



MORTGAGE BANKERS ASSOCIATION

May 28, 2021

Conference of State Bank Supervisors
1129 20th Street, NW
Washington, DC 20036
comments@csbs.org.

Re: Networked Licensing Model, Requirements Framework, Core Requirements & Identity Verification Proposal

The Mortgage Bankers Association (MBA)¹ supports the Conference of State Bank Supervisors (CSBS) in seeking to achieve uniformity among state regulator requirements. Thank you not only for the opportunity to comment on the Networked Licensing Model, Requirements Framework, Core Requirements & Identity Verification [proposal](#) (Proposal), but also for the Town Hall presentation on the Proposal that included the participation of several key state regulators. MBA appreciates CSBS's attempt to streamline the company and mortgage loan originator (MLO) licensing process and reduce the time needed to review and approve a license application within the Nationwide Multistate Licensing System (NMLS).

CSBS states that the Proposal would implement the following changes to the NMLS workflow:

- Create a Networked Licensing Model that allows state regulators to share and eliminate duplicative work, while retaining their authority over licensing in their state;
- Develop a licensing requirements framework that standardizes data collection, while providing state regulators with the information they need to make educated licensing decisions; and,
- Establish "Core Requirements," which would create a set of demographic information that meets standardized requirements for state regulators.
- Improve data security by providing each user with a single login that will be associated and permissioned for the various applications and records that the user will manage in NMLS.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 330,000 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 to 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 1,700 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

Overall Comments

MBA believes for the modernization approach to work, state regulators must limit the amount of activity that is required outside of NMLS. MBA members have long discussed the challenge of licensing inside the NMLS in a given state, and outside the system in part or entirely in another state to effectively achieve the same result in both. Without full state regulator adoption and implementation there will continue to be a bifurcated system with states that fully embrace the NMLS and those that do not adopt the modernization approach or accept it in part but still require certain documentation to be provided outside the system. To the extent states desire to retain their own configurations, modernization should ensure such configuration occurs within the system to improve workflow for regulators and industry alike. If all state regulators are not willing to implement the new workflow because it does not meet their needs, MBA believes the system will not produce the streamlined process, enhanced user experience, state regulator empowerment, and greater operational efficiencies promised by the Proposal.

In addition to overall concerns about state regulator implementation, MBA and its member companies have more specific suggestions regarding the Proposal, and urge CSBS to consider the following:

- Because of the smaller scale of the money services businesses (MSB), plans to implement the Proposal first with those lenders should proceed, but be followed by a pause of 60 days to evaluate implementation ahead of taking any steps with mortgage lenders and MLOs;
- Considering that new issues and solutions may become clearer following the MSB implementation, CSBS should re-issue the modernization proposal for another 60-day comment period and consider the responses prior to implementing new requirements for the mortgage finance industry;
- Adopt a “Home State” regulator preference in the Phase One review of core requirements for multistate company and MLO applications;
- Ensure the system can accommodate MLO temporary authority, which is mandated by federal law; and,
- Permit the support staff of a sponsoring company to have access to a MLO’s account to ensure that the information provided is complete and correct prior to attestation.

Re-Issue Guidance for Mortgage Finance Industry

CSBS has indicated that the proposal is meant to act as a rollout of the modernized licensing approach for the MSB industry and will then be the core system for licensing of all industries, including mortgage, debt collection, and consumer finance. Because MSBs represent a smaller footprint within NMLS, they are an ideal starting point for implementation as necessary improvements can be made without impacting many system users and licensees.

However, there are many aspects of the mortgage finance industry’s licensing process (i.e., temporary authority) that will require changes to the modernization approach to properly integrate. Given that there is no federal or state mandated timeline for any of the proposed changes, CSBS should take an iterative approach to implementation across multiple industries

and certainly with respect to the complicated regulatory environment among states for mortgage lending. Therefore, MBA urges CSBS to pause for 60 days following MSB implementation and consider how to improve the system. Any new insights and solutions should then be incorporated into a re-issue of the Proposal prior to implementing the new company and individual licensing approach for the mortgage industry. This will also afford the industry more time to absorb the changes and offer any new suggestions in the collaborative process.

Adopt “Home Regulator” Approach for Phase One Core Requirements Review

The proposal will create a new workflow for multistate applications where a Lead Agency will be chosen to complete a Phase One Review, which will include the evaluation of “Core and Business-Specific Requirements and Standards”. The core-requirements will be composed of an agreed upon set of standards that are pertinent to a particular industry or business line. While the process was not made clear in this proposal nor in the CSBS Town Hall, the Lead Regulator will be chosen by a system algorithm that measures the available bandwidth of the chosen regulators. This process of assigning one regulator to review demographic and basic information that other regulators can rely upon could potentially allow state regulators to focus on state-specific items that are unique to their jurisdiction. However, MBA has concerns that this process may not create the desired efficiencies.

In addition to clearly articulating how a Phase One regulator will be chosen, MBA urges CSBS to adopt a “Home Regulator” approach to multistate applications. If an MLO or a company submits a multistate application for licensure, NMLS should provide additional weight and preference to the MLO’s state of residence or the mortgage lender’s primary place of operation. Prioritizing a regulator’s available bandwidth provides a utilitarian solution, but regulators may prioritize applications they receive from companies that are incorporated in their state or MLOs that reside within their jurisdiction, thus, pushing applications from out-of-state applicants to the bottom of the queue. This would be the likely result of regulators wanting to prioritize applicants that need more direct oversight. Therefore, when choosing a Lead Regulator, the Home Regulator should do the initial review of the company or individual. This would reduce the likelihood that the review of an application is delayed because a regulator is focused on completing the review of in-state applicants.

Lastly, MBA believes that once a Home Regulator has completed its Phase One review, it should allow subsequent applications to consider Phase One as complete and begin with Phase 2. NMLS should then flag changes to Phase One information and the dates for those modifications in the system for Phase 2 regulators to verify prior to completing their review of state specific information.

Ensure Compliance with Federal Law Mandating MLO Temporary Authority

MBA has long advocated for the establishment of rigorous standards and qualifications for all MLOs, regardless of whether they are employed by federally- or state-regulated lenders and urged the Congress for many years to address the incongruity created between those two systems as it related to testing and qualifications of MLOs. The amendments enacted in 2018 to

the *Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act)*² addressed some of these asymmetrical requirements for qualified job seekers wishing to work for a state-licensed company by mandating a 120-day period of temporary authority for MLOs who meet specific qualifications. Following an 18-month implementation period by state regulators that included vast changes in NMLS to licensing, eligible MLOs began taking advantage of this new federal law in late November 2019. This change represents a success for state regulators who made the necessary modifications to NMLS to implement this federal mandate on schedule. Importantly, operationalizing this change represented a significant effort by state licensed companies to develop and implement new licensing processes for MLOs and their supervisors who ensure compliance with all state and federal consumer protection laws.

While the Proposal is initially aimed at modernizing NMLS for MSBs, MBA has some concerns that the process would not adequately accommodate temporary authority. Because no plan for temporary authority is specified in the Proposal, MBA raised this issue during the CSBS Town Hall. The response from state regulators did not offer further details. Thus, when the Proposal is re-proposed for the mortgage industry, CSBS must provide clear guidance related to the implementation of temporary authority within the new modernization framework. The Proposal's workflow must incorporate the right of an eligible bank or non-bank MLO to obtain 120-days of temporary authority to operate once they have submitted their application. Moreover, the proposal must make clear when an application is considered to be submitted under the Phase One review structure. It is the view of MBA and its members that the application date for all regulators in a multistate submission should be when the application package was uploaded to NMLS.

Permit the Sharing of MLO's Unique Login Information with Sponsoring Companies Support Staff

Finally, the Proposal states that each unique user will have a single login that will be associated and permissioned for the various applications and records the user will manage in NMLS. In addition, a multifactor identification analysis will be completed to ensure that the person accessing the system is the individual associated with the account. Member companies have expressed to MBA that they have concerns that this would preclude their company support staff from accessing an MLOs account to review and makes changes to information that would ensure an application is complete and correct. Without access to an MLOs account, a company sponsor would have to attest to information that they themselves have not fully vetted. MBA urges CSBS to make clear in the final implemented Proposal that company support staff can access a MLO's account to properly audit the information prior to submission. This is another area that would benefit from a re-proposal for comment before implementing these changes with the real estate finance industry.

² 12 U.S.C. § 5101 et seq.

Conclusion

Once again, thank you for providing MBA with the opportunity to comment on CSBS' proposed changes to NMLS. MBA welcomes the opportunity to engage with you further to modernize NMLS. If you have any questions, please contact Kobie Pruitt (kpruitt@mba.org or 202-557-2870).

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Mills". The signature is written in a cursive, flowing style.

Pete Mills
Senior VP Residential Policy & Member Engagement
Mortgage Bankers Association