

Nationwide Mortgage Licensing System White Paper

This paper is meant to be a resource for members within the NASBP to provide an overview of many of the changes occurring within the bonding industry as it pertains to financial institutions and the Nationwide Mortgage Licensing System (NMLS).

What is the NMLS?

The NMLS is a repository of information and the system of record for a growing number of regulators and state agencies. The original scope of the service was to provide a single system of record for licensing and tracking of mortgage loan originators due to the fraud discovered during the mortgage meltdown in 2007.

NMLS is the system of record for non-depository, financial services licensing or registration (think Mortgage Brokers, Bankers, Collection Agencies, Money Transmitters, etc.) in participating state agencies, including the District of Columbia and U.S. Territories of Puerto Rico, the U.S. Virgin Islands, and Guam. In these jurisdictions, NMLS is the official system for companies and individuals seeking to apply for, amend, renew and surrender license authorities managed through NMLS by 61 state or territorial governmental agencies. NMLS itself does not grant or deny license authority. The goal of NMLS is to employ the benefits of local, state-based financial services regulation on a nationwide platform that provides for improved coordination and information sharing among regulators, increased efficiencies for industry, and enhanced consumer protection.

NMLS was created by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) and began operations in January 2008. It is owned and operated by the State Regulatory Registry LLC (SRR), a wholly owned subsidiary of CSBS.¹¹

For more information, you can visit the NMLS website at:

<http://mortgage.nationwidelicencingsystem.org/about/Pages/default.aspx>.

Why was the NMLS created?

In an attempt to bring clarity, accountability, and stability after the subprime mortgage crisis in 2007/2008, the federal government passed the Secure and Fair Enforcement for Mortgage Licensing Act, or the "SAFE Act of 2008". In short, this legislation did two significant things for our industry: it clarified the net worth and/or surety bond requirement and also mandated participation in a nationwide licensing system that was yet to be built.

The Safe Act of 2008 required that federal registration and state licensing and registration be accomplished through the same online registration system, the Nationwide Mortgage Licensing System and Registry. NMLS was created by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) and began operations in January 2008 in response to this legislation.

What is the SAFE Act?

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) was enacted on July 30, 2008, and mandates a nationwide licensing and registration system

¹ Response to comments received during the SRR comment period on the electronic surety bond tracking system. Oct. 1-Oct. 30, 2014. Posted July 21, 2015.

for residential mortgage loan originators (MLOs). The SAFE Act prohibits individuals from engaging in the business of a residential mortgage loan originator without first obtaining and maintaining annually:

- For individuals who are employees of covered financial institution, registration as a registered mortgage loan originator and a unique identifier (federal registration), or
- For all other individuals, a state license and registration as a state-licensed mortgage loan originator, and a unique identifier (state licensing/registration).

The SAFE Act requires that federal registration and state licensing and registration be accomplished through the same online registration system, the Nationwide Mortgage Licensing System and Registry (Registry).

The objectives of the SAFE Act include aggregating and improving the flow of information to and between regulators; providing increased accountability and tracking of MLOs; enhancing consumer protections; supporting anti-fraud measures; and providing consumers with easily accessible information at no charge regarding the employment history of and publicly adjudicated disciplinary and enforcement actions against MLOs.⁴ On July 28, 2010, the OCC, Board, FDIC, OTS, NCUA, and FCA (collectively the Agencies) published substantively similar regulations implementing the SAFE Act federal registration requirements for the institutions they supervise and the institutions' MLO employees (SAFE Act regulation).²²

The full text of the SAFE Act can be found at

<http://mortgage.nationwidelicingsystem.org/SAFE/NMLS%20Document%20Library/SAFE-Act.pdf>

How does the SAFE Act impact the surety industry?

With the improved clarity for a net worth or surety bond requirement, Title V of P.L. 110-289, the SAFE Act of 2008 requires that applicants have met "...either a net worth or surety bond requirement, or paid into a State fund..." in 12 USC §5104(b)(6). According to the SRR, as of 2014 there were 48 state agencies that required MLOs to have either their own surety bond or be covered under a company's surety bond in order to originate mortgages. (The remaining agencies have established a state recovery fund.) State regulations define the specific surety bond requirements (e.g. amount of coverage) that must be satisfied in order to obtain, maintain, and renew a license in the state.

The SAFE Act also prompted HUD to provide State Model Language for the implementation of Public Law 110-289, Title V – S.A.F.E. Mortgage Licensing Act. After that language was presented, many state agencies revised their requirements as it relates to the surety bond require for licensing. Additional bonds were created, tiered bond amounts based on loan volume, and some bonds were removed as state agencies (Florida and Arizona) adopted a recovery fund in lieu of the surety bond.

How does the NMLS impact bonding?

Many state laws or regulations require financial services licensees to obtain a surety bond as a condition of licensure. State regulators or consumers can file claims against a surety bond to cover fines or

penalties assessed or to provide restitution to consumers due to the failure of a licensee to comply with licensing or statutory requirements.

According to the reports from the SRR and CSBS, in 2014 there were 177 license authorities (managed on NMLS) who required companies to obtain and maintain a surety bond as a condition of licensure. More state agencies have chosen to manage license authorities on NMLS, including pawn brokers and other non-financial institution based entities. SRR expect the number and scope of license authorities to grow in the years to come.

One of the primary goals of NMLS is to serve as the comprehensive system of record for licensing information. NMLS's current functionality is limited to the uploading of a surety bond document through NMLS, but does not allow for the tracking of surety bond requirements or the maintenance of surety bond information validated by authorized Surety Companies and/or Surety Bond Producers. Tracking surety bond compliance is cited as a reason for processing delays in license applications, amendment filings and renewal approvals.³³

Electronic Surety Bond Tracking in NMLS

The SRR has begun the process of creating an Electronic Surety Bond Tracking service provided through the NMLS. On Oct. 1, 2014 the SRR invited public comment on the proposed implementation of Electronic Surety Bond Tracking in NMLS. The SRR received a wide variety of comments and input from the SFAA, surety companies, and surety producers. After reviewing the comments, the SRR developed two phases for implementing the Electronic Surety Bond Tracking in NMLS.

In Phase I, the SRR will implement the account creation and association process for surety companies and surety bond producers. In Phase II, the SRR will implement bond issuance and tracking. As development work continues, the SRR will keep the state regulators, NMLS licensees, and industry stakeholders informed on implementing action of Phases I and II of the Electronic Surety Bond Tracking in NMLS. The SRR has begun implementation of Phase I in February 2016.

What should NASBP members be aware of?

If your agency has a business focus or writes bonds for businesses that utilize the NMLS, you'll need to be aware and take action on a few items.

First, reach out to your carriers and make sure they have your agency National Producer Number (NPN), as well as the NPN for any producers that specifically execute and service this group of business, so they can be included in the account creation process for Phase I. The process is such that the surety companies will create an account in the NMLS and then create the relationship between your agency/producers. They'll need your NPN to make these associations.

Second, if you or your agency is a stakeholder in this line of business, it would be worthwhile to join the NMLS working group to provide input on workflow, processes, and terminology as this service is created. This is a new process. The goal of this endeavor is to convert paper bonding into an electronic

³³ Response to comments received during the SRR comment period on the electronic Surety Bond Tracking dated Oct. 1-30, 2014 Post on July 21, 2015.

tool for all agencies (obligees) that participate with the NMLS. Bond execution, maintenance, renewal, and cancellations will all be done within the NMLS. If you would like to have input in this process, it would be worth your time to participate on the regular conversations. For information on joining the working group, Contact Tim Lange, Senior Director with the CSBS at tlange@csbs.org or (202) 728-5734.

Summary

While the surety guarantee isn't changing, everything else about surety bonds for the financial industry is. How bonds are issued and serviced will be radically different after 2017. While we don't have a firm date for the implementation (and adoption) of Phase II, the CSBS has done a great job reaching out to the industry partners to ensure that this process is improved. There's no doubt about it, this process is going to bring change: new statutes, operational processes, workflow, and terminology will be used. No longer will we have a power of attorney attached to a mortgage bond. There will be no more notary acknowledgements or embossed seals affixed to our collection agency bonds. Gone are the days of issuing name change riders because of a slight punctuation error as we utilize the unique NMLS ID number for our licensee (principal). The question isn't what is changing; the question will be when and how.

If you would like to have additional input on these changes, please contact Corban Enns (corban@suretysolutionsllc.com) or Tim Lange (tlange@csbs.org) for more information on how you can become involved.