



MORTGAGE BANKERS ASSOCIATION

April 13, 2018

Conference of State Bank Supervisors  
Attn: Tim Doyle, Senior Vice President  
1129 20<sup>th</sup> St NW, 9<sup>th</sup> Floor  
Washington, DC 20036

**RE: NMLS Proposal 2018.1: Request for Public Comments Nationwide Multistate Licensing System (NMLS) Mortgage Call Report**

Dear Mr. Doyle:

The Mortgage Bankers Association (MBA)<sup>1</sup> greatly appreciates the opportunity to comment on proposed changes to the Nationwide Multistate Licensing System (NMLS) Mortgage Call Report (MCR) and the fact that the Conference of State Bank Supervisors (CSBS) has sought comment prior to the launch of NMLS 2.0 and the updated MCR. MBA looks forward to receiving an updated timeline to provide its members for the intended roll out of the MCR in light of the delayed release of the redesigned NMLS to Q2 2019. Given the number and scope of systems changes mortgage lenders have in process at any one time, it is important that CSBS work with industry to provide sufficient implementation time. MBA will make every effort to regularly communicate the implementation time frame and expectations to industry participants, both lenders and vendors alike.

**Overview**

**The following summary represents MBA's overall comments:**

- The proposed business activities approach has the potential to create issues due to incorrect Company Forms (MU1) and inconsistent state licensing requirements.

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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, DC, 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 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.

- CSBS must provide the industry with enough time to test the redesigned system prior to its release date in Q2 2019 to effectively prepare for the submission of the MCR.
- MBA members have expressed significant concern that, while well intentioned the proposed Supplemental State Specific Form will create duplicative and costly data reporting without an assurance that states will phase out their state specific reporting requirements.
- Any changes to the MCR financial condition report should maintain or create greater consistency with the federal government housing enterprises' (Fannie Mae and Freddie Mac) Mortgage Bankers Financial Reporting Form (MBFRF).

### **Transition to a Business Activity Approach for Filing the MCR**

MBA appreciates CSBS's effort to simplify the reporting requirements for the MCR. MBA members have indicated that the switch from a standard and expanded filing process to a business activities approach can be a net benefit to the industry. However, MBA would like to flag some potential issues which stem from the proposed change in format.

The proposed Business Activity Wizard may be a potentially useful tool, however CSBS must carefully review how it intends to accomplish its programmatic goal and ensure it is implemented in a way that comports with the divergent laws and regulations of the 50 states and multiple territories. MBA also urges CSBS to ensure that the proposed Business Activity Wizard provides intuitive and clear instructions to system users prior to selecting a state license. Furthermore, CSBS must make clear that the Business Activity Wizard only provides license suggestions and does not mandate a user to apply for the license offered by the system. CSBS must also provide users with an official means to inform individual state regulators why they disagree with the license(s) suggested by the wizard.

In addition, MBA believes the proposal may create inconsistencies due to inaccuracies in the Company Record (MU1) form. States have different designations for certain business activities that may cause lenders to incorrectly indicate that they operate a business activity in a state. For example, a company in the state of Nevada operating as a servicer may indicate on their MU1 that they engage in servicing activities and receive the reporting requirements for a company with a Mortgage Servicer License rather than the fields for those with a Supplemental Mortgage Servicer License. This approach may lead to lenders and servicers receiving and completing incorrect reporting requirements due to inconsistent state licensing definitions. When switching to a business activities approach, it is imperative that CSBS and state regulators ensure that all state licensing requirements are clear, consistent and as accurate as possible from the outset.

Furthermore, the current NMLS system only allows companies to indicate business activities that it currently engages in, and does not account for activities in which a company is planning to begin operations. Thus, if a company applies for a state servicing license in one quarter and the regulator does not grant the license until a subsequent quarter, this company can be required to complete a report on a business activity for which it has yet to begin operations. MBA encourages CSBS to take this circumstance into account when developing the business activities approach for NMLS 2.0. Furthermore, MBA also suggests that the redesigned system allow companies to submit their MCR correctly and accurately indicate their business activities on the MU1 form.

It may be helpful to the industry if CSBS provides data on how the business activities approach is currently being deployed in the Money Services Businesses Call Report. It would be helpful if CSBS also shares how the data will be used to create greater transparency.

There needs to be a commitment by states to update their system settings as laws are passed that alter licensing requirements. A dynamic or business activities approach to licensing cannot function unless there is a concerted effort by states to keep their NMLS system requirements up to date.

### **Instituting a System Testing and Acclimation Period**

CSBS has indicated that it intends to provide MCR filers with an opportunity to review and test the system prior to the proposed NMLS 2.0 release date of Q2 2019. MBA strongly supports a system-testing period ahead of the effective date. It is important that CSBS provide the industry with access to the software and the testing environment for an appropriate period of time in advance of the release: MBA suggests six months. This would allow filers to be more effectively prepared to submit their first MCR under the new requirements. It would also afford small- and medium-size lenders with the opportunity to adequately prepare their internal systems and perform proper checks to ensure compliance with new MCR requirements.

Finally, there needs to be an agreement amongst state regulators that for a reasonable period of time after the launch of the new MCR that they will refrain from any adverse regulatory actions for mistakes that are the direct result of adjusting to the new system, provided lenders have made good faith efforts to implement the changes. This is particularly important for smaller companies that may lack adequate bandwidth to enact changes to their internal infrastructure with a short window for implementation. Smaller organizations often do not have multiple staff specifically devoted to data reporting, and other priorities such as HMDA reform, further constrain limited resources for many companies. In addition, with so few authorized loan origination system (LOS) vendors serving thousands of clients, many of the smaller lenders will have to wait for an extended period of time before a vendor is available to implement the new requirements into their internal systems. States agreeing not to take formal regulatory actions after the launch of the new system, provided lenders have made good faith compliance efforts, would provide small and medium size companies with the opportunity to adequately acclimate to new NMLS standards, and help produce the result regulators hope to achieve.

### **The Adoption of Supplemental State Specific Form and the Phasing Out of State Reporting Requirements**

MBA has long advocated for uniformity in data and reporting disclosures, which includes the MCR. Therefore, MBA supports CSBS' proposal 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. A standard data set would also allow lenders to provide better quality and more timely data to regulators and to receive aggregated feedback on report data in order to self-correct future MCR filings.

However, without coupling the inclusion of the Supplemental State Specific Form with assurances that states will concurrently sunset their own data reports outside the system creates concern for many MBA members. The CSBS MCR Working Group has expressed its intent that the MCR Supplemental State Specific Form will help the MCR become a more comprehensive report that will eliminate the need for state reports outside the system because it will capture the state-specific requirements that currently

exist. Notwithstanding the intent of CSBS, if states are allowed to require state-specific information through the MCR without ending their own state reports it is likely to lead to duplicative work that will raise costs on the industry, which cannot easily be absorbed, and will be reflected in prices to consumers.

It is also reasonable to assume that these requirements will not remain static. Additional requirements are likely to result from the passage of new state statutes or promulgation of new state regulations. Therefore, if a state requires additional lending information, it is reasonable to conclude that these requirements will be reflected in future updates of the MCR and the Supplemental State Specific Form. MBA recommends CSBS provide clear instruction to state regulators that the supplemental state specific form will codify current state data requirements and will not be subject to frequent updates due to the enactment of state statute or rules. MBA believes that allowing serial updates to the Supplemental State Specific form would create an additional regulatory burden. Therefore, MBA proposes that the MCR be placed on a seven year review cycle, which would afford states the opportunity to update the state specific form and address new data requirements in a coordinated fashion.

Furthermore, the Supplemental State Specific Form potentially provides states with access to information not authorized for collection by their own state law as a result of data sharing through NMLS. Once provided access to this information, many regulators may require that the data shared with other similarly situated states be a part of their own state specific report. This could substantially increase the data requirements for small- and medium-size companies that may not possess the workforce to handle the additional volume.

The inclusion of the supplemental form at the end of the MCR may also incentivize states to alter their own annual reporting requirements to coincide with the MCR's quarterly report structure. This amounts to an additional burden placed on the industry resulting in additional increased costs that cannot be absorbed and will be passed on to consumers. MBA urges CSBS inform state regulators that the state specific information that they receive through the MCR will be consistent with the state's current reporting cadence.

MBA understands that CSBS is not a regulator and it would only be implementing new state requirements that arise. In addition, it is understood that CSBS also does not have the ability to eliminate existing state reporting requirements by including the state specific information in the MCR because the report may be required by state statute. Consequently, MBA is committed to partnering with CSBS to engage state policy makers regarding the elimination any duplicative reporting requirements. MBA desires an MCR that not only is sufficiently comprehensive to enable regulators to perform their supervisory duties, but that also removes the need for supplemental state specific reports outside NMLS.

### **Creating Greater Consistency between the MCR Financial Condition and the Mortgage Bankers Financial Reporting Form**

MBA does not support any change to the MCR financial condition that would create unnecessary variance from the Mortgage Bankers Financial Reporting Form (MBFRF). Instead, MBA urges state regulators work closely with their federal counterparts to ensure that any change to the MCR financial condition maintain or create greater consistency with the federal MBFRF. The MBFRF is widely accepted by the real estate finance industry and changes to the MCR should be consistent with the data requirements of the MBFRF. Aligning the reporting requirements of the MCR financial condition with the

MBFRF will reduce an expensive and duplicative burden for the real estate finance industry. Again, consistency will ultimately benefit consumers who routinely bear the cost of meeting multiple and duplicative reporting requirements.

MBA urges CSBS to allow mortgage bankers that currently submit the MBFRF to satisfy the financial condition reporting requirement continue to do so under the redesigned MCR. If independent mortgage bankers are required to complete an added report outside the MBFRF it may create a burden especially on small companies that do not have the resources to comply with an additional requirement.

MBA would also like to highlight that switching from the standard and expanded reporting model may be burdensome for brokers that have never been required to complete a financial condition report. Brokers typically do not have the infrastructure to complete the substantial requirements of MCR financial condition report. Therefore, it may be appropriate for brokers to complete a condensed and simplified version of the financial condition report. The inclusion of this new requirement on the financial services community underscores the need for companies to have a period of time to operationalize and test new systems and procedures to submit their filings for the revised call report.

If the reason for the proposed changes to the financial condition is that states have a legitimate concern that they are not monitoring viable institutions and the information provided is insufficient to adequately examine their activities, then MBA would willing to engage in future conversations regarding this issue. It may also behoove CSBS and MBA to include the Financial Accounting Standards Board (FASB) in any future discussion, if CSBS believes there is a need for greater alignment with FASB standards.

## **Conclusion**

The revised MCR proposes updates that could potentially assist the industry in providing state regulators with more accurate, consistent and timely information.

However, MBA would like to emphasize that the proposed changes to NMLS and the MCR are substantial in nature and should coincide with an implementation period that would allow the industry time to adjust to the new data requirements. State regulators should refrain from citing companies for honest mistakes for a reasonable period of time subsequent to the launch of NMLS 2.0 and the new MCR. In addition, a system change to a business activities model may create potential issues with filing the MCR. MBA recommends that CSBS further study the business requirements for implementing business activities approach prior to the NMLS 2.0 release. Furthermore, if the purpose of the revised MCR is to distill divergent reporting requirements into one vehicle, MBA believes that CSBS should also make clear to state regulators the overarching purpose of this revision is to eliminate future divergent reporting. Lastly, any changes to the MCR financial condition should maintain or create greater consistency with the federal government housing enterprises' Mortgage Bankers Financial Reporting Form.

MBA again appreciates the opportunity to comment on the MCR and looks forward to working with CSBS staff and state regulators to ensure that the information sought is consistent with other reporting requirements and any undue regulatory burden is avoided.

Please contact William Kooper, Vice President of State Government Affairs and Industry Relations ([wkooper@mba.org](mailto:wkooper@mba.org)) or Kobie Pruitt, Associate Director of State Government Affairs ([kpruitt@mba.org](mailto:kpruitt@mba.org))

Sincerely,

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

Pete Mills  
Sr. Vice President, Residential Policy and Member Engagement Mortgage  
Mortgage Bankers Association