



June 1, 2015

Mr. Tim Doyle
Senior Vice President
State Regulatory Registry
Conference of State Bank Supervisors
1129 20th St NW, 9th Floor
Washington, DC 20036
comments@csbs.org

Re: Request for Public Comments; Uniform NMLS Licensing Forms and Mortgage Call Report, May 1, 2015

Dear Mr. Doyle:

The Mortgage Bankers Association (MBA)¹ appreciates the opportunity to comment on the Nationwide Mortgage Licensing System & Registry (NMLS) uniform NMLS Company, Branch, and Individual Licensing Forms (Forms) and the Mortgage Call Report (MCR). MBA also appreciates the willingness of State Regulatory Registry (SRR) and the Conference of State Bank Supervisors (CSBS) to periodically seek comments from stakeholders on these documents.

MBA offers these recommendations in the spirit of cooperation to ensure that regulators have the information they need 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.

I. Preliminary Comments

As MBA has noted on several previous occasions, the MCR is extensive and requires lenders to quarterly report a large amount of loan-level data on origination and servicing activities, as well as company financial condition information. 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 will soon increase dramatically under pending Dodd-Frank rules. Additionally, many lenders are also required to submit the Mortgage Bankers Financial Reporting Form (MBFRF) to Fannie Mae and Freddie Mac.

¹ 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, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

As noted in the NMLS May 1, 2015 request for comments, the data reporting requirements for the MCR were expanded at the end of 2014 to include a new definition of "application" for reporting loans, the addition of nationwide servicing and new state specific servicing fields, and the addition of fields to capture changes in application amount.

MBA appreciates that the final MCR expansion notice released in November 2014 included an implementation delay until Q1 2016 on the new definition of "application" as well as for enforcement of the proposed MCR data fields for changes in loan application amount. This year-long pause is important given the other data reporting standards required of the industry, and the August 1, 2015 implementation date of the uniquely complex TILA-RESPA Integrated Disclosure (TRID) rule that has consumed nearly all available technological and staffing resources at both mortgage companies and their compliance vendors.

To appreciate the scope of the industry's task, it is important to note that since MBA's comments last fall highlighting the enormous implementation challenge presented by TRID, 41 Senators (including 14 from the Senate Banking Committee) have written a bipartisan letter to CFPB to request a six month enforcement and liability grace period. A similar letter was sent to the CFPB the week before from 290 members of the House of Representatives. A similar delay is also a component of legislation recently approved by the Senate Banking Committee. Importantly, if granted this grace period, the opportunity would exist to also determine whether or not these new federal rules conflict with any existing or newly enacted state statutes or regulations.

MBA has also strongly urged that any changes to the MCR should only be considered in concert with the forthcoming revisions to the Home Mortgage Disclosure Act (HMDA) rule. Only last week, the CFPB semi-annual rulemaking agenda indicated that the release of the final rule will come this Summer. CFPB was provided robust statutory authority to go beyond the HMDA fields prescribed by Congress in the Dodd-Frank Act and MBA continues to urge that state mortgage regulators work closely with their federal counterparts in order to lessen the expensive and duplicative burden on the real estate finance industry. Thus, any new amendments to the MCR should be delayed so that data reporting may be simplified and made consistent to the greatest extent possible with the revised federal reporting requirement,

MBA believes the NMLS Policy Committee also should focus on aligning the MCR with the data reporting requirements already applicable to MBA members for the quarterly Mortgage Bankers Financial Reporting Form (MBFRF). The MCR remains unnecessarily different from HMDA and the MBFRF, and the existence of multiple reporting standards is sub-optimal and only creates additional expense, which will ultimately be borne by consumers.

II. Comments on Questions Posed in NMLS Request

The November 21, 2014 NMLS *Response to Comments Received During the SRR Comment Period On the Mortgage Call Report – Proposal 2014-2*² stated:

² <http://mortgage.nationwidelicencingsystem.org/news/ProposalsForComment/2014-2%20Response%20Summary.pdf>

The MCR Working Group and NMLSPC [NMLS Policy Committee] are... taking the Response to Comments as an opportunity to provide advance notice of other significant changes to the MCR that will be proposed in the first quarter of 2015.

However, the questions posed in the current request for comment do not detail any specific changes – significant or otherwise – to the MCR. Instead, the questions are more general in nature and MBA is responding below in similarly general terms. We appreciate the more deliberative approach to any further expansion of the MCR.

- 1. As state agencies continue to expand their use of NMLS to manage license authorities beyond the mortgage industry to include consumer finance, debt, and money service businesses, should NMLS continue to utilize the standardized licensing forms for all license authorities or move towards more forms that are modified based on business activities, license authority, or industry?**

Expanding NMLS's unique mortgage loan originator (MLO) identifiers to debt collectors, payday lenders and many others will always be confusing to consumers.

MBA has on previous occasions expressed concern about NMLS expansion to individuals in non-mortgage financial services, and believes that consumers already do not understand the important and material difference that exists between the qualifications required of registered versus licensed MLOs. Through the NMLS Ombudsman process, MBA has submitted comments to this effect and MBA is grateful for the opportunity to serve on the NMLS Consumer Access Industry Advisory Committee. The NMLS Consumer Access website does not adequately explain an MLO's qualifications, and MBA will continue to work collaboratively through the Committee to improve the site during this period of redesign.

MBA again suggests that if the NMLS system is further expanded, the unique identifiers assigned to non-MLOs be easily differentiated from those given to MLOs – perhaps with the addition of a prefix or suffix unique to each non-mortgage profession. Implementing such a system would also discourage mortgage fraud as consumers will be able to distinguish whether or not the registration number of the individual they are working with is connected with mortgages.

- 2. Currently state mortgage companies that designate in their Company MU1 Form that they are authorized Fannie Mae or Freddie Mac Sellers/Servicers or Ginnie Mae Issuers must submit an Expanded Mortgage Call Report. Should NMLS reconsider the Standard and Expanded MCR concept in favor of a MCR based upon a company's selected business activities or license type in order to collect information that is pertinent to the actual entity?**

MBA does not believe the NMLS Policy Committee should reconsider such a change at this time. Instead, MBA suggests that the Committee, before proposing any policy that could result in additional reporting burdens, consider and study their impact on smaller lenders. Any changes will disproportionately impact smaller independent mortgage companies because they cannot as easily absorb new compliance costs, particularly when many of their key competitors – bank and bank-affiliated lenders – do not face MCR implementation challenges and costs.

MBA has in previous comments noted that lenders should not be required to fill out a form that is not pertinent to their business activities. 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. Issuers that are approved yet do not maintain a servicing portfolio should not be required to file the expanded form.

3. In keeping with the goal of the NMLS Mortgage Call Report to include all necessary information required by regulators such that requirements do not need to be submitted and tracked outside NMLS, what fields should be added to the Residential Mortgage Loan Activity (RMLA) and the Financial Condition (FC) components to further reduce state's need for additional reports externally from the System?

MBA members report that some state regulators do not use MCR information and others require additional data and information beyond what is required by the MCR. Thus, MBA supports the work by the NMLS Policy Committee to establish the MCR as the single report required of all state regulators since these efforts hold the promise of establishing a revised uniform data set that will relieve undue burden and reduce costs. Nevertheless, MBA believes it is unwise at this time to add new MCR data fields given our previous comments related to forthcoming changes to federal rules. Instead, MBA believes that this question is more appropriately directed at state regulators and recommends that the Committee survey state regulators to determine what data or information is still useful and needed. The results of that survey should be shared with industry, federal regulators, consumers and the GSEs for evaluation and comment so that all stakeholders can work toward and support uniformity.

4. State regulators have proposed a definition of application that is currently slated to become effective in the first quarter of 2016 for the NMLS Mortgage Call Report. This definition is the result of public comment periods in 2014 and discussions with industry members and state regulators. Does the definition of application provide the necessary detail to successfully identify the requirements for reporting on the NMLS Mortgage Call Report?

Again, MBA appreciates the one-year delay in implementation of the revised MCR definition of application. MBA further appreciates that "state regulators will review the final definition of 'application' under the HMDA rule from the CFPB to determine whether or not this definition comports with state supervisory purposes."

The industry is currently contending with several separate definitions of application, including a new definition bringing significant operational changes as part of the TRID rule implementation. As comparative examples, the MCR definition states "an application is an oral or written request for an extension of credit encumbering a 1-4 family residential property. Exclude any commercial/business/investment purpose encumbrances from reporting. Include inquiries or Pre-Qualification requests that result in denial of credit." The definition provided in HMDA proposal would cover "dwelling secured loans." Last, the final TRID definition is based on the submission of six items of information for mostly closed-end credit loans "secured by real property."

MBA strongly urges the NMLS Policy Committee to consider the impact of a divergent definition at least from the HMDA proposal, and use the HMDA definition to also serve the MCR. To this end, we urge the Policy Committee to await the final HMDA rule which will be coming shortly and conform the MCR definition to the HMDA definition.

5. The Financial Condition (FC) component of the NMLS Mortgage Call Report is based on the Mortgage Bankers Financial Reporting Form (MBFRF) but this form has not been updated on a consistent basis to keep pace with standard accounting changes and relevancy to certain areas of state supervision of mortgage companies. Do you have specific suggestions to improve the information collected on the FC?

The MBFRF provides a common format for mortgage bankers to report financial information that Fannie Mae, Freddie Mac and Ginnie Mae use to evaluate the creditworthiness and financial stability of individual lenders with whom they do business. The creation of the MBFRF is a case of federal entities working together in collaboration to successfully streamline industry reporting requirements while meeting their needs to ensure performance of their respective fiduciary and counterparty risk management responsibilities. MBA has appreciated that the FC portion of the MCR is based on the MBFRF. However, any specific changes to the FC portion of the MCR contemplated by state regulators, which is based on the assumption that these federal government entities need to update the MBFRF, should be done in unison with these entities rather than unilaterally. MBA suggests that the NMLS Policy Committee and MBA meet with Fannie Mae, Freddie Mac and Ginnie Mae to discuss this matter in greater detail. MBA further suggests that regardless of whether or not such a meeting is possible, state regulators should at least provide the GSEs and MBA with a more detailed statement from state regulators of the perceived shortcomings of the MBFRF to start a more informed discussion of state needs and perhaps fuel a movement toward more effective and consistent financial reporting going forward.

6. On a biennial basis, the NMLS Policy Committee undertakes a review of the Forms and the MCR after receiving input from participating state agencies and inviting public comment. The purpose is to update the Forms and MCR to provide better information to state regulators and to make improvements in the use of NMLS to support these changes. Should the Forms and the MCR be on different maintenance schedules to reduce industry impact associated with the changes?

It is not clear to MBA that biennial review and possible revision is worthwhile considering the impacts of reporting changes including their costs. A longer period of time of at least four years – with an opportunity for more frequent changes only if necessary – would be less burdensome. Staggering the timeframes would also be helpful to reduce industry impact.

III. Other Miscellaneous Comment

Comment Timelines

Given the complexity and significance of the issues involved in changing aspects of the MCR, and the need to consider how to integrate these changes in other similar but potentially

divergent federal and industry requirements, more than 30 days should be available to comment. MBA suggests at least 45-60 days, which is more in keeping with the timelines offered by federal regulatory counterparts.

IV. 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 or William Kooper, Associate Vice President of State Government Affairs and Industry Relations, at wkooper@mortgagebankers.org if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pete Mills".

Pete Mills
Senior Vice President, Residential Policy and Member Services