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## RESPONSE TO COMMENTS RECEIVED DURING THE SRR COMMENT PERIOD ON UNIFORM AUTHORIZED DELEGATE REPORTING OCTOBER 1, 2012 TO NOVEMBER 7, 2012

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On October 1, 2012, the State Regulatory Registry LLC (SRR)<sup>1</sup> invited public comments<sup>2</sup> on the “Uniform Authorized Delegate Reporting” functionality that was being developed in NMLS<sup>3</sup>. The purpose of the functionality is to improve the information available to state regulators concerning the Authorized Agents/Delegate locations used by their licensees and allow licensees to provide information concerning Authorized Agents/Delegates to the appropriate regulators through NMLS in a more efficient manner.

The deadline for submitting comments was November 7, 2012.<sup>4</sup> The following is a summary of the comments received with responses.

### **Background**

Currently 51 states and territories require nonbank entities that provide alternative mechanisms for persons to make payments or to obtain currency or cash in exchange for payment instruments to be licensed as Money Service Businesses (MSBs). MSBs engage in various types of financial activities, including money transmission (e.g. wire transfers); sale of payment instruments (e.g. money orders, traveler’s checks, and stored-value); check cashing; and foreign currency exchange.

An MSB may contract with independent third party locations as sales outlets to perform the function of receiving and dispensing funds on behalf of the licensed MSB. These third parties are known as “Authorized Agents” or “Authorized Delegates.” An Authorized Delegate can be a large corporate chain with multiple locations or a small, independent business with a single location. In some instances, an Authorized Agent/Delegate can be an entity physically located in one state and doing business on behalf of a licensed MSB in other states (such as through an internet portal).

Most state agencies collect information regarding the Authorized Agents/Delegates through which licensed MSBs conduct business in their respective jurisdictions on a periodic basis. This information is collected by state agencies at different intervals – generally on a quarterly or annual basis. Many states receive Authorized Agent/Delegate location information from MSBs in roster form through spreadsheet files submitted by email. These files must be manually reviewed and do not provide an efficient manner with which to track Authorized

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<sup>1</sup> State Regulatory Registry LLC (SRR) is a nonprofit subsidiary of the Conference of State Bank Supervisors (CSBS) that operates NMLS on behalf of state financial services regulatory agencies. More information can be found at <http://www.csbs.org/srr/Pages/default.aspx>.

<sup>2</sup> The original Request for Public Comments is available at <http://mortgage.nationwidelicencingsystem.org/news/ProposalsForComment/2012-1%20Comments%20for%20Authorized%20Delegate.pdf>.

<sup>3</sup> Information about NMLS can be found at <http://mortgage.nationwidelicencingsystem.org/Pages/default.aspx>.

<sup>4</sup> In response to Hurricane Sandy, the initial deadline for comments was extended from November 1, 2012 to November 7, 2012.

Agent/Delegate locations used by multiple MSBs. An MSB is required to replicate this submission process for each state in which it holds a license.

### Expansion of NMLS to include Money Transmitters

In April 2012, NMLS was expanded to allow state agencies to manage license types for non-depository financial service industries beyond the mortgage industry. To date, 10 state agencies are managing their MSB license authorities through NMLS.<sup>5</sup> Another 20 agencies have indicated they plan to use NMLS for MSB licenses by the end of 2014. At the time of expansion, the NMLS Policy Committee directed SRR to a Money Service Business Working Group, comprised of state regulators to advise SRR staff on the expansion of NMLS to ensure that MSB licenses can be managed efficiently for both regulators and industry. The Working Group quickly identified the reporting of Authorized Agent/Delegate information as a process that is not properly addressed by NMLS' existing functionality. Through both internal deliberation and consultation with industry, the Working Group has developed functionality in NMLS that will allow MSBs to submit required information on Authorized Agent/Delegate locations to the appropriate regulators in a standardized format. This functionality is formally known as Uniform Authorized Agent Reporting (UAAR).<sup>6</sup>

### **Responses to Comments**

At the end of the public comment period, SRR had received submissions from four commenters concerning the Uniform Authorized Agent Reporting functionality. Commenters included an industry trade group, and three state-licensed MSBs. The comments were reviewed by the Money Service Business Working Group. The following is a summary of the major topics raised in the comments and SRR's response to those comments.

#### **I. UAAR Information Collection and Validation**

One commenter said that "the ability to upload bulk data is critical" and asked how the system will treat similar addresses for the same agent location. The same commenter asked how complete address information will need to be, specifically identifying if a traditional five-digit ZIP Code will be acceptable, or if a nine-digit ZIP +4 will be required. This commenter suggested that the report file need not be fully validated prior to acceptance by NMLS. One commenter offered that formatting errors or inconsistencies, particularly among foreign addresses, could complicate compliance, and also suggested that full file validation should not be necessary. Another commenter noted that though the company has the information

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<sup>5</sup> These agencies include the Idaho Department of Finance; Kentucky Department of Financial Institutions, Louisiana Office of Financial Institutions; Maryland Office of the Commissioner of Financial Regulation; Massachusetts Division of Banks; Oklahoma Banking Department; Pennsylvania Department of Banking; Rhode Island Division of Banking; Vermont Division of Banking; and Washington Department of Financial Institutions. A complete list of state agencies participating in expansion, and the license types they will manage through NMLS, can be found at <http://mortgage.nationwidelicencingsystem.org/news/Pages/ExpandedUse.aspx>.

<sup>6</sup> Following the initial request for comments, state regulators decided to rename the functionality to "Uniform Authorized Agent Reporting". Some states refer to the entities through which a licensed MSB offers its services as "agents" and others use the term "delegate". Some agencies pointed to the Financial Crimes Enforcement Network, a bureau of the United States Department of Treasury, which uses the term "agent". Though each state retains the authority to define an Authorized Agent or Authorized Delegate, the term "Authorized Agent" is used in this document to refer to an independent third party with whom the licensed MSB has contracted to perform the function of receiving and dispensing funds on behalf of the MSB.

that would be required for UAAR, not all of it is commonly required for Authorized Agent/Delegate reporting and thus some level of effort would be required to integrate that information into its existing Authorized Agent/Delegate reports.

#### *SRR Response*

In light of the volume of potential Authorized Agent/Delegate location information that could be reported through NMLS as state adoption grows, the Money Service Business Working Group agreed that functionality allowing for the bulk upload of Agent/Delegate information is necessary. As a result, UAAR has been developed to allow licensees to submit Authorized Agent/Delegate location information in all relevant states in a single file in a comma separated value (or CSV) file format. Such files are typically created in Excel or similar spreadsheet program. This functionality is expected to reduce the number of filings required of those licenses that operate in multiple states.

Additionally, the creation of an Authorized Agent/Delegate location record in NMLS is dependent on the unique combination of Employer Identification Number (EIN) and Physical Address. Thus, it is critical for data integrity and accuracy that Physical Addresses be validated. NMLS is incorporating an address validation tool that uses the United States Postal System (USPS) database to ensure that Physical Addresses are valid and recognizable. It is important to note that NMLS will only validate the address itself. It will not validate whether the reported entity is located at that address. Additionally, this process will provide address standardization in accordance with the (USPS), so that NMLS can accurately connect submissions from separate licensees who share an Authorized Agent/Delegate location. Address standardization will not alter Physical Addresses, but rather convert them into a uniform format. For example, "2<sup>nd</sup> Ave" may become "Second Avenue". The address validation tool employed by NMLS can validate Canadian addresses, but not other foreign addresses. As a result, foreign address will not be subject to the same validation and standardization process as U.S. and Canadian addresses.

At this time, SRR believes that accepting a file only when all records are properly formatted and validated is the most efficient reporting process. Industry resources, including file specifications and instructions on understanding and correcting errors, will be posted to the NMLS Resource Center to assist licensees. Physical Addresses that are validated but require standardization will be automatically standardized and not result in an error that must be corrected by the licensee.

SRR recognizes that the creation and initial submission of Authorized Agent/Delegate location files may be a cumbersome task for licensees. SRR is developing a pilot program to assist licensees in those states that adopt UAAR to make the transition to UAAR as efficient as possible. This pilot program will include file specifications, report field definitions, training material, webinars, and company-specific assistance by SRR staff over multiple months. As agencies adopt UAAR, the agency will contact affected licensees and provide information regarding available resources and training opportunities to facilitate that transition.

SRR recognizes that, initially, licensees will incur some level of effort reconfiguring internal systems to meet UAAR requirements. It is the intention of both state agencies and SRR that the Pilot Program described above should reduce that effort as much as possible. Over time,

the use of a uniform set of fields across multiple states is expected to significantly decrease the amount of resources required of companies to update and maintain Agent/Delegate location information.

## **II. Differing State Requirements regarding Authorized Agent/Delegate Information Submission**

Once commenter noted that, as of today, states require licensed MSBs to provide differing sets of Authorized Agent/Delegate information. This commenter suggested that NMLS only collect those pieces of Authorized Agent/Delegate information required by all states, and that any additional information either through state-specific reporting functionality through NMLS or outside of NMLS.

### *SRR Response*

The Money Service Business Working Group determined that the use of a uniform reporting format through NMLS is generally the most efficient process for both industry and regulators. As such, the Money Services Business Working Group developed a set of commonly required information regarding Authorized Agent/Delegate locations that supported regulators' efforts to effectively supervise industry activity within their respective states. State agencies that adopt UAAR are expected to conform to these common fields. The Working Group believes that creating a single reporting standard that eliminate agencies' needs to collect additional information outside NMLS as much as possible provides the greatest efficiencies for both industry and regulators.

Adoption of UAAR in NMLS is optional by state agencies. Agencies will have the ability to manage MSB licenses through NMLS but continue to require Authorized Agent/Delegate reporting outside of NMLS if they must, due to state law, regulation, or other requirements. It will be up to each agency using NMLS to determine whether this functionality is within its existing statutory/regulatory authority and appropriately supports its supervisory framework. The MSB Working Group continues to believe that a single standard adopted by all states is the best approach.

## **III. Collection of EIN**

Two commenters noted that not every state currently requires the submission of Authorized Agent/Delegate EINs. One of the commenters noted in some instances, an Authorized Agent/Delegate may not have an EIN issued by the Internal Revenue Service, such as a sole proprietorship using a Social Security Number (SSN) or a foreign entity. The other commenter noted potential difficulty in gathering EIN for all of its Authorized Agents/Delegates.

### *SRR Response*

The collection of the EIN is particularly important within the context of NMLS. One goal identified by the Money Service Business Working Group is to improve regulators' ability to track and monitor an individual Authorized Agent/Delegate's relationships with multiple licensed MSBs both simultaneously and over time. As discussed above, NMLS will create a unique record for each Authorized Agent/Delegate location reported through the UAAR.

Each Agent/Delegate location record will be defined as a unique combination of physical address and EIN. Regulators expect this definition to support both instances of an Authorized Agent/Delegate having one EIN and multiple locations (e.g., a chain of stores) as well instances of multiple Authorized Agent/Delegates sharing the same physical address (e.g. a strip mall or office park). As a result, the collection of EINs through UAAR is critical in order for NMLS to recognize when multiple licensed MSBs are reporting relationships with the same Agent/Delegate location.

In those instances where an Authorized Agent/Delegate is using an SSN, NMLS will be able to accept such information within the EIN field on a UAAR submission. Recognizing that UAAR submissions may contain SSNs, these files will be encrypted and transmitted securely to prevent data security breaches. Similar functionality exists for the NMLS Federal Registry, wherein banks can create individual accounts for thousands of employees via batch uploads that contain SSNs. These batch uploads are currently transmitted securely through encryption.<sup>7</sup>

NMLS has existing procedures to accommodate foreign entities with neither an EIN nor SSN. SRR will work with the licensee and appropriate state agencies to ensure such entities are reported as Authorized Agents/Delegates. Regulators have indicated such instances are rare, but possible.

#### **IV. Timing of Reports**

One commenter questioned the need for a quarterly reporting requirement, noting that states have different requirements regarding how frequently Authorized Agent/Delegate information must be reported. The commenter suggested that NMLS revise the proposed quarterly reporting requirement so that Authorized Agent/Delegate information is submitted at the frequency prescribed by each individual participating agency. Another commenter asked that licensees have at least 45 days following the end of a quarter to submit reports.

##### *SRR Response*

During the UAAR development, regulators provided information regarding current reporting requirements that conform with the commenter's observation. Some agencies currently require Authorized Agent/Delegate information to be reported on an annual or semiannual basis; others on a quarterly or monthly basis. Other agencies require that new Authorized Agent/Delegate locations be reported prior to the offering of services through that Authorized Agent/Delegate location.

In attempt to move towards a standard approach, the Money Service Business Working Group came to the consensus that requiring updates on at least a quarterly basis would accommodate the greatest number of states' requirements and was most appropriate. A number of Working Group members indicated an interest in using NMLS to obtain updated information regarding those locations within their respective states that money services are offered, and expect UAAR, through which a licensee will submit all Authorized Agent/Delegate location in a single file, to provide a less burdensome reporting method for

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<sup>7</sup> The NMLS Data Security Overview, which details NMLS' data security protocols, is available at <http://mortgage.nationwidelicensingsystem.org/about/Documents/NMLS%20Data%20Security%20Overview.pdf>.

industry. In addition to creating a uniform set of Agent/Delegate location information, creating a uniform reporting schedule is intended to increase the efficiency with which licensees report this information. For instance, current state reporting requirements, even if they are annual, have deadlines at different times throughout the year; some states' annual reporting requirements are in conjunction with the end of the calendar year, while other states' annual reporting requirements is in conjunction with the end of the licensee's fiscal year.

Agencies that adopt UAAR and require more frequent reports will be able to leverage NMLS in order to collect those additional reports. As noted above, state agencies' adoption of UAAR in NMLS is optional. Agencies with less frequent reporting requirements and an interest in adopting UAAR will need to determine if their existing statutory and regulatory authority allows for the adoption of UAAR with the understanding that NMLS will expect a submission on at least a quarterly basis.

Agencies interested in adopting UAAR will consider user feedback during the Pilot Program to help determine any outstanding policy questions, including how much time licensees will have to meet the quarterly reporting requirement. Agencies will also take into account other NMLS deadlines to ensure all users have reasonable access to all NMLS resources, including the NMLS Call Center, in order to meet various reporting requirements. SRR notes that the commenter's suggested 45 day window for filing Authorized Agent/Delegate reports may not appropriate for all states, particularly those that require monthly reporting.

## **V. UAAR Field Definitions**

Two commenters requested additional clarification and standardization across state agencies regarding what information is expected in certain UAAR fields, such as "DBAs", "Contact Person" and "Conducts Business in Other States".

### *SRR Response*

The original Request for Public Comment provided definitions for each of the fields required under UAAR (see Addendum A). As licensees provide feedback through the Pilot Program, SRR will work with agencies interested in adopting UAAR to integrate that feedback and provide licensees with definitions that are as uniform as possible.

It is important to note that the "Conducts Business in Other States" field is intended to help NMLS identify those Authorized Agent/Delegate locations that may offer services on behalf of a licensee outside of the state in which the Authorized Agent/Delegate location is physically located. This is generally intended to address instances of Authorized Agents/Delegates offering money services over the internet.

## **VI. Assignment of Identifier**

One commenter suggested that NMLS assign one identifier at the Authorized Agent/Delegate's corporate level, and another identifier at the specific location level based in part on the Authorized Agent/Delegate's corporate level identifier, and then allow principals to run reports organized around either the corporate or location identifier.

### *SRR Response*

NMLS assigns identifiers sequentially as new records are created and SRR believes this “non-intelligent” unique identifiers are best in this situation as Authorized Agents/Delegates may move from licensee to licensee and may be working with multiple principals at once. In such instances, the Authorized Agent/Delegate location is assigned a single identifier that remains constant over time and is not impacted by any subsequent relationships with additional licensees.

As stated above, a new record is created when the system recognizes the unique combination of EIN and Physical Address. Once the record has been created, NMLS will add subsequent submissions from any licensee regarding that Agent/Delegate location to that original record; no new identifier will be assigned. It is important to note that Authorized Agent/Delegate location identifiers are intended for regulators’ use when searching for specific Authorized Agent/Delegate locations. It is not intended for public distribution in a manner similar to the NMLS ID# assigned to licensed companies and individuals. Since the Authorized Agent/Delegate itself is not responsible for creating and maintaining a record in NMLS, SRR does not believe it is appropriate to present the Authorized Agent/Delegate location identifier as on equal footing with the NMLS ID# at this point.

## Appendix A

### Uniform Authorized Agent Reporting Fields

| <b>Field Name</b>                  | <b>Field Definition</b>   |
|------------------------------------|---|
| Legal Name                         | The legal name of the entity acting as an Authorized Delegate for the submitting MSB.   |
| EIN                                | The IRS-assigned Employer ID Number of the Authorized Delegate.   |
| Physical Address                   | The street, town, state and zip code (and suite number, if applicable) of the specific Authorized Delegate location submitted by the MSB. If the Authorized Delegate has multiple branches or locations through which the MSB operates, the MSB would identify and report each location separately.   |
| MSB Provided Identifier            | Industry has requested the ability to provide a company-specific identifier so that the MSB can associate filings to NMLS with its internal systems. This field would be optional, and for use only by the specific MSB. It would not replace or impact the NMLS-assigned identifier.   |
| Mailing Address                    | The street, town, state and zip code (and suite number, if applicable) used by the Authorized Delegate to receive mail if it does so at a different location. This would only be completed if a different address exists.   |
| DBAs                               | Any DBA under which the Authorized Delegate commonly operates, if any exist.  |
| Phone Number                       | The telephone number for the specific Authorized Delegate location being reported.  |
| Contact Person                     | Individual designated to receive any inquiries from the appropriate state regulators regarding business activity at the Authorized Delegate location.   |
| Start Date                         | Date on which the MSB began a relationship with the Authorized Delegate (or Authorized Delegate location, if the MSB uses multiple branches or locations of the Authorized Delegate). This field is only required for new Authorized Delegates.   |
| End Date                           | Date on which the MSB ended a relationship with the Authorized Delegate. Once reported, the MSB's association with this specific Authorized Delegate (or Authorized Delegate location, if the MSB uses multiple branches or locations of the Authorized Delegate) will be ended in NMLS and the MSB would not include the Authorized Delegate on any subsequent reports |
| Conducts Business in other states? | Y/N. Indicates whether the identified Authorized Delegate conducts licensed activity on behalf of the MSB in states other than the one in which it is physically located.   |