

May 31, 2021

Conference of State Bank Supervisors
Attn: NMLS Policy Committee
1129 20th Street NW
Washington, DC 20036

Via email to: comments@csbs.org

Re: Comments on the Networked Licensing Model, Licensing Requirements Framework, and the Core Requirements Proposal

Dear Chair O’Sullivan and Members of the NMLS Policy Committee,

On behalf of the Electronic Transactions Association (ETA), the leading trade association for the payments industry, thank you for the opportunity to provide comments on the Networked Licensing Model, Licensing Requirements Framework, and the Core Requirements Proposal. ETA applauds this effort by the Conference of State Bank Supervisors (CSBS) to modernize the Nationwide Multistate Licensing System & Registry (NMLS) to anticipate and accommodate the evolving needs of the state system of financial regulation.

As CSBS works to modernize NMLS, we have outlined constructive recommendations below we believe will reduce burdens on industry and increase the efficiency of NMLS while also maintaining the safety and soundness of the industry and its participants. Of course, the key to achieving these efficiencies and reducing burdens for both the states and industry, requires that states leverage the full capabilities and data available in NMLS, and we thank CSBS for continuing to encourage their members to take full advantage of NMLS.

Electronic Forms

To realize the goal of a next generation system, it is vital that the modernized NMLS is fully electronic. This objective is attainable given that nearly every state has allowed for electronic filings during the COVID-19 pandemic.

To achieve this goal, ETA recommends that the modernized NMLS:

- Adopt online fillable forms, such as the call report, that can be used to satisfy requirements for all states, especially as it relates to the application process.
- Develop electronic application checklists that connect documents to the specific item on the checklist.
- Eliminate state-specific filings submitted outside of NMLS. These non-NMLS filings are usually on paper and are required by some states in addition to the filings completed within the NMLS system. NMLS should remove the need for these non-NMLS filings by enhancing the current reporting system, and by creating a secure, file sharing section of NMLS to satisfy a state reporting requirement that cannot be incorporated in a call report.
- Require all states in NMLS to adopt electronic surety bonds. In addition to eliminating paper and addressing the inherent inefficiency of regular mail, universal electronic bonding will make the process significantly more efficient.

As the country returns to normalcy, instead of reverting to outdated processes, NMLS should become fully electronic. Eliminating the need for paper is ecofriendly and will help make the NMLS process simpler and more efficient.

Standardized, Central Database of State Requirements

There is no central spreadsheet or database with all of the state requirements, even those within NMLS. CSBS should create a central database for all NMLS states that automatically updates each time a state changes a requirement. The need for a centralized database is especially acute for initial license applications and amendment/advance notice requirements.

Standardized Financial Reports

Given that regulatory requirements for the reporting of a company's financial condition are very inconsistent across the states, industry would significantly benefit from standardization of these requirements.

In addition to providing financial statements and call reports to NMLS on a quarterly basis, companies are also often obligated to provide separate financial reports to NMLS states. It is unnecessarily burdensome for companies to have to complete separate state reports when the report information is the same. The modernized NMLS should standardize state requirements and incorporate the requirements into the NMLS Call Reports, which will make the process more efficient and uniform across the states.

NMLS Updates

CSBS should update NMLS as necessary to address the evolving needs of the state system of financial regulation. All updates to NMLS should be clear, streamlined, and with changes agreed upon across NMLS. However, CSBS should refrain from unnecessary annual updates that could be implemented at three-year or five-year intervals. This is especially important for changes made subsequent to the launch of the modernized NMLS as industry and regulators should be afforded time to implement change management as well as become comfortable with the new system before it is updated again.

Notification of NMLS Updates

The modernized NMLS should improve upon the method for notifying licensees of updated requirements and should address the deficiencies of the current notification system. For instance, there are certain "subscribe to updates" buttons throughout the NMLS resource center that are inoperative. A modernized NMLS should have a streamlined process to sign up for notifications, and the notifications should be timely, informative, and conveyed in a clear, user-friendly format.

MU1 Filings

States should retain their own records and not use MU1 as a record retention system. Unfortunately, regulators that rely on the NMLS MU1 for document retention often request that information be added to NMLS that is not in connection with a license application (e.g., an annual report of volume) which necessitates the refiling of the entire license application.

To address this problem, NMLS should create a file-sharing system within the NMLS platform, but outside the MU1, so that licensees can share notifications, volume reporting, and other materials that contribute to the maintenance of the license throughout the year.

Notification of MU1 filings

NMLS should reevaluate the notifications that are automatically sent to control persons - either eliminate the notifications entirely or update the language within the notification to clearly convey the action that was taken in the system. As discussed in the previous section, licensees are not always truly submitting a full-license application every time a MU1 is submitted. Moreover, each time an MU1 is refiled, the executive officer information is also refiled, even when the filing is merely to update something very minor, such as an updated certificate of good standing. Regardless, the system will still send notifications to the company's control persons stating that their application has been filed, which causes unnecessary operational confusion for licensees.

Networked Licensing Model

Under the proposed Networked Licensing Model (NLM), we understand there will be 2 Phases for the license review and approval process:

1. **Phase 1** will consist of the "Reviewer-In-Charge" (RIC) reviewing 1) Core Requirements (demographic and basic company information), and 2) Business Specific Requirements (FinCEN, bank account info, background checks for key individuals).
 2. **Phase 2** will consist of each agency to which an application for licensure is directed, reviewing the RIC's Phase 1 Assessment as well as their State-Specific Requirements (e.g., bonds, state background check, etc.). At the conclusion of Phase 2, each application agency will make the final licensing decision on their application.
- Additionally, we understand that the NLM will be initially rolled out for new applications but will eventually apply the model to license amendments, change in control, mergers & acquisitions, periodic reviews, renewals, and other licensing processes.

ETA largely agrees with the proposed NLM. Specifically, ETA supports:

- The proposal for how NLM will assign a "lead agency" and a RIC as the point of contact for multi-state applications (similar to having a "lead state" and "Examiner-In-Charge" for managing multi-state examinations). This cuts down on friction and leads to a more streamlined new license application process.

Additionally, ETA recommends that existing licensees be "grandfathered" into the NLM rather than require them to transition to the NLM at the next renewal process or some later date as this could create additional requirements for existing licensees that did not previously exist.

Licensing Requirements Framework: Key Individual Wizard Initiative

A critical part of the Licensing Requirements Framework is a new tool within NMLS called Key Individual Wizard Initiative (KIWI) which every company will be required to complete as part of the Core Requirements.

- KIWI is an application module developed to modernize NMLS to disclose key individuals in the management and ownership structure of an applicant.
- KIWI will employ a standard set of business rules and disclosure requirements that the state agencies have agreed upon.
- KIWI is expected to require applicants to disclose individuals who oversee key functional areas of a company (e.g., audit, IT/IS, finance, etc.) beyond the executive officers and directors.

While we appreciate the goals of KIWI, it appears that KIWI would include certain individuals responsible for certain functional areas of a company (categorized in KIWI as a "key individual") within the definition of a "control person" even if such individual does not exercise directly or indirectly, a controlling influence over the management or policies of the licensee or is not a person in control of the licensee. This would create new requirements and undue burdens for licensees and would unnecessarily subject those identified as key individuals in KIWI to rigorous vetting processes (i.e., fingerprinting, background checks, credit reports, etc.). We recommend that before KIWI is implemented, industry be provided an opportunity to comment on the definition of key individuals.

Identity Verification

ETA urges CSBS to provide further consideration to the identity verification proposal. Modernizing identity verification to the digital age should not make the process more cumbersome than performing the same process on paper. As outlined, the process to add users (taking a photo of a government ID with a phone, taking a selfie, and then sending these files and other highly sensitive information to NMLS's third-party service provider) is cumbersome, unnecessarily confusing, and raises a host of privacy concerns, especially for executives of high-profile companies.

ETA would like to understand why the current process for creating a user account should be changed. The current process requires the user to provide their full legal name, date of birth, social security number, address, phone number, email address, and provide a security question/answer. Requiring individuals who occupy the highest level of a company's management to take a selfie in real time to compare against a government identification ID in order to set up a NMLS user account is extremely onerous.

As an alternative, ETA suggests that CSBS create a delegate system that would allow Executive Officers to delegate a trusted person to be verified for them. Providing the option of trusted delegates who are responsible for managing a licensee's license affords companies the flexibility to streamline their operations as well as improve the overall efficiency of the system. We also recommend for administrative efficiency that control persons be able to delegate the attestation process to a trusted company representative in order to verify information on their behalf. However, if a delegate system is not a feasible option for states, ETA suggests that an option be made available for officers to complete the identity verification on computer software designed for desktops.

Background Checks

The modernized NMLS background check process should be standardized and valid across all NMLS states. Currently, the NMLS system requires "individuals identified as control persons" to submit a background check to the NMLS database. However, some states also separately require a background check for these persons, even though they should already have access to the information via the NMLS system. Therefore, ETA recommends that NMLS ensure that states have access to and employ the NMLS background check database, which will limit the unnecessary sharing of duplicative information.

Moreover, NMLS should provide companies the ability to withdraw their requests in the background check system in order to prevent unnecessary disruption in their operations. For example, the background check requirement is not applicable for every MU1 filing, including renewal applications. However, the current system will prevent a control person from submitting his or her MU2 in NMLS because he or she is unable to access a fingerprinting location, which may jeopardize the company's ability to do other license-related maintenance in the MU1 system that does not require background checks of officers.

Additionally, as a good practice, we recommend that the modernized system notify company users, and provide clear instructions on actions the officers must take within these notifications, well in advance of the date they are required to renew fingerprints in NMLS.

Notarization

Approximately half of the states require document notarization. For companies that have CEOs abroad or that have highly decentralized work locations, obtaining signatures for each document is incredibly time-consuming and difficult. To make this process more efficient, NMLS should standardize remote online notarization (RON) across all NMLS states and/or consider the integration of DocuSign into the system, which has the ability to notarize documents remotely. Given that 32 states have enacted some form of permanent RON while 16 others temporarily adopted the practice during COVID, it is only rational to codify the practice across NMLS permanently.

Bank Account Information

The bank account section of NMLS is confusing. Currently, there are only three categories to choose from 1) operating account, 2) trust/primacy accounts, and 3) Letter/Line of Credit, but these categories are not defined in the NMLS Policy Guidebook. Additionally, states have varying approaches on what should be disclosed in this section. To eliminate ambiguity and to simplify the process, NMLS should standardize the bank account information required to be disclosed in each state. Moreover, NMLS should define each bank account category and should consider adding additional categories to eliminate unnecessary confusion.

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We appreciate you taking the time to consider these recommendations as CSBS works to modernize NMLS. If you have any questions or wish to discuss any aspect of our comments, please contact me or ETA Senior Vice President of Government Affairs Scott Talbott at Stalbott@electran.org.

Respectfully,



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ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA's members include banks, mobile payment service providers, mobile wallet providers, money transmitters and non-bank FinTech companies that provide access to credit, primarily to small businesses, either directly or in partnership with other lenders.

ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, and rewarding payment solutions and lending alternatives – facilitating over \$22 trillion in payments in 2019 worldwide.