



**NMLS Ombudsman Meeting**  
**Sheraton Downtown**  
**Denver, CO**  
**Plaza Ballroom D&E**  
9:00 – 12:00 p.m. Central  
August 6, 2013

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Agenda:

1. NMLS Ombudsman Update – Exhibit 1

*Timothy Siwy*  
*Pennsylvania Department of Banking*

- Filing for DBAs
- Qualified Individuals
- Jurisdiction-specific information on NMLS
- Loan Processors and Underwriters
- Renewal
- Two Factor Authentication

2. NMLS Consumer Access - MLO Employment History

*Andrew Hall*  
*Royal United Mortgage*

3. Sponsoring Individual Licenses

*Ellen Smith*  
*Envoy Mortgage*

4. Licensing Ad Disclosure – Exhibit 2

*Pete Mills & William Kooper  
Mortgage Bankers Association*

5. Mortgage Call Report – Exhibit 3

*Pete Mills & William Kooper  
Mortgage Bankers Association*

6. Loan Originators working from home

*Jenifer Edwards  
Primary Residential Mortgage, Inc.*

7. Regulators definition of oversight and supervision of employees

*Jenifer Edwards  
Primary Residential Mortgage, Inc.*

8. Branch Licensing

*Courtnee C. Kennedy, PC*

9. Pre-Notifications Amendments

*Courtnee C. Kennedy, PC*

10. Open Discussion



**NMLS Ombudsman Meeting  
Grand Hyatt  
San Antonio, TX**

**MEETING SUMMARY**

**February 26, 2013**

**2:00 – 5:00pm Central**

**Attendees:** Approximately 300

**Introduction and Update:** Timothy Siwy, Deputy Secretary, Non-Depository Institutions Pennsylvania Department of Banking and Securities

NMLS Ombudsmen Tim Siwy addressed the audience made up of state regulators and NMLS industry users. Tim Siwy, Deputy Secretary for Non-Depository Institutions for the Pennsylvania Department of Banking and Securities has had the position of NMLS Ombudsmen for almost a year. Tim Siwy introduced members of the State Regulatory Registry (SRR) who helped him answer questions throughout the meeting: Tim Doyle, Tim Lange, Mary Pfaff, and Vickie Slater. The meeting was broken into three different segments. The first segment discussed the definition and responsibilities of the NMLS Ombudsmen. During the second segment, seven issues from industry were topics of discussion. The seven topics included: license requirements for lead generators, state adoption of the Uniform State Test (UST), licensing of servicing staff, NMLS Unique ID, Exempt Company Registration, Document Upload and NMLS requirements for control persons, and license renewal challenges. At the conclusion of our formal agenda, industry and regulators had the opportunity to pose questions.

Tim Siwy explained the definition and responsibilities of the NMLS Ombudsmen. The Ombudsmen provides the industry and other parties with a neutral venue to discuss issues. Tim hosts two events each year, one being the NMLS Annual Conference, and the other the American Association of residential Mortgage Regulators (AARMR) Annual Conference where industry and regulators get together and talk about issues affecting NMLS. As a part of his Ombudsmen responsibilities, Tim takes phone calls and receives emails on complaints and concerns that NMLS users have with respect to the NMLS system. Tim also serves on the NMLS Policy Committee shared by Sue Clark, where a lot of the industry issues can be brought to the table for discussion as policy decisions are made regarding NMLS. Tim stated: "Industry users

do have some say through me as to what policies we implement through the system.” From August 2012 to February 19, 2013 Tim took approximately 43 emails from concerned users with issues ranging from log in difficulties to the NMLS test retake policy. Inquires also come in for statistical data regarding licensed entities in NMLS.

As a follow up to the 2012 AAMAR Annual Conference held in August, Tim summarized actions taken to address the presented issues. The first topic was raised by Ken Markinson, Mortgage Bankers Association (MBA) and had to do with the importance of reciprocal licensing. Tim asked Bob Niemi, Ohio Division of Financial Institutions to confirm that Ohio has passed legislation allowing reciprocal licensing. Bob commented that the bill was passed and will go into effect in May or June of this year. Tim stated that while Ohio may be the only state who has passed this type of legislation, strides have been made elsewhere such as inactive licensing and the implementation of the Uniform State Test (UST). The second issue brought up during the AAMAR conference dealt with the usability of the NMLS system and the desire to simplify the overall user experience. A lot of effort has made during the NMLS Policy Committee meetings to discuss ways to make the system more user-friendly. It is important to understand that this is not an overnight effort, but we are constantly trying to improve the system. The next topic dealt with Exempt Company Registrations. This was a challenging topic in that not all state statues allow for this type of company registration. The topic was addressed again in the formal agenda.

Tim provided the group with an update on the regulator Document Upload Working Group created to assist with the document upload challenges and to clarify what document regulators require to be uploaded. Tim also discussed the upcoming 60 day public comment period for the biennial (MU Form version change) and Mortgage Call Report (MCR) Form changes. More information can be found on the NMLS Resource Center.

Doug Lebda, Lending Tree spoke to his topic on the licensing of lead generators. Doug talked about the creation of Lending Tree which has been in existence for 15 years. Lending Tree is currently licensed as a Mortgage Broker in all 50 states. Doug spoke to the common misconceptions surrounding Lending Tree and provided a general background as to overall goals of Lending Tree. To specifically address his topic, Doug commented that there are numerous online companies who give users access to an online rate table. Doug stated, “The rates on the tables are consistently gamed, such that a consumer cannot get the rate that is offered.” Doug stressed the importance to differentiate between lead generators and brokers. Doug feels that there is an opportunity for state regulators to provide oversight. He is open to the prospect for an additional category of licensure that Lending Tree could fall into, and subsequently, subject other similar companies to initial licensure.

Charlie Fields, North Carolina Commissioner of Banks Office commented that it boils down to the definition of an application.

Costas (“Gus”) Avrakotos, K&L Gates commented that there are other professions and occupations required to be licensed under the broad definition of a mortgage broker because it is the only category available to them. A mortgage broker licensee is subject to all the requirements such as reporting record keeping, and fee restrictions.

Deb Bortner, Washington Department of Financial Institutions commented that Washington does have lead generators in almost all of their licensing areas and wants to know which requirements are difficult to comply with. Due to the amount of personal information you have access to, Washington would want to make sure you are protecting that information to match the expectations of a consumer.

In response to Doug’s comments that Lending Tree is willing to comply with any rules and regulations as long as the other companies who share the same business model have to do the same.

Tim Siwy advised that this topic could be further explored during a future AARMR conference.

The next topic came from Ken Markinson, MBA and dealt with adoption of the Uniform State Test (UST). Ken commented that the MBA wholeheartedly supports the implementation of the UST. For those state agencies who have not adopted the UST, Ken asked for an explanation of their adoption limitations. He understood that many agencies are waiting for guidance from the Consumer Financial Protection Bureau (CFPB).

In response, Kirsten Anderson, Oregon Division of Finance and Corporate Securities commented that Oregon has not made a decision yet. Oregon has held meetings internally as well as elicited feedback from a select group of Oregon licensees. Overall their licensees wanted to keep their state specific test and did not like the UST. Once the price difference was explained to this group, they did not object to the UST – cost seemed to be their primary concern.

Kirsten’s apprehension is that the UST does not test Oregon law. Kirsten feels the Oregon specific test ensures that potential licensees read Oregon’s statutes and rules. Oregon has looked at altering their Pre-Licensure Education (PE) requirement as a result of the UST, but has concerns that people will sit through the courses without learning anything.

Bob Niemi, OH commented that Ohio has statutes that require a potential licensee to get tested on OH specific rules and regulations.

In response Ken commented that legislative sessions are now being held and encourages states agencies to push for a stronger frontend education model in place of their state-specific tests.

Jody Colvin, Utah Division of Real Estate commented that she agrees Kirsten's comments. UT-DRE is not adopting the UST because it does not test UT state statues. Utah DRE has decided that their licensees need to be tested on UT state laws and statues.

Meircee Boulahroud, California Department of Corporations commented that they are also concerned that CA licensees will not be tested on our state laws and want to make sure they are understood by industry.

Tim Siwy commented that he had a similar level of skepticism, but after hearing what Commissioner Doug Foster, Texas Department of Savings and Mortgage Lending had to say, PA came to the conclusion that the UST is a meaningful test. Tim encourages state agencies that have not made a decision to reach out to Pete Marks, SRR and Commissioner Foster, TX-SML to find out more information.

Charlie Fields, NC commented that North Carolina will be an early adopter on April 1. As a result, North Carolina now requires state-specific education hours. In NC the education must be administered either in a classroom, or classroom equivalent which provided NC with some comfort in the adoption process.

Rod Carnes, Georgia Department of Banking and Finance commented that Georgia will adopt April 1. In Georgia we hold the broker or lender responsible for the behavior of their loan originators. As a result, most of GA licensed companies provide in house training to their loan originators.

Tom Brennan, Massachusetts Division of Banks commented that Massachusetts will be an early adopter of the UST. Tom's concern is that industry will start to complain about the amount of education they would be subject to if all 50 states adopt the UST while simultaneously increasing their educations requirements.

In response Ken commented that industry is not looking for a pass on qualifications. We think there is efficiency in a standard test.

Ken's next topic had to do with mortgage servicers and the notion of a square peg, round hole metaphor. Ken stated that as the Department of Housing and Urban Development (HUD) looked at the SAFE Act statue they suggested servicers should be licensed because they negotiated terms with borrowers. Ken spoke to how Dodd-Frank's loan originator compensation licensing provisions excludes servicers. Ken and the MBA are looking for consistencies among the state agencies since there are varying state laws regarding the licensure of servicers. Ken stated that there seems to be a lot of pride loan originators have in completing their licensing qualifications and getting their NMLS ID number, and the

qualifications have become a brand. The MBA understands that NMLS is expanding their users to include pawnbrokers and payday lenders and they will also obtain a NMLS ID number. Ken feels the idea of including expansion license types in NMLS should be rethought since these types of entities are not subject to the same qualifications as state licensed entities.

In response, Tim Doyle, SRR provided some background on the unique NMLS ID number. These numbers are used as a tracking number as entities move through the states, move from employer to employer, and move through different industries. Our goal is to track the numbers, not brand or credential entities.

Sue Clark, Vermont Department of Financial Regulation commented that the NMLS ID number is a system assigned number; it does not carry licensing authority until granted by a state agency. Sue mentioned that Federal Registrants do not meet the same requirements as a state licensee, but are also granted an NMLS ID number. Sue states that she could access the NMLS system and create an account and obtain an NMLS ID number without ever applying for a license.

In response, Ken brought up the loan originator compensation rule and the “convergence” of mortgage loan origination qualifications. The MBA supports a greater qualification regimen for federally regulated depositories.

KC Schaler, Idaho Department of Finance commented that Idaho took this concern to their advisory board and they did not have any concerns.

Tom Brennan, MA commented that as expansion entities come on the system they have to disclose their direct owners. In Massachusetts, their owners are scrutinized in the same way as those individuals who own mortgage brokers and lender companies.

Sue Clark, VT commented that another purpose of the NMLS ID number is the ability to look up entities on NMLS Consumer Access.

Costas (“Gus”) Avrakotos, K&L Gates questions consumers’ understanding of what an NMLS ID number is.

Ken commented that it boils down to consumer expectations when they see the NMLS ID number.

The next topic addressed Exempt Company Registrations from Roger Bainbridge, State Farm

Bank, FSB. State Farm believes that their unique business model results in licensing requirements for agents under some state laws that caused unnecessary and burdensome regulations. Roger provided a background on how State Farm is regulated. State Farm has the desire to sponsor their individuals, but since State Farm is exempt from state licensure, they are unable to do so. Roger explained that some of their agents are required to become licensed as a mortgage broker/lender and with that license comes other requirements such as financial statements, surety bond requirements, and mortgage call reports. State Farm has been able to work with 22 state agencies to obtain exempt company registrations. Roger feels there are certain efficiencies at the state level for offering this type of registration. State Farm Bank does all of the mortgage call reports, and has one blanket surety bond.

Tim Siwy commented that Pennsylvania is in the process of changing their statues to allow for exempt company registrations, but were initially concerned about who was responsible for supervising the loan originators.

KC Schaler, ID commented that Idaho allowed exempt company registrations right from the start and has examined State Farm's business models and contracts to their satisfaction.

Tim Siwy commented on the proposed "MU1 Light" which is on the NMLS Roadmap for 2014 and asks Mary Pfaff, SRR to comment.

Mary Pfaff commented that this is an issue we have brought up to the NMLS Lawyers Committee and some state agencies struggle over the word "Exempt". We do want to be able to accommodate companies who need to license their originators in the NMLS system.

Yvonne Little, Alaska Department of Commerce, Community & Economic Development: Division of Banking and Securities commented that Alaska would need to change their statues in order to accommodate an exempt company registration.

Roger stated that State Farm has worked with states to amend their statues and is willing to work with any states willing to make statutory changes.

The next topic was NMLS Document Upload and NMLS Requirements for control persons from Trish Lagodzinski, Chartwell Compliance. Trish explained that Chartwell is a compliance firm specializing in regulatory compliance, risk management for banking, and non-bank companies, especially for international entities. Trish talked about her experience using NMLS to transition money transmitters and currency exchange companies. She feels that the completion of MU2 Form can be intrusive for some CEOs and high level managers. Chartwell has been working with executive/administrative assistants to get the control person's information entered on the



MU2 Form, but have the control person ultimately log in to attest to the MU2 information. Trish was wondering if state agencies have entertained the idea of granting a power of attorney to a third party such as Chartwell, or an individual's legal counsel.

Kirsten Anderson, OR reiterated that the attestation portion must be completed by the individual control person. She also mentioned the importance of the MU2 Form and criminal background checks on control persons. Oregon looks at criminal background check results for a control person just as closely as they do for a mortgage loan originator.

Sue Clark, VT proposed the use of a power of attorney source document that regulators could be sent that would grant an individual authorization to attest on their behalf. However, if inaccurate information is attested to, regulators would be able to hold the control person accountable instead of the individual who inputted the data.

In response, Kirsten commented that Oregon would have issues with how they could hold a person accountable for inaccurate information.

Tim Siwy and Charlie Fields, NC commented that this would be a good topic for the NMLS Policy Committee.

Trish moved on to her next topic regarding individuals without Social Security Numbers. She commented that NMLS has made a lot of progress in this area. The last control person she needed to add into the system was in September, and NMLS was able to grant the person an individual account in one week.

Tim Lange, SRR explained the "No SSN" NMLS account creation process.

Trish's next topic had to do with submitting Financial Statements for parent companies and affiliates. Trish explained that she has been uploading these documents in the Document Upload area of the Company MU1 Form, which often results in the overcrowding of that area of the Form.

In response, Tim Siwy mentioned that regulators were just discussing this topic and understand that there is a need to clarify the entire Document Upload section of the Company (MU1) Form and provide consistent guidance to industry.

Trish mentioned that some companies have concerns regarding the security of the Document Upload section.

In response, Tim Siwy commented that it has the same security as the Financial Statement area in NMLS.

The last topic had to do with license renewal challenges from Kristie Battershell, Quicken Loans/One Reverse Mortgage and Tanya Anthony Green Tree Servicing LLC. Kristie starts by saying that the renewal process has gotten more efficient over the years, but would like to bring up some issues encountered this year. Some of Quicken Loans' individual licenses were terminated because the originators were on a leave of absence; the majority of them are members of the military. Kristie stated that some states were willing to work with them by using an inactive license status. Other states had very strict rules and required the completion of a new application.

Tim Siwy asked if Kristie had an idea of how many licensees fell into this category and would need an accommodation.

In response, Kristie guessed approximately 100-150. She also mentioned that Quicken requires their MLOs to begin the continuing education requirements in May in preparation for the renewal season.

Jamie Robenseifner, Pennsylvania Department of Banking and Securities commented that there were a few Quicken loan originators in this situation who had outstanding tax issues or CE requirements and by statute Pennsylvania was not able to grant renewal.

Ben Griffis, Massachusetts Division of Banks commented that Massachusetts handles this situation on a case by case basis, but could be a discussion topic for a future NMLS Policy Committee meeting.

Kirsten Anderson, OR encouraged industry to have specifics when calling a regulator for this type of accommodation such as: reason for extended leave, duration specifics, and if necessary provide third party documentation.

Tanya Anthony provided some background on her renewal preparation process. Tanya provided the loan officers she oversees with a Continuing Education (CE) deadline of October 1<sup>st</sup>. Her entire MLO population completed CE by October 15<sup>th</sup>. Tanya was also able to submit all branches renewal requests by November 5<sup>th</sup> and had close to 6,000 loan officer licenses submitted by November 15<sup>th</sup>. At the close of the renewal period, there were still some state agencies who did not issue regulatory approvals. Tanya would like to gain an understanding of what the pain points are for regulators and if there is anything she can do to speed up the renewal turnaround time.

Tim Siwy commented that if there are requirements or deficiencies set on a license, it slows

down the approval process.

Kirsten Anderson, OR commented that companies who submit before they are ready slow the process down for most state agencies. Also, even though Oregon does not require a criminal background check (CBC) and/or credit report (CR) at the time of renewal, if the MLO completes one or both of these requirements for another state, she is required to view the results. Outside of the renewal period, Oregon receives an average of 50 new credit reports per day. During the renewal period Oregon receives around 400.

KC Schaler, ID commented Idaho places license items for licensees who are not compliant with CE during the summer, but still have individuals fail to complete the requirement by year end.

Gus, K&L Gates wanted to know if expansion license types could renew on a different schedule. Mary Pfaff, SRR commented that this thought was entertained, but the majority of state agencies wanted the 12/31 deadline.

Tim Doyle, SRR commented that the renewal process is meant to be as streamlined as possible and is not meant to re-underwrite the entire licensing authority.

Meircee Boulahroud, CA-DOC commented that she is the only regulator who handles MLO renewals and encourages entities to address all deficiencies and requirements prior to requesting renewal.

Gus, K&L Gates, provided comments regarding NMLS Disclosure Questions and the differences between company disclosures and individual disclosures as a result of the most recent MU Form version update in April, 2012. Gus also commented on the fact that a company does not have the ability to provide an explanation for Disclosure Question changed from Yes to No.

In response, Tim Siwy mentioned this could be another good topic for the NMLS Policy Committee.

Sue Clark, VT commented on the upcoming Requests for Public Comment (RFP) on the MU Forms and encouraged Gus to submit his feedback.

Tim Siwy offered his closing remarks.

# Required State Disclosures in Advertising Should be Streamlined to Direct Consumers to “NMLS Consumer Access”

## MBA RECOMMENDS

Several states require specific disclosures in advertisements for mortgage lending, which, in the context of 30 or 60 second messages, are too rushed to serve the interests of consumers or state regulators. In another context, consumers are unable to write down or comprehend the information provided by “speed talking” announcers, or are overwhelmed by fast scrolling “small print” or cluttered print information that is required in many television and print ads respectively, in order to meet state-required licensing information disclosures. The result is advertising disclosures that meet the requirements of the rules, but convey little value to the consumer.

MBA suggests that a more effective approach for consumers, regulators and lenders would be to allow advertising disclosure requirements to be met by providing consumers a single, understandable disclosure about how to access licensing information by using the lender’s Nationwide Mortgage Licensing System and Registry (NMLS) reference number via the NMLS’ Consumer Access website: [www.nmlsconsumeraccess.org](http://www.nmlsconsumeraccess.org). MBA believes this policy would provide consumers an easy method to access a lender’s state licensing information, and at the same time expose the consumer to additional valuable consumer information that also resides on the Consumer Access site.

## BACKGROUND

All mortgage loan originators (MLOs) and their employers are required to be registered in the NMLS, and MLOs must use their registration numbers on all professional documents for the duration of their tenure in the real estate finance business.<sup>1</sup> The NMLS serves a multitude of functions with respect to MLOs, such as receiving and processing fingerprints for national and state criminal history background

checks; recording the status of all pre-licensure and continuing education courses; and satisfaction of written test requirements for licensure.

However, despite the intent of the law to create transparency through the NMLS system, consumers by and large are not reaping its benefits – due to being unaware of the abundance of information the NMLS holds, as well as being unaware of how to access it.

## ISSUE

In many states, rules have been adopted that require the unique NMLS identifying number of any person or

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<sup>1</sup> NMLS is the system of record for the registration of depositories, subsidiaries of depositories, and MLOs under the Consumer Financial Protection Bureau’s Regulation G (S.A.F.E. Mortgage Licensure Act – Federal Registration of Residential Mortgage Loan Originators), published December 19, 2011. (<http://nationwidelicencingsystem.org/about/Pages/default.aspx>)

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For more information, visit [www.mortgagebankers.org](http://www.mortgagebankers.org) or call (202) 557-2700.



company originating residential mortgage loans to be mentioned in radio and television advertisements. However, in eleven states<sup>2</sup> additional state-specific licensing information is also required, which greatly increases the length of any advertisement's disclaimers and notices for regional and national advertising.

For example, in Virginia any advertisement – including ads in electronic media – must clearly and conspicuously disclose the following information:

- The name of the mortgage lender or mortgage broker as set forth in the license issued by the Virginia State Corporation Commission (VSCC);
- A statement that the mortgage lender or mortgage broker is licensed by the VSCC; and
- The license number assigned by the VSCC to the mortgage lender or mortgage broker (i.e., MB-XXX, ML-XXX, or MLB-XXX).

Consequently, a national radio or television ad for a lender licensed in all 50 states must comply with the standard NMLS requirement necessary in 39 states, as well as each of the eleven other licensing disclosures. These disclosures absorb a significant proportion of expensive airtime, especially when added to other regulatory requirements such as fair housing statements and other disclaimers. In order to include both the relevant advertising information and the required licensing disclosures in a brief 30 or 60 second advertisement, lenders are forced to resort to speed talking and fast scrolls, which defeat the intent of the disclosures in the first place.

As a result, both the clarity of the information for consumers, as well as the trust placed in the product offered by lenders, is undermined.

## **ACTION NEEDED**

A more effective approach should be created that would reduce consumer confusion, increase consumer access to licensing and other important information, and allow for lenders to adequately advertise their products and services. MBA believes that the development of the NMLS Registry and the NMLS Consumer Access website provide consumers with effective tools for checking lender and MLO licensing information that were not available when

many of these state rules were put in place. MBA recommends that state regulators and industry work together to replace individual state license disclosure requirements with a requirement for a clear and conspicuous disclosure of a lender's NMLS number in all television, print and radio advertisements, along with the inclusion of a statement such as:

“For complete licensing information on your mortgage loan originator, please visit [www.nmlsconsumeraccess.org](http://www.nmlsconsumeraccess.org).”

For radio ads, such disclosures should be delivered at the same pace as the rest of the advertisement. For television, it should be displayed visually for a sufficient minimum time period in order to allow a consumer to write it down.

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<sup>2</sup> AZ, CO, GA, IL, KS, MA, NV, NH, NY, TX & VA



June 11, 2013

State Regulatory Registry  
Conference of State Bank Supervisors  
Attn: Tim Doyle, Senior Vice President  
1129 20th St NW, 9th Floor  
Washington, DC 20036

**RE: Request for Public Comments Nationwide Mortgage Licensing System & Registry (NMLS) Mortgage Call Report**

Dear Mr. Doyle:

The Mortgage Bankers Association (MBA)<sup>1</sup> greatly appreciates the opportunity to comment on the Nationwide Mortgage Licensing System & Registry (NMLS) Mortgage Call Report (MCR) and the fact that NMLS has determined to periodically seek comment on it.

As you know, the MCR is an extensive document and requires lenders to report a large amount of loan-level data on loan origination and servicing, as well as company condition information quarterly. In addition to MCR reporting, nearly all lenders are required to also report extensive loan-level data on loan applications and originations under the Home Mortgage Disclosure Act (HMDA) and those data requirements are to increase under Dodd-Frank. Additionally, many lenders also submit the Mortgage Bankers Financial Reporting Form (MBFRF) to Fannie Mae and Freddie Mac as well as state reports.

Considering that companies are submitting significant information to various government agencies in addition to the MCR, MBA urges the NMLS to work to simplify the MCR to the greatest extent feasible so that the MCR complements, and is not unnecessarily additive, to the other reporting requirements. Specifically, MBA urges state regulators to implement the same standards that are used for HMDA and MBFRF reporting and to seek additional material only to the extent it is absolutely necessary.

In this regard, MBA also respectfully asks that NMLS survey state regulators to determine what data or information they are using from the MCR and what additional data and information they are already collecting from lenders. We also request that the NMLS seek input from stakeholders on the costs of collecting and reporting particular elements. Finally, MBA believes

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<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: [www.mortgagebankers.org](http://www.mortgagebankers.org).

that—considering the forthcoming changes to the HMDA requirements—now is an appropriate opportunity for NMLS to refrain from collecting new data until HMDA expansion is complete.

MBA offers these recommendations in the spirit of cooperation to ensure that regulators have what is needed to carry out their responsibilities while avoiding any undue regulatory burden and costs to consumers. We strongly support a robust dialogue with NMLS on data requirements and information collection standards.

### **MBA Recommends that NMLS Harmonize the MCR Data Collection Standards with HMDA and MBFRF**

In order to review the MCR, MBA assembled a diverse group of lender and non-lender members. As indicated, they expressed concern that much of the loan-level data which NMLS collects through the MCR is duplicative of, although not identical to, data that lenders provide under HMDA and make publicly available. They also expressed concern that they provide condition information to Fannie Mae and Freddie Mac that is similar but not the same as the MCR material. In addition, lenders report they understand some state regulators are unable to use the data collected in the MCR. They also report states require different data and information in addition to MCR data that in some cases are due weekly, and that they are subject to frequent changes in reporting parameters.

HMDA data comprise a unique and comprehensive set of loan-level data concerning most of the mortgage applications, dispositions of applications, and originations of mortgages in the United States. Congress intended that this data be collected, reported, and made publicly available so that financial regulators and the public can monitor the performance of lenders in serving the credit needs of their communities.<sup>2</sup> HMDA data is reported annually, but HMDA reporters are required to maintain the integrity of loan application registry (LAR) data quarterly.<sup>3</sup>

All but the smallest lenders—including commercial banks, savings institutions, mortgage companies and credit—with offices in metropolitan statistical areas are required to report HMDA data for home loans and the home loans that they originate or purchase during each calendar year.<sup>4</sup> In the most recent reporting period, 7,632 lenders reported HMDA data.<sup>5</sup>

Analysis of the HMDA and MCR requirements shows that there is significant overlap between the requirements for loan-level data. For example, both HMDA and MCR capture the following data elements: Application Date, Loan Amount, Final Action Performed, Action Date, Loan

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<sup>2</sup> HMDA was enacted by Congress in 1975 and was implemented by the Federal Reserve Board's Regulation C. On July 21, 2011, the rule-writing authority of Regulation C was transferred to the Consumer Financial Protection Bureau (CFPB).

<sup>3</sup> See 12 C.F.R. 203.6; OCC Advisory Letter 97-1; OCC Advisory Letter 98-16; and OCC Bulletin 2000-35a.

<sup>4</sup> Banks that are exempt from HMDA reporting and Regulation C include institutions with less than \$41 million in assets, are not in the home lending business or have offices exclusively in rural (non-metropolitan) areas. Mortgage companies are required to report unless they extend less than 100 purchase or refinance loans a year or do not operate in at least one metropolitan area. See Home Mortgage Disclosure Data Act, Who Reports HMDA Data? <http://www.ffiec.gov/hmda/reporter.htm> (last accessed June 12, 2013).

<sup>5</sup> Press Release, FFIEC, Federal Financial Institutions Examination Council Announces Availability of 2011 Data on Mortgage Lending (Sept. 18, 2012) <http://www.ffiec.gov/press/pr091812.htm> (last accessed June 12, 2013).

Type, Property Type, Purpose of Loan, Lien Status, HOEPA Status, Occupancy, Purchaser type, Amortization Type, Annual Percentage Rate (APR), and Rate Spread.

Dodd-Frank will significantly add to the HMDA data since it requires that the HMDA data also include Origination Channel, Applicant's Age, Applicant's Credit Score, Property Value, Loan Term, Term of any Introductory Interest Rate Period, Rate Spread, Total Points and Fees Payable at Origination, Term of any Prepayment Penalty, Negative Amortization, Loan Originator Unique Identifier, Universal Loan Identifier, and Parcel Loan Number (as the CFPB may determine appropriate). The CFPB has said that the rulemaking to implement these provisions is a priority of the Bureau in the coming year.<sup>6</sup>

Accordingly, MBA urges that NMLS should largely confine its requirements to HMDA data. If any additions to the data set are needed, we suggest that NMLS participate in the HMDA regulatory process. We respectfully urge that the goal should be a reduced MCR which would only go beyond HMDA and MBFRF data and information where absolutely necessary.

Therefore, MBA recommends that, to the greatest extent possible, efforts be taken by NMLS to maximize the amount of data lenders use from the HMDA report to complete the MCR. MBA also recommends that considering the forthcoming HMDA rulemaking, additional data at the loan-level should not be added to the MCR until that rulemaking is completed.

### **NMLS Should Use the MBFRF Report Information to Lessen the Burden of the MCR**

The MCR is also similar to the MBFRF. They share many of the same elements. However, lenders currently find that small differences between reporting requirements for the two reports have emerged, often forcing lenders to generate two entirely different data sets; for example, the MBFRF allows lenders to round to the nearest thousand, while the MCR only allows lenders to round to the nearest dollar. MBA, therefore, recommends that, to the greatest extent possible, the MCR conform its information requirements to those of the MBFRF.

### **NMLS Should Survey Other Regulators**

MBA also recommends that NMLS survey state regulators to determine what data or information is actually needed. As stated above, lenders are reporting that they understand some state regulators do not use MCR information and others require additional data and information beyond what is required by the MCR. Efforts at a revised uniform data set should be directed at relieving undue burden and reducing costs.

### **Other Concerns**

Lenders also reported the following concerns about the MCR to MBA:

- Currently, lenders are required to submit MCR data for all states in which they do business simultaneously. There is no option to submit the MCR data state by state, neither for a first submission or any subsequent corrections. Lenders report, however, that they are often prevented from completing the MCR because they are waiting on final information for one or more states. It would be helpful if NMLS added a mechanism to allow lenders to submit data and corrections for the MCR on a state by state basis.

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<sup>6</sup> See 12 USC § 2803.



- Lenders who are approved Fannie Mae/Freddie Mac Seller/Servicer or Ginnie Mae Issuers are required to complete the Expanded Mortgage Call Report (E-MCR). In many cases, however, these organizations do not maintain a servicing portfolio. Lenders should not be required to fill out a form that is not pertinent to their business activities.
- Lenders are required to submit a list of their mortgage loan originators with the MCR. Since NMLS already maintains this information in its own registry, there would not appear to be any reason for lenders to submit data to which NMLS already has access. MBA urges that this requirement be dropped from the MCR.
- The definition of “application” on the MCR is broad and ambiguous as it includes, among others, pre-approval requests and requests that include access to the borrowers’ credit. Moreover, the various states take different positions with regard to whether these types of requests constitute an application for purposes of their own law. MBA suggests that NMLS conform its definition of application to HMDA’s. Under HMDA, application means an oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a financial institution for the type of credit requested.<sup>7</sup>
- The MCR, for the quarter ending December 31<sup>st</sup> of each year, is due 45 days after the end of the quarter; on the other hand, the MBFRF is due 60 days after December 31<sup>st</sup>. MBA recommends that NMLS synchronize its due date with the MBFRF.

### Conclusion

MBA again appreciates the opportunity to comment on the MCR and looks forward to working with the NMLS to ensure that information sought is consistent with other reporting requirements, additions are required only when necessary, and that undue regulatory burden is avoided.

Please contact Ken Markison, Vice President and Regulatory Counsel, at [kmarkison@mortgagebankers.org](mailto:kmarkison@mortgagebankers.org) or Joe Gormley, Assistant Regulatory Counsel, at [jgormley@mortgagebankers.org](mailto:jgormley@mortgagebankers.org) if you have any questions.

Sincerely,



Pete Mills  
Senior Vice President, Residential Policy and Member Services  
Mortgage Bankers Association

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<sup>7</sup> Regulation C and Official Staff Commentary effective on January 1, 2004, § 203.2.