

**RESPONSES TO COMMENTS RECEIVED DURING THE COMMENT PERIOD ON  
THE NMLS MORTGAGE CALL REPORT  
MARCH 15, 2010 TO MAY 28, 2010**

**Background**

Section 1505(e) of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (“SAFE Act”)<sup>1</sup> states:

*“Each mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.”*

The Mortgage Licensing Policy Committee created a working group of state regulators who have been working since the summer of 2009 to develop the NMLS Mortgage Call Report with the goals to:

1. Provide state regulators with sufficient information to effectively supervise licensees, such as determining examination schedules, monitoring compliance with state law and requirements of the SAFE Act (such as holding a surety bond that is reflective of total production volume), and accurately calculate assessments, where applicable.
2. Provide state regulators with the ability to develop statewide reports on mortgage activity with the ability to compare across state lines.
3. Provide state regulators with the information necessary to replace the unique annual reports currently required by approximately 38 states and to standardize the financial statement information required in over 42 states.
4. Provide licensees with the ability to automate the provision and retention of financial condition and activity data to one or more state regulators in a single, uniform manner.

On March 15, 2010, on behalf of the state regulatory agencies participating in the Nationwide Mortgage Licensing System and Registry (NMLS, or “the System”)<sup>2</sup>, the State Regulatory Registry LLC<sup>3</sup> invited public comments on the proposed implementation of the NMLS Mortgage Call Report (MCR) ([See notice on NMLS Resource Center](#)).

At the request of industry, the public comment period was extended an additional two weeks to May 28, 2010 in order to accommodate additional comments. When the period ended on May 28<sup>th</sup>, SRR had received nearly 150 comments from 95 commenters ([See Received Comments](#)). These commenters included state mortgage regulators,

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<sup>1</sup> The SAFE Act is Public Law 110-289 (PL 110-289) and information can be found at: <http://mortgage.nationwidelicencingsystem.org/SAFE/Pages/default.aspx>

<sup>2</sup> Information about NMLS can be found at: <http://mortgage.nationwidelicencingsystem.org>.

<sup>3</sup> Information about the State Regulatory Registry LLC can be found at: <http://www.csbs.org/mortgage>

depository institutions or subsidiaries, state-licensed mortgage companies, individuals, mortgage technology vendors and industry trade groups.

The comments were reviewed and responses approved by NMLS' Mortgage Licensing Policy Committee (MLPC).

### **NMLS Mortgage Call Report**

The final NMLS Mortgage Call Report has been significantly changed from the original proposal in response to received comments. Basic information about the content of the NMLS Mortgage Call Report can be found below and additional information can be found at [NMLS Resource Center > Mortgage Call Report](#).

1. All state licensed companies and companies employing state licensed MLOs must submit the NMLS Mortgage Call Report on a calendar quarterly basis. The NMLS Mortgage Call Report is a single report of condition and companies complete the appropriate sections of the report as determined by the types of business they engage in during a reporting period.
  - Standard Section
    - All companies complete the Standard Section of the NMLS Mortgage Call Report.
      - The production data must be completed on a calendar quarterly basis and the information must reflect the total mortgage activity of the company and be segregated by each state.
      - The financial information data must be completed on an annual fiscal basis and must reflect company level financial information.  
*Note:* If state law requires an annual unaudited financial statement, the submission of the annual unaudited financial information through the NMLS Mortgage Call Report may satisfy the state's annual unaudited financial statement requirement.
  - Expanded Section
    - Companies that are approved Fannie Mae or Freddie Mac Sellers/Servicers or are Ginnie Mae Issuers must complete the Expanded Section on a calendar quarterly basis. *For convenience, the Expanded Section includes the data elements from the Standard Section.*
      - The Expanded Section primarily consists of information collected on the Mortgage Bankers' Financial Reporting Form (MBFRF)<sup>i</sup> as well as the production/origination data from the Standard Section.

## Nationwide Mortgage Licensing System

- All production/origination data must be submitted on a calendar quarterly basis and the information must be reported at the state level.
  - The financial information data must be submitted on a calendar quarterly basis and must be reported at the company level.
  - Companies completing the Expanded Section are not required to complete the annual financial portion of the Standard Section
2. For companies that do not submit the NMLS Mortgage Call Report on behalf of their sponsored Mortgage Loan Originators (MLO), functionality will be available for the individual MLO to submit the Standard Section of the NMLS Mortgage Call Report. The vast majority of state agencies require by law or regulation that companies complete the report on behalf of their MLOs. You should consult your state agency prior to allowing your MLOs to complete the NMLS Mortgage Call Report.

### **General Information**

1. The activity information submitted on the NMLS Mortgage Call Report must reflect the complete residential mortgage activity of the company by state. This must include all data for the MLOs a company is employing.
2. Terms and instructions used in the NMLS Mortgage Call Report that are also used in HMDA or MBFRF reporting will utilize the same definitions to the greatest extent possible. State regulators will adopt uniform definitions and instructions for the remaining terms and components of the NMLS Mortgage Call Report.
3. The information is to be reflective of that quarter specified in the report and is not cumulative. It is due within 45 days of the end of the quarter.
4. The financial condition report of the Standard Section is due annually 90 days from a company's fiscal year end.
5. Not all information on the forms may be applicable to a company. If information is not applicable, the company will be able to provide a N/A or 0 (zero) value in these fields.
6. A text box is provided for the NMLS Mortgage Call Report in case a company needs to provide explanatory notes to a regulator.

## **Responses to Comments**

The following is a discussion of the major topics raised in the comments and the Mortgage Licensing Policy Committee's review and response to those comments.

### **I. Content of Report**

Approximately 35 commenters stated that the NMLS Mortgage Call Report collected information that was not readily available and would cause companies to make significant changes to their reporting and data entry systems. Commenters also requested an exhaustive definition and instruction guide for the NMLS Mortgage Call Report when finalized. Industry commenters suggested that it appeared as if the NMLS Mortgage Call Report requests information similar to the data collected in the Mortgage Bankers' Financial Reporting Form (MBFRF) and encouraged state regulators to look at this format for possible adoption.

Approximately 50 commenters also stated that the NMLS Mortgage Call Report did not differentiate between lenders and brokers and smaller companies, such as sole-proprietor brokers, would be disproportionately affected.

Two commenters stated that the information should go beyond state by state data and collect loan level information from companies.

Depository institution commenters that provide warehouse lines of credit to non-depository companies stated this report would be useful to entities like themselves and help them monitor these companies more consistently.

#### *MLPC Response:*

The NMLS Mortgage Call Report Working Group reviewed the MBFRF as well as HMDA reporting requirements after the public comments were received. They found that significant portions of the NMLS Mortgage Call Report, the MBFRF and HMDA requirements were similar.

In adopting the recommendations of commenters, the NMLS Mortgage Call Report incorporated questions and definitions that are substantially similar to HMDA reporting requirements into the Standard Section.

Additionally, for companies that are Fannie Mae or Freddie Mac Approved Seller/Serviceers or Ginnie Mae Issuers, the NMLS Mortgage Call Report incorporated the questions and definitions that are substantially similar to the MBFRF into the Expanded Mortgage Call Report. Except for questions concerning loan modifications, the Expanded Section, both in activity reporting and financial reporting contains the exact same questions as contained in the MBFRF.

In adopting the same definitions as the MBFRF and HMDA, some modifications were made to correct errors or facilitate the collection of the NMLS Mortgage Call Report data.

Since companies are required to report HMDA data and Fannie Mae, Freddie Mac and Ginnie Mae Approved Sellers/Servicers are required to submit the MBFRF quarterly, these companies should have ready access to this information and use the appropriate portions to satisfy many items in the NMLS Mortgage Call Report. State regulators are also aware that the information may be housed in different areas of an organization based on the size of the company. For example, an accounting or finance department may currently control the submission of the MBFRF while HMDA data is handled through the compliance department. NMLS will work with industry representatives to understand the needs of these organizations and when possible will provide solutions to meet these needs. NMLS has already committed to developing both an XML file upload capability for the data submission as well as a manual entry option.

The MLPC believes that these changes to the final NMLS Mortgage Call Report will help improve the quality of data that state regulators receive through the NMLS Mortgage Call Report by relying on existing questions and data that are being used for other purposes.

## **II. Company submission of NMLS Mortgage Call Report**

Several commenters indicated that the SAFE Act applies to individuals and not companies and all requirements should be incumbent upon the individual. Some commenters questioned state regulators' position that the requirement could be fulfilled by the company. A few commenters were concerned that the functionality proposed would not allow a MLO to submit the NMLS Mortgage Call Report if their company was not willing to submit it on their behalf.

### *MLPC Response:*

The MLPC believes in order to meaningfully and efficiently fulfill the intent of the SAFE Act, the NMLS Mortgage Call Report should be completed at the company level. Despite some of the comments received, the MLPC does not believe that it is prudent public policy to place the requirement to complete the NMLS Mortgage Call Report upon the individual mortgage loan originator.

This interpretation that the SAFE Act allows for company submission to substitute for individual submission is consistent with other interpretations made, such as the allowance for the employing company's surety bond to meet the surety bond requirements for mortgage loan originators in the SAFE Act. State regulators translated this interpretation into the CSBS/AARMR Model State Law, placing the NMLS Mortgage Call Report requirement upon corporate licensure. The CSBS/AARMR Model State Law was deemed SAFE Act compliant by the U.S. Department of Housing and Urban Development (HUD) on January 5, 2009

with this provision in it. More information about HUD's comments on the CSBS/AARMR Model State Law can be found [here](#). Most states adopted the CSBS/AARMR Model State Law language and therefore mandate that the NMLS Mortgage Call Report be completed by all companies licensed in the state and all companies registered but employing licensed mortgage loan originators.

The MLPC believes that requiring submission at the company level provides the greatest assurance that all activity by state licensed MLOs is captured as mandated by the SAFE Act. In addition, embodying the NMLS Mortgage Call Report at the company level provides state regulators with the ability to use the report to replace existing reports that companies are currently required to submit. If reports were limited to being submitted only by MLOs, then it would be unlikely that that NMLS Mortgage Call Report could replace any existing state annual reports.

State regulators also recognize that an individual must have the ability to submit the NMLS Mortgage Call Report if a company in a few states that do not mandate company submission is unwilling or unable to submit the report for them in order to be compliant with the SAFE Act. NMLS will be built to accept the NMLS Mortgage Call Report from licensed mortgage loan originators. This approach will accommodate those few instances where a state is not managing its licensed companies on NMLS or a state licensing or registration requirement does not include companies that employ licensed mortgage loan originators.

### **III. Uniformity and Replacement of Additional State Specific Reports**

Approximately 40 commenters were concerned that the NMLS Mortgage Call Report would be another report for companies to submit and would not replace individual jurisdiction specific reports that are currently submitted outside NMLS. They appreciated the intent of the NMLS Mortgage Call Report to replace these reports but felt that states would not adopt the NMLS Mortgage Call Report to satisfy their unique state requirements.

#### *MLPC Response:*

The MLPC has affirmed that the intent of the NMLS Mortgage Call Report is to replace and satisfy jurisdiction specific reporting requirements to the greatest extent possible. Some states have indicated that this may take time to fully implement and they will work with their licensees to lessen duplicative reporting requirements. In many cases this may necessitate legislative or regulatory amendments and other administrative processes.

Also, other state regulators note that many of their license types provide a broad lending authority outside of residential mortgage lending and information on

those activities will still be required to be submitted and collected outside NMLS.

While the MLPC cannot mandate to a state the NMLS Mortgage Call Report replace existing requirements, this goal has been made clear in all presentations of the Report to state regulators. The NMLS Mortgage Advisory Council has also discussed this issue with the SRR Board of Managers. The MLPC will work with state regulators to further this effort and believes that strong compliance by the industry with the NMLS Mortgage Call Report will provide incentives for state agencies to meet this goal.

#### **IV. Frequency of Reporting**

Sixty four commenters stated that the requirement to submit information on a quarterly basis was too frequent for companies to comply and would pose an undue burden on companies with little benefit to regulators.

*MLPC Response:*

The MLPC finds that regular reporting of production or activity and financial information is a highly effective tool in monitoring a company's activities. This regular and consistent reporting will provide state regulators with the appropriate and timely information to plan examinations, collect assessments, determine compliance with surety bond requirements and understand the overall condition of the companies they supervise.

The MLPC did modify the NMLS Mortgage Call Report from the original proposal to eliminate those companies completing only the Standard Section from having to provide corporate financial data quarterly. Companies completing just the Standard Section need only provide unaudited corporate information annually.

Additionally, by adopting the MBFRF in large part to fulfill the requirements of the Expanded Section, the MLPC has modified the reporting requirement to match data such companies already submit quarterly.

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<sup>i</sup> The MBFRF collects activity and financial information on a quarterly basis from approved Fannie Mae, Freddie Mac Sellers/Serviceers and Ginnie Mae Issuers.