



NMLS Ombudsman Meeting
2019 NMLS Annual Conference & Training
Hilton Orlando Lake Buena Vista, Orlando, Florida
Palm Ballroom 1/2
February 20, 2019, 9:00 a.m. to 12:00 p.m. ET

Agenda

1. **Scott Corcadden, *NMLS Ombudsman & Supervisor, Bureau of Loans, Alabama State Banking Department***
 - Welcome, Ombudsman Update & Issue Review

2. **Cindy Corsaro, *Promontory Fulfillment Services LLC*** Exhibit 1
 - Regulator Communication & NMLS Improvements

3. **Costos Avrakotos, *Mayer Brown LLP*** Exhibit 2
 - Accelerated Transitional Mortgage Loan Originator Authority

4. **Kobie Pruitt, *Mortgage Bankers Association*** Exhibit 3
 - Limiting Access to MLO SAFE Test and Pre-License Course Information

5. **Tanya Anthony, *APPROVED, Buckley LLP*** Exhibit 4
 - Timing Requirements for Submitting Secretary of State Documentation

6. **Katy Ryan, *Buckley LLP***
 - Discuss Duplicative State Licensing Systems & Inconsistent Adoption of NMLS

7. **Open Discussion**



January 28, 2019

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

Re: NMLS 2019 Ombudsman Meeting topics – Cindy Corsaro

Dear Scott:

Thank you for your request for discussion topics for the Ombudsman Meeting at the NMLS 2019 Annual Conference in Orlando. My comments fall into two broad topics – Regulator Communication and NMLS Improvements:

Regulator Communication:

- 1) Thank you to the (10) state regulators who understood and responded to our issue with conflicting state-specific requirements regarding our company Business Plan and worked with us to waive the single plan only requirement listed in their Application Checklists. Your collaboration and understanding were greatly appreciated – the Ombudsman Meetings work!
- 2) Kudos to Michigan, where they have a “Visitation” call prior to scheduling their examination, and New Mexico, who has an “Entry” call when the examination is scheduled. We found it extremely helpful to know what would be expected during our initial examinations, and it provided the opportunity to review whether any activity had occurred that would warrant an examination. It would definitely be a welcome addition if all states could provide this opportunity to discuss expectations and help us prepare for what is required once their examinations begin.
- 3) Thank you to regulators who now provide contact information in their Deficiency posts. For those who still do not do this, please consider adding this information for better collaboration. There is still some room for improvement, as some regulators do not respond to calls or emails re: deficiency response questions in a timely fashion, if at all. Deadlines are imposed by regulators and applications can be withdrawn if we don’t respond on time. Please remember that industry is not reaching out to bother you - we are trying to be efficient and responsive to your requests and requirements.

NMLS Improvements:

- 1) Please add a list in NMLS of Annual, Semi-Annual, and Quarterly Reports still required outside of NMLS for those regulators that require them. The functionality could be similar to the renewal spreadsheet and would be very helpful to industry.
- 2) Please consider adding a State-Specific Chart with requirements for Change of Control, Address updates, addition of QI, addition of Control Person, etc. so we don’t have to search each state when faced with one of these updates in NMLS.
- 3) In the MCR, if a global “No Activity” button could be added so that you can check “No Activity” for all states at one time, it would be very helpful, so you don’t have to enter for each state – especially if you are a non-originating entity. This is cumbersome and time-consuming when in 48 states!

- 4) The ability to use a date in the past is important for changes in some fields in the MU1 filing. For example, to enter a Name Change for an Indirect Owner, we must enter a current or future date. There are times when we find out after the fact or by the time all Control Persons attest, the date is in the past.
- 5) More room is needed for explanations of Indirect Owner name changes and ACN document uploads (currently 100 characters), and record keeping information (currently 512 characters). This is an issue when states request specific information to be included. I had a situation where not only did I have to abbreviate the state-mandated wording for a record keeping requirement, but then I had to explain to the regulator via email that NMLS could not accommodate the correct wording to meet their requirements. Since certain sections currently have different character limits allowed, in addition to increasing the limit it would be useful to make the fields a uniform size, so we know what to expect.
- 6) A “review” panel to see changes being submitted on the Attestation page for all filings, with links back to the related sections, would be helpful before the final click to Attest and Submit.

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

Sincerely,

Cindy Corsaro
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January 30, 2019

Scott Corscadden
Ombudsman
c/o Conference of State Bank Supervisors
Ombudsman sessions at the 2019 CSBS NMLS
Conference

Re: Accelerated Transitional Mortgage Loan
Originator Authority

Dear Mr. Corscadden:

For years, at the Ombudsman session of each conference of the State Bank Supervisors (“CSBS”) or the American Association of Residential Mortgage Regulators (“AARMR”), our good friends at the MBA have raised the possibility of states (i) providing for the expedited approval of a mortgage loan originator license for a registered mortgage loan originator transitioning to a state license status, or (ii) allowing a registered MLO to originate mortgage loans while his or her license application was being processed. Good arguments were put forward by the MBA for allowing this. Equally sound arguments were presented by a number of state regulators as to why this practice should not be permitted. Regulators in some states allowed this. Legislators in some states amended their state SAFE Acts to provide for this.

Last year, of all the many national issues before them, the Congress and this Administration found time and common ground to enact the Economic Growth, Regulatory Relief, and Consumer Protection Act, S. 2155, to amend the Federal SAFE Act to allow for the continued origination of mortgage loans by (i) registered MLOs transitioning from being employed by a depository institution to a state-licensed mortgage finance company, and (ii) licensed MLOs transitioning from one state licensed mortgage finance company to another licensee, licensed in a different state or states. These amendments to the SAFE Act also would provide state-licensed MLO’s with certain authority to originate loans in states in which the person was not licensed, but in which his or her sponsoring company was licensed. The authority is temporary—lasting only up to 120 days, (but under certain conditions can exceed 120 days). Plus, the authority is conditional, with limits in place so this authority is not abused. These amendments to the federal SAFE Act do not take effect until November 24, 2019. At that time, the states will need to follow the Federal SAFE Act Rule (12 CFR, Part 1008), governing the licensing of mortgage loan originators. I would think the CFPB will move to adopt regulations to amend the Federal SAFE Act Rule.

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However, there is nothing in the amendments to the Federal SAFE Act to preclude a state from implementing this change to their state SAFE Act law earlier than November 24, 2019. There are a number of good reasons for doing so.

- 1) The SAFE Act has been changed. This amendment will not be repealed. Allowing for temporary transitional authority for mortgage loan originators is now the law of the land.
- 2) Before the federal SAFE Act was amended, some states allowed certain transitional lending authority for registered or licensed mortgage loan originators, and there were no public reports of abuse of which I am aware.
- 3) The effective date can be accelerated in some states if regulators chose to do so. Many state mortgage finance licensing laws, state SAFE Acts, or state MLO Acts provide the administrators of those statutes with sufficient discretionary authority to do so.
- 4) Between now and November 24th, there will be asset transactions in which branch offices will be sold and the MLOs in those offices, whether registered or licensed, will move to a new employer. Individuals also may move from one employer to another licensee in a state other than the state in which the MLO is licensed. The MLOs should not be penalized and precluded from originating mortgage loans simply because the amendment to the Federal SAFE Act has not taken effect, if the state can otherwise make it happen.
- 5) Non-depository institution employers hiring registered MLOs before November 24th should not need to carry the expense of those newly hired MLOs until they are licensed and can begin generating income through the originating of mortgage loans for their employer.
- 6) If a person has passed the national exam, met the education requirements to be licensed as a mortgage loan originator in one state, and has been operating as a licensed mortgage loan originator without any sanctions since being licensed in that state, the person has demonstrated a commitment to his or her professions, and the character to abide by applicable laws. Why not provide that person with temporary authority to originate mortgage loans before November 24th while the person completes his or her education requirements for the issuance of a license in another state?
- 7) The middle of license renewal season is a horrible time to open the door and allow for transitional authority to originate mortgage loans in a state while a person's license application is pending. By enabling registered and licensed MLO's to transition before November 24, 2019, states would be relieved of transitional authority requests during the renewal period. This will allow the states to continue their primary focus of renewing existing licenses during the renewal period.

I would like to hear what others think.

If regulators in some states have allowed for temporary authority to transition registered MLOs to licensed status, or to enable a licensed MLO to obtain a license in another state before the SAFE Act was amended it would be good to hear why you did so.

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If regulators in some states have considered accelerating the date by which they would allow for such temporary authority for registered MLOs to transition to a state license or to enable a state licensed MLO to obtain license in another state, we would like to know of the pros and cons of your deliberations.

If regulators in some states are reticent about accelerating the date by which they would allow for temporary authority for transitioning MLOs to state licensed status, or to enable a licensed MLO to obtain a license in the state, and there are logistical impediments that need to be overcome to allow for such temporary authority, we would welcome an understanding of what those impediments may be.

Thank you for your consideration of our comments.

Sincerely,

Costas A Avrakotos
Partner



MORTGAGE BANKERS ASSOCIATION

Kobie Pruitt
Associate Director, State Government Affairs
Mortgage Bankers Association
1919 M Street, NW
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NMLS Ombudsman
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RE: Limiting Access to MLO SAFE Test and Pre-Licensure Course Information

Background

The National Multistate Licensing System (NMLS) was constructed to give employers, both state licensed companies and federally regulated depository institutions, access to a MLO's complete record. One issue that was raised by state-licensed companies was the ability for a federally registered institution to view one of their MLO's education and testing activities in NMLS. The visibility of this information effectively deterred federally registered MLOs from completing a state's licensing requirements prior to obtaining employment by a licensed entity in that state due to the fact that it could alert the current employer to their intention to obtain a license and leave the company. In 2012, the NMLS attempted to rectify this issue by changing policy and allowing only state licensed institutions to view the results of a SAFE MLO test and pre-licensure course work.

However, a system "loop hole" still exists that allows a state chartered depository institution to view and receive notifications regarding test scores and credit hours taken by MLOs currently employed by their company. While this issue effects a small population of MLOs nationally, and the new Temporary Authority law will help, this is still an issue member companies are reporting to MBA. Recently, one organization informed MBA that they lost an applicant that was recruited and offered a position at their company because the applicant's current employer, a state chartered depository bank, received notice that the applicant had completed their required pre-licensure course and passed their MLO exam. A notification was sent to the President and HR manager of the current employer informing them that the MLO had completed their test and the 20 credit hours required for licensure. After nearly losing their current job, the MLO rescinded their acceptance of the offered position due to this systematic issue.

Takeaway and Next Steps

The ability of a state chartered depository institution to receive notifications about an employee seeking MLO licensure puts the applicant's job status at risk and could potentially lead to their termination. It discourages MLOs employed by state chartered banks from applying for jobs at non-depository lending institutions which are required by law to have MLOs complete the requisite SAFE MLO test and pre-licensure course. NMLS should close the "loop hole" and extend its restriction on access to test results and pre-licensure course work to all financial institutions that do not require MLO licensure as a requirement of employment. By restricting this information, NMLS would allow MLOs moving from a state depository bank to a non-depository institution the opportunity to complete their licensure requirements without fear of retribution or risking termination by their current employer. If this is not possible, NMLS should eliminate the notifications to these employers, or give the MLOs the option of whether or not they wish their employer to see this information and receive these notifications.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kobie Pruitt", with a stylized flourish at the end.

Kobie Pruitt
Associate Director, State Government Affairs



BUCKLEY

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January 30, 2019

Via Electronic Mail to ombudsman@nmls.org

Scott Corcadden, NMLS Ombudsman
Conference of State Bank Supervisors
1129 20th Street NW, 9th Floor
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RE: Topic for February 20, 2019 NMLS Ombudsman Meeting

Dear Mr. Corcadden:

We appreciate the opportunity to provide topics for discussion during the February 20, 2019 NMLS Ombudsman Meeting in Orlando, Florida. We would like to discuss the following topic in connection with legal name amendments: timing requirements for submitting Secretary of State documentation. We encourage state regulators and NMLS representatives to consider the limitations that Secretary of State Offices have for issuing name change documentation. Adjusting submission timeline requirements to account for these limitations can reduce the amount of application deficiencies and ensure proper filing.

Timing Requirements for Submitting Secretary of State Documentation

We recommend that regulators amend the timing requirements for submitting Secretary of State documentation in order to reflect the capabilities of respective states. Currently, a legal name change typically requires all documents to be submitted within five business days of the NMLS filing. For most jurisdictions, this includes a certificate of good standing (and/or an amended certificate of authority) showing the new name.

Unfortunately, most Secretary of State Offices cannot issue this certificate until the new name is effective and has received an updated certificate of good standing from the company's state of formation. This delay combined with the wide discrepancies in processing time for various Secretary of State Offices is problematic for companies and registered agents. The window for timely submitting the appropriate certificate of good standing in NMLS or by mail can close before a company even receives it from the state.



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To potentially overcome these circumstances, a company can pay expedite fees which could reach over \$500. More often, we see that expedited review is not available and some Secretary of State Offices can take as long as two to four weeks to issue a certificate of good standing. Additionally, some jurisdictions express lengthier turnaround periods in practice than in explicitly posted timelines.

As a possible alternative to amending the actual time period in the submission requirements, we also suggest that regulators more openly consider accepting evidence of amendment filing as sufficient Secretary of State documentation. We are aware of some jurisdictions that allow for this process and have seen its effectiveness in avoiding the issues mentioned above.

Thank you for your consideration of this topic. We look forward to presenting them during the NMLS Ombudsman meeting and contributing to a practical solution that adheres to NMLS policies, achieves regulatory oversight goals, and provides an efficient path for our clients eager to comply with state licensing requirements.

Sincerely,

Tanya Anthony