

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

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

1. NMLS Ombudsman Update

Scott Corcadden, NMLS Ombudsman

Supervisor, Bureau of Loans, Alabama State Banking Department

Scott Corcadden started by explaining the purpose and goal of the NMLS Ombudsman and the in-person meetings. He noted for the last 10 years, the NMLS Ombudsman meetings have provided a safe space for users and stakeholders of NMLS to discuss issues or concerns regarding NMLS. He also stated that this meeting was the 21st NMLS Ombudsman meeting and Corcadden's 9th and final meeting as the NMLS Ombudsman.

Corcadden reported that in addition to topics raised at the open NMLS Ombudsman meeting at the 2019 AARMR Conference, the Ombudsman received 89 emails between August 1, 2019 and February 1, 2020. The emails were reviewed by the Ombudsman, who either responded directly or referred the question to SRR staff. Many of the questions were answered with help from the NMLS Call Center, various departments within CSBS, state regulators, or the CFPB. The top five categories addressed during the last six months, in order of frequency were entitlement issues (password resets, account access), how to file consumer complaints, renewal related, Temporary Authority (TA) related, License Application related. Over Corcadden's tenure as the NMLS Ombudsman, responses have been provided for more than 700 inquiries.

Corcadden updated attendees on an issue that was initially discussed during the Ombudsman meeting at the 2019 AARMR Conference and subsequently escalated to the NMLS Policy Committee, which was related to the posting of Non-Disclosable Events as Regulatory Actions in NMLS and how other state regulators should use the information shared with them. More information on the specific issue can be found in the summary for the [August 2019 Ombudsman meeting](#) on the NMLS Resource Center. To resolve the specific instance of this issue discussed at the meeting, Corcadden worked with the states involved to come to an understanding about how this information should be used. This issue was then discussed at length with the NMLS Policy Committee which, in January, approved related guidance be added to the NMLS Policy Guidebook.

Corcadden noted that over the last two years, the Ombudsman has received numerous requests to enhance the current version of NMLS. Two of the exhibits submitted for this meeting, by Katy Ryan of Buckley LLP and Cindy Corsaro of Promontory Fulfillment Services, suggested NMLS enhancements that would improve the system. Corcadden asked Vickie Peck (CSBS) to provide an update of what stakeholders can expect for NMLS and Kelly O'Sullivan (Chair, NMLS Policy Committee, & Montana Division of Banking & Financial Institutions) to provide an update on the modernization of NMLS.

Peck stated FINRA staff has been scaled down because NMLS is in maintenance mode at this time. The NMLS Operations team is still taking requests for system enhancements, however

priority is being given to bug fixes and updates needed to improve functionality for TA. Peck added that whenever we need something, FINRA must pull resources from somewhere else. Peck added the NMLS Operations team will be working with the Business Services team to prioritize system enhancements. Peck reiterated there are no major development releases taking place right now; only small maintenance releases are being performed.

O'Sullivan began the update on NMLS Modernization by expressing that in many ways, we are still stuck in a system of 64 state agencies working differently. O'Sullivan said we now have to progress. "This is our innovate or die moment." O'Sullivan continued by stating networked supervision will allow us to work more efficiently, for example, through using data analytics. O'Sullivan further expressed it may feel like to you [attendees] nothing is happening, but we are starting to work through what network supervision means and how it will allow us to move forward. O'Sullivan closed by stating our goal is to be able to make the licensing process in NMLS faster, cheaper and more efficient.

2. NMLS System & Process Improvements

Dan Ladd, APPROVED | Buckley LLP

Dan Ladd focused her discussion on "PRIVATE" license items in NMLS. Buckley has 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. Ladd stated that Buckley understands that some items may warrant this designation beyond credit or CBC, but a number of states are marking 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 with resolving these issues, which may or may not be within their control. Ladd requests 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. Ladd stated these scenarios, as described above, primarily impact companies with many MLOs. Ladd gave the following examples: license items in which an individual has a deadline of one month; a letter or email has been delivered to the individual; application is under review; and surety bond coverage reminders. Ladd provided two recommendations to state regulators: 1) only apply a license item if the company cannot resolve the issue and 2) provide more regulator training.

Gloria Williams-Ortiz (Colorado Division of Real Estate) responded the license items box is automatically checked off as a default. Kirsten Anderson (Oregon Division of Financial Regulation) added the license item default is for certain types of licenses. Phyllis Berry (Vermont Department of Financial Regulation) stated that if a regulator selects "custom license item" it defaults to private. Berry added a regulator has to know to remove the check. Dana Melanson (Sourcepoint, Inc.), stated there is a chart in NMLS that tells you which items will automatically default to "private." Peck responded by sharing the license item default is an intentional enhancement that was made in NMLS over the past year because of some instances that have occurred over time resulting in the need for such a system enhancement. Peck acknowledged there is a training opportunity and NMLS Operations can send out more communication about this enhancement. David Shirk (Shirk Law PLLC) suggested NMLS display a pop-up when a regulator is adding a custom license item to indicate if the item is confidential or not.

3. Regulator Communication, State Examinations & NMLS Improvements

Cindy Corsaro, Promontory Fulfillment Services

Cindy Corsaro made a request all regulators to not conduct compliance examinations with deadlines during the NMLS renewal period. For most entities these exams put extra burden on top of the annual renewals. Further, Corsaro raised an issue with ACNs not being approved by regulators, which creates issues for industry when an ACN effective date has passed. Corsaro stated industry is uncertain if they should just assume compliance. Corsaro recommend that regulators pay attention to ACN requests. Corsaro also suggested having a resource created to clarify which regulators use the Advance Change Notice (ACN) NMLS statuses to help licensees confirm review of the submitted change.

Stephanie Buonomo (CSBS) stated she will escalate this issue internally and find out if the License Information & Fee Environment system can be updated to track this issue, which was also brought up in the meeting submission by APPROVED | Buckley LLP. Gus Avrakotos (Mayer Brown LLP) followed by asking Corsaro if her question about ACN's meant states do not have a requirement. Avrakotos said he assumes, like Corsaro, these ACN's would be approved. Corsaro responded these states do require can, but do not uniformly use the ACN status in the system.

Corsaro encouraged industry to talk to regulators to get problems solved. In response, Scott Corscadden (NMLS Ombudsman) stated Alabama State Banking Department has a one-week downtime for compliance exams during the renewal time of year. Bill Poe (Texas Department of Savings & Mortgage Lending) shared how they manage mortgage exams around this time to help alleviate burdens. Poe reiterated the importance of communication to examiners and regulators as this type of change can be accommodated; and ask the industry to open that dialogue.

4. State Temporary Authority Overlays

Robert Niemi, Bradley

Robert Niemi thanked the Ombudsman for his efforts to help guide problems towards their solutions through the open meetings and CSBS for their support of his work. Niemi requested that an additional resource be created to track state agency implementation of laws and legislation related to S. 2155 Temporary Authority to Operate (TA). Niemi stated that several states passed state law and regulatory updates in the months leading up to November 24, 2019. Even though CSBS stated that state agencies did not need to implement any new or update any existing state laws with the implementation of TA, in the weeks prior to the TA effective date, many states implemented laws with overlays and requirements for TA, including Georgia Department of Banking and Finance, Colorado Division of Real Estate and New York Department of Financial Services. These state agencies were active in layering additional restrictions and requirements on top of the NMLS required items for eligible mortgage loan originators (MLO) who wish to avail themselves of TA. Additionally, Niemi is aware of ten other state agencies that modified their rules or legislation to augment their state licensing process. Niemi expects more agencies to take similar actions in the future.

Niemi went on to explain that these additional state requirements could have severe implications to the TA eligible MLOs and their sponsoring employer. To aid industry in their

understanding and compliance, Niemi requests the creation of an additional tool or resource with the TA page of the NMLS Resource Center to track the states that have passed TA related legislation. Niemi acknowledges that no resources on the NMLS Resource Center will replace the review of state statutes, but NMLS already provides similar information with the State Licensing Checklists and links to state agency websites. The creation of this resource would also be in line with the state efforts of the NMLS Resource Center and CSBS's Vision 2020.

Niemi also asked each state in attendance at the meeting to share their implementation updates and then follow-up with the Ombudsman for their state's inclusion in the new resource.

Bill Young (CSBS) responded by stating the NMLS Business Services Team already started vetting Niemi's request internally and will begin working with state agencies to compile this information. Young acknowledged the information will include a disclaimer stating it is not the definite source of updates on state requirements for TA; state agencies will remain the direct source.

5. Nationwide Implementation of Temporary Authority

Kobie Pruitt, Mortgage Bankers Association

Kobie Pruitt provided some background on the Mortgage Bankers Association (MBA) support of S. 2155 Temporary Authority to Operate (TA). He noted that the MBA appreciates the work of CSBS and state regulators in preparing for the implementation of TA. Pruitt thanked the community for working with industry in previous years to develop the TA language. He acknowledged the significant effort that was made to ready NMLS for TA, however, there are still some issues that require the attention of CSBS and state regulators.

Pruitt questioned how we ensure aggregators are comfortable with accepting loans originated under TA and what tools are still needed to disseminate accurate information and avoid confusion about TA. Bill Young (CSBS) responded by asking Pruitt to inform SRR if there are any specific requirements MBA is seeking.

Pruitt also asked if CSBS will regularly release data on the implementation of TA, 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. Young responded by providing the following current statistics for MLO license applications:

- 51 percent – de novo applications
- 35 percent – moving state-to-state
- 12 percent – moving from federal
- 1 percent – disqualified

Young added that review turn times for TA eligible applications decreased from 17 days to 14 days, while turn times for de novo applications have increased. This increase in de novo application turn times depends on the state agency and their process. Kelly O'Sullivan (Chair, NMLS Policy Committee, & Montana Division of Banking & Financial Institutions) stated some licensees are preferring to wait until January to have new licenses approved instead of getting approved within the same year and that license being valid for only two months. Kirsten Anderson (Oregon Division of Financial Regulation) stated de novo applications are taking longer to process at her agency because they are giving priority to the TA applications.

Gus Avrakotos (Mayer Brown LLP) expressed TA is hard to implement. Avrakotos added he didn't see why a licensee couldn't be quickly approved in another state; why a state wouldn't quickly recognize another state's approval of TA. Avrakotos recommend regional compacts be considered for TA. Anderson responded by giving an example of a fraudulent mortgage licensee being caught as to why it still takes time for an individual agency to process license applications. Anderson reinforced that he agency still has to take time to review application questions.

Kevin Hagler (Georgia Department of Banking and Finance) stated the agency is sensitive to the process of reviewing TA applications as well. Hagler stated Georgia rejects approximately 30 – 40 percent of TA applications due to applicants not always providing the documentation required. Hagler added that is why the agency feels their early decision to require additional disclosures is effective based on early statistics. Rod Carnes (Georgia Department of Banking and Finance) added the agency has seen a 50 percent increase in applications. Like Oregon, this increase is having an impact on Georgia's processing times. Carnes stated the agency does not always receive Criminal Record History Information documents within two days. Also, applications are not considered complete if there is no sponsorship. In some cases, the agency receives applications from individuals who would not have been qualified even before TA. Carnes recommended that a TA opt-out button be added in NMLS. The audience applauded.

Robert Niemi (Bradley) responded, seeking clarity on Georgia's reference to additional disclosures. Niemi then discussed the possibility agencies may have to carry the burden of other states as we go down the path of networked supervision.

Pruitt also discussed consumer disclosures required by states when originating a loan under TA. He noted that the MBA does not believe a disclosure is necessary, as federal law clearly permits activity under TA. Pruitt stated that if regulators choose to follow Georgia's recent example and require state-specific disclosures regarding a loan originator's TA status, it is imperative the standard be that state regulators use NMLS ID numbers and direct consumers to NMLS Consumer Access to determine an MLO's qualification to originate loans. MBA is willing to work with states and provide model language that would direct potential homebuyers to NMLS Consumer Access and other NMLS Resources.

Pruitt also encouraged CSBS and state regulators to consider developing NMLS functionality that enables states to use TA for intrastate transitions. This would provide states with the option to allow MLOs that have already fulfilled state requirements to continue working without a break in service.

Avrakotos continued the discussion stating in the last few years, we have seen other industries coming onto NMLS, but we are using the same requirements for mortgage licensing as we are for other industries. Avrakotos added it seems appropriate to structure NMLS in a way that makes sense for licensing for these other industries.

Tim Doyle (CSBS) asked Avrakotos for clarity regarding his request that standardization not be a one size fits all for all industries (e.g., control and control persons identification requirement, 10 percent ownership). Doyle expressed it has been a stated goal to collect as much state-specific information within NMLS, not outside of it. Doyle reinforced that "harmonization" will require us to have standardization. O'Sullivan responded, also reinforcing the move toward more common standards.

Jedd Bellman (Maryland Office of the Commissioner of Financial Regulation) stated the Multistate MSB Licensing Agreement Program (MMLA) provided the agency an example of how greater standardization can be helpful, provide more rational processes.

Dana Melanson (Sourcepoint, Inc.) stated the issue her company finds is some licenses will require something, but it is not equal across the board and we do not know if it is needed or not. There is no way to differentiate nuances in NMLS.

David Shirk (Shirk Law PLLC), stated sharing data becomes problematic when the software system is forcing a licensee to provide information that is not needed for a specific license request. Avrakotos responded NMLS attestation may need to be revised on this basis. Doyle reinforced state agencies must agree to collect only information that is required. Doyle also rejected the idea of “regulation by software.” Avrakotos responded to further reinforce the value of not collecting information that is not needed. Avrakotos also reinforced the need for common ground.

Doyle urged the need to be clear about “standardized processes” versus “standardizing information requests.” Bellman stated in the example of the MMLA, the more requirements collected and reviewed in Phase Two, the longer the process will take. Anderson stated NMLS was the gold standard for Oregon.

Shirk expressed state authority to collect data should be more selective, for example, credit and criminal history information being requested when it is not needed. Doyle stated the NMLS Policy Committee issues requests for public comment on significant issues related to changes in information being collected.

6. Mortgage Call Report

Richard Cortes, Connecticut Department of Banking

Richard Cortes (Connecticut Department of Banking) requested that version 6 of the Mortgage Call Report (MCR) be implemented in NMLS as soon as possible because states are not receiving the information they need, causing some states to ask companies to file the expanded MCR when they should not. Since the estimated timeframe to start NMLS Modernization development is not until the quarter 3 2020 and system availability is still to be determined, continuing to defer the latest version of the MCR is problematic. Cortes further requested that states not ask licensees to file the MCR incorrectly. Instead, please workaround this by requesting the submission of information outside of NMLS.

Cortes also requested industry be given enough time to code and prepare their own systems for the modernized NMLS. He added the way regulators are going to receive better data analytics is to have the new MCR implemented as soon as possible. Cortes added regulators are moving away from expanded and standard filings to business activities-based filings.

Tim Doyle (CSBS) stated there is no timeline yet for a new system to accommodate implementing a new MCR, but we are ensuring MCR filing changes that may occur take place before January of a new year.

7. Money Services Businesses Call Report Due Date Changes

Paul Ferree, CSBS

Paul Ferree (CSBS) acknowledged SRR did not provide adequate notice to state agencies and industry regarding a recent change in the Money Services Businesses (MSB) Call Report fourth quarter due date. Ferree stated NMLS policy does not override state statute. As a result, all states will have to determine if they are able to adopt the new fourth quarter due date. Going forward, SRR will continue dialogue with state agencies regarding these changes.

Adam Johnson (Washington Department of Financial Institutions), a member of the MSB Call Report Working Group, discussed why the policy change for MSB Call Report fourth quarter due date was made. Johnson stated the policy was not an attempt to change state law.

Leonard Ryan (QuestSoft) recommended the first quarter MSB Call Report deadline be extended to alleviate trying to meet both a fourth quarter and first quarter deadline within the same quarter of the new year.

8. Open Discussion

Christen Summers (Primary Residential Mortgage, Inc.) raised the issue of companies not providing sponsorship for Temporary Authority to Operate (TA) eligible MLOs. Bill Young (CSBS) responded there will be upcoming releases to address these issues. Young also asked Christen to follow up with him offline about this.

Dana Melanson (Sourcepoint, Inc.) raised the issue of some MU2 information being asked for outside of the system. Stephanie Buonomo (CSBS) responded she will follow up with Melanson to get more information about this issue.

David Shirk (Shirk Law PLLC) recommended the completion of continuing education (CE), a SAFE Act Testing and Education requirement, be permissible in satisfying the pre-licensure (PE) education requirements when applying for a new license in other states after PE may have expired. Cindy Corsaro (Promontory Fulfillment Services) acknowledged Shirk's recommendation and provided an example in which an experienced loan officer, who has satisfied CE requirements for years, was being required to retake PE courses to satisfy new application requirements. While acknowledging the requirement makes sense for brand new licensees, Shirk requested a change in this requirement be taken into consideration for experienced MLOs. Corsaro stated she would like to see some reform in this area as well.

Shirk also proposed the establishment of a conversation log in NMLS for managing responses to license items issues that occur outside of the system.

Robert Niemi (Bradley) asked about the status of creating a working group to address the issue of commutable distances for branch licenses. Stephanie Buonomo (CSBS) stated a conference session on this topic was being held during the conference. Gus Avrakotos (Mayer Brown LLP) stated it would be good to hear which states do not require branch licensing. Corsaro (Promontory Fulfillment Services) responded eight states do not require branch licensing. Gloria Williams-Ortiz (Colorado Division of Real Estate) stated Colorado does license branches.

Shelton Jolivette (Sutherland Global Mortgage Services) acknowledged communications received over the last 24 months have been great, but there is no way to respond to license items in NMLS. Jolivette also raised the issue of how to designate a MLOs as W2 employees or non-W2 employees. Bill Young (CSBS) responded he will follow up on this.

Melanson requested the ability to receive a report of employment classification. Jolivette followed up to share that NMLS Call Center staff helped him find this workaround. Shadaria Kemp (NMLS Call Center) shared a solution for running these reports in NMLS.

Wilbert Hardy (QCP Systems, Inc.) stated the amended MCR report is not updating the historical MCR report filing which is an issue. Paul Ferree (CSBS) stated he will check into this.

Corscadden thanked all the attendees and participants at the meeting. Corscadden also acknowledged tremendous support from the NMLS Call Center. The meeting adjourned at 11:37 a.m.