balcer Norton, Maryland Office of the Commissioner of Financial Regulation, stated that from an industry perspective, it makes sense to have a reciprocal license. However, from a regulator perspective, there may be statutes that do not allow this. For example, in Maryland, they may have a hard time rescinding their state-specific CBC and use the federal only CBC. It will be hard to remove the Maryland-specific requirements enacted to protect Maryland consumers. Maryland has allowed for an Approved-Inactive license to help with the transition across state lines.

Hayden Richards, Dykema, made the comment that some states claim that they do not have statutory authority to issue a de novo license and asked if this can be fixed with legislation? Are there any negative consequences to issuing an inactive license? Tim Lange, CSBS, responded that currently, 24 states can issue a de novo license. Kirsten Anderson, Oregon Division of Finance and Corporate Securities, responded that Oregon needs a specific “statement of need” to propose a change in legislation; they would need specific data from industry that they can present with the legislation. There would also be an increase of work because they would now have to look at an application twice.

Tim Siwy indicated that we have to wrap up the topic and will continue the discussion at a later time. It is understood that there are legislative challenges to overcome in order to make transitional or reciprocal licensing a reality.

Exempt Company Registration, Kathleen Egan, Radian Guaranty, Inc.

Ms. Egan discussed some of the difficulties that mortgage insurers are facing in attempting to comply with the SAFE Act requirements for licensure of independent contractor underwriters. Mortgage insurance company affiliates only provide underwriting services to lenders and do not meet the general state law definitions of “mortgage broker”, “mortgage lender” or “mortgage banker”. Because such companies do not engage in mortgage broker or lending activities, they are not required to be licensed and thus should be exempt from state broker license requirements so they can sponsor their individual underwriters applying for state loan originator licenses through an exempt company registration on NMLS. However, some states do not allow this process and would require a license which presents additional issues. For example, Radian cannot obtain a surety bond because they do not meet requirements, or are very expensive to insure. There are also challenges with submitting financial statements and the net worth requirements because financials are reported differently for insurance companies; they are reported at the holding company level.

The proposed solutions are that the MI Affiliate should be granted exempt company status in all states so they may sponsor their underwriters who become licensed loan originators. Alternatively, if states determine that a company license is nonetheless required in order to sponsor the underwriter, the Texas model offers a reasonable solution. Texas offers an “Independent Contractor Processor/Underwriter Company License”, and such license may be obtained upon payment of an application fee and submission of an MU-4 by a licensed individual.



Tim Siwy mentioned that states could look into having another “group” fit into the MU1 model. Some states have strict requirements and Radian does not fall into any category. Pennsylvania does not have an issue with this, but forming a committee to examine further makes a lot of sense.

Tom Brennan, Massachusetts Division of Banks, asked if there was a consistent shortfall in the financial statement requirements. Radian stated that most states ask for company-level financial statements, but that it is not available because all financial information is reported at the holding company level. Stacey Valerio, Connecticut Department of Banking, stated that if the company is exempt, they may not need to view financial information. Gus Avrakotos, K&L Gates, stated that from a historical perspective, an exempt company is a company who does not need to be licensed, but employs MLOs and needs to sponsor their licenses. NMLS has a system that allows companies to register so they can sponsor MLOs, the MU1 should be modified to allow for other non-banks to register (i.e. create an “MU1 Lite”).

Tim Siwy asked for input from other regulators. Kristen Anderson, Oregon Division of Finance and Corporate Securities agrees with Gus and has a paper application for non-profit companies. They could work with Radian to get past the financial statement requirements, but the surety bond is a statutory requirement. Tim Siwy stated that this information would be taken to the appropriate working groups for discussion on how to proceed.

Document Upload and Disclosure Explanations in NMLS, Rose Patenaude, HSBC

Release 2012.2 included new requirements and processes regarding document uploads, disclosures, and form changes. Some regulators were very specific as to what the requirements were for these updates, but there was not a "master document" of what needed to be done for each state. Due to HSBC's structure, it had to add information for 18 state-licensed companies. There was a long list of items that needed to be uploaded and some states wanted retroactive information which resulted in some prohibitively large files and documents that exceeded the 8 MB file limit. Rose contacted Tim Lange, CSBS, and was offered a window of time to upload the documents because the system needed to be updated to allow for this. It was difficult to work under this constraint.

Tim Siwy stated that most states requested that documents be uploaded from a certain period forward, but asked if there were any states that required additional historical documents. Sue Clark, Vermont Department of Financial Regulation, indicated that Vermont did request that all historical documents be uploaded. The state has numerous paper records and is moving towards making NMLS the system of record. Sue then asked if Rose was referring to the types of document all regulators want, or documents related to “yes” disclosure responses? Rose responded that her biggest concern was the formation documents as these often have many amendments. Tim Lange, stated that the file size limit in NMLS is set for security and performance reasons, Rose did reach out to him and they are working together to accommodate the upload concern



Gus Avrakotos, K&L Gates, then asked if there a concern with a security breach of information that is uploaded to NMLS. Does it raise questions of confidentiality and data security? This topic was tabled as it does not relate to the issue Rose raised.

Amy Greenwood-Field, Nebraska Department of Banking & Finance, stated that Nebraska required a full history of documents, but that some licensees were contacting the agency because they did not have their own documents. Rose also pointed out that because documents are not static, they will need to be constantly updated in NMLS. Sue also suggested that licensees could update an original document and amendments as additional documents; this would mean that the agency would only need to review the changes rather than re-review the entire document. Rose stated that the policy guidebook is generic and does not say that multiple documents of the same type can be uploaded. Prior to 2012.2, HSBC only answered yes or no for disclosure questions. Now that there is disclosure explanation functionality, is the intent of this to upload a version of this for each state, as there is state-specific information?

Kristen Anderson, Oregon Division of Finance and Corporate Securities, indicated that Oregon also required that full historical information would be required for licensees in Oregon. They want to review everything and compare to historical records as there have already been some discrepancies found. Rose then asked if the information being required is already public on another state's site; can a link or docket number be provided? Kristen indicated that State Regulatory actions in NMLS can be referenced, but links will not be accepted because web addresses often change. Rose indicated that not all states, including Oregon, were uploading old state regulator actions in NMLS. Kristen responded that it is a reasonable request to have licensees provide the information on a filing if they want to obtain or maintain licensure.

Anne Balcer Norton, Maryland Office of the Commissioner of Financial Regulation, stated that NMLS is an amazing tool for all states and shows how far they have come. NMLS needs to be the system of record, period. CFPB will be engaging and looking to NMLS as the system of record. Jack Konyk, Weiner Brodsky Sidman & Kider, indicated that while having the entire document is great, having a redlined or appended version would be better. He also said that there needs to be a better indexing system for these documents. If original and supplemented documents are uploaded separately, we need a better way to index so that the documents can be tied together for review. Gus also suggested that NMLS should look into a way to have information uploaded to a separate worksite for security purposes.

This is an ongoing issue that state regulators will continue to work with industry to develop document upload conventions and requirements.

Implementation of Updated NMLS Forms, Sam Wolling, Prospect Mortgage

Prospect Mortgage would like to see an MU2 form independent of the MU1. Currently there is not an ability to create an MU2 without first creating an MU1. This becomes an issue when the individual's information changes. There should also be a way for a majority of MU2 individuals to attest in a group



so that it does not hold up the MU1 submission process. There also needs to be a way to disable the CBC and CR request because they are not necessary.

There were also a few suggestions on ways to improve the system:

- Expand the definition of “non-depository” to include the term “mortgage.”
- For new companies who are joining NMLS there will be an onboarding of branches and a number of MU3 filings for users to manage. To make the process run smoothly, add a flag to the MU3 filing list to indicate that the filing is ready for submission.
- Allow for a group submission of the MU2/MU4 and MU3 filings when there are changes related to individuals.

The initial NMLS transition was very successful because there was a chart that showed the progress and was tracked and a single source of information, but there are a few items that regulators should address:

- The definition of foreclosure needs to be consistent across all states. This could cause a yes disclose response in one state, but a no in another.
- With regards to the document upload functionality, there needs to be a single place to document all uploaded materials related to disclosures and orders.

Tim Doyle, CSBS, commented that the form version roll out involves a lot of coordination among regulators, but had brought many improvements in the information provided for regulators. As updates are made, this will become a continual process to update regulator requirements. With the 2012.2 form version updates, SRR did not create a requirements chart because not all states adopted the same deadlines for submission. Each state established a policy and SRR did not want to have a single chart that could easily become outdated. While charts are useful, keeping them up to date is very labor intensive.

SRR agrees that various definitions should be consistent and is constantly working with the states to move toward this. One initiative to aid in this is the Uniform State Test (UST). The intention of the UST is that it will be developed in accordance with universal definitions, but is also mindful of state-specific definitions. The NMLS Policy Guidebook is updated to include these universal policies. With the 2012.4 release there will be additional help tools, including a static guidebook that will be updated throughout the year.

Open Discussion Topics

Kristie Battershell, Quicken Loans

Kristie brought up the issue of states that require MLOs to be licensed in their home state to originate loans in another state. This could cause a potential job loss for an MLO who is not able to obtain a license in their home state. The biggest change is not testing and education requirements, but rather the



criminal background check (CBC) and credit report (CR) requirements for each state. This can hinder the candidate pool for larger companies, such as Quicken Loans.

Tim Siwy indicated that this is not a new topic, and this issue has been examined in the past. The Pennsylvania Department of Banking did review this last year and is in the process of removing that requirement. Some regulators have indicated that they do not want to remove home state licensing policies because they do not want to become a safe haven for some state-licensed companies and MLOs.

Sue Clark, Vermont Department of Financial Regulation, indicated that Vermont requires that MLOs be licensed in their home state and in all states in which they conduct business. This relates to the issue discussed earlier with reciprocal licensing. If an MLO is unable to obtain a license in their home state this may cause concern for other states when reviewing the licensing application. Tim Siwy also mentioned that this may be an unnecessary financial burden for an MLO who would never originate loans in their home state.

Kristie indicated that Quicken Loans supports the idea of uniform education requirements. They may have an MLO who is licensed in 20 states, but it having trouble getting licensed in the 21st state because of different education requirements. Tim Siwy reminded industry that the states are moving toward uniform education requirements, but there is not much that can be done without a change to the state's statute. He also stated that education is not the only item restricting licensure. States look at other requirements, such as criminal activity. Pennsylvania, for example, does have additional requirements above and beyond other states.

Kristen Anderson, Oregon Division of Finance and Corporate Securities, indicated that industry may want to hesitate asking for uniform requirements across states, as the tendency is for states to adopt the strictest requirements. In Oregon, home state licensing is not required unless your home state is Oregon. But when reviewing license applications, if an MLO is not licensed in their home state it does raise a red flag. Bob Niemi, Ohio Division of Financial Institutions, indicated that Ohio does have a home state licensing requirement.

Jennifer Edwards, Primary Residential Mortgage

Edwards reported that there is a state regulator who says that their agency's website is the system of record, not NMLS. There is an MLO who is currently employed with Primary Residential Mortgage who shows an approved license in NMLS, but the license is expired on the agency's site. Because NMLS shows that license as approved, the MLO is not able to reapply for the license through NMLS. Tim Siwy acknowledged this issue and said he would reach out to Primary Residential Mortgage to address the issue outside of the Ombudsman meeting.



Tanya Anthony, GMAC Mortgage

Tanya Anthony asked what changes can be expected in the October 2012 system release that will affect renewals. Tim Lange, CSBS indicated that there will be workflow changes for individuals. Vickie Slater, CSBS, mentioned that there were not any changes in the 2012.3 release that will affect renewals, but that there will be a change for companies in 2012.4 in that regulators be able to indicate if the presence of an MCR license item will prevent renewal of the company license.

Tanya indicated that most states say that a credit report is required to be completed within 30 days of the attestation. Is this going to be an issue if there is a 30 day lag in the attestation of an individual and when the company submits the renewal request? Vickie Slater indicated that there was feedback from industry that CBC and CR requests need to be included in the renewal requests. There will be a policy update to allow an MLO to authorize CBC/CR during the renewal period.

Gus Avrakotos, K&L Gates

Gus wanted to reiterate three issues that had been previously sent to the Ombudsman in an email.

- After the 2012.2 release, there are some inconsistencies in the disclosure questions on the individual form. The new questions on the individual form now require the individual to answer a question if you've exercised control over an organization that is a bad actor. Should the branch manager or the qualifying individual need to answer yes to the question of being "in control"?
- The company disclosure questions only request information regarding regulatory sanction for the past 10 years, but individuals are not bound by this same requirement.
- On the previous company form, companies needed to identify pending proceedings. The question was changed to remove proceedings, was this intentional? On the individual form is there a need to identify any pending regulatory action proceedings?

Closing Remarks

Tim Siwy made closing remarks and thanked everyone for their participation in the meeting.