



August 25, 2020

Dear Colleagues,

I am writing to you as Chair of the Non-Depository Supervisory Committee (NDSC) in response to a continuing situation triggered by the COVID-19 emergency. In March, the immediate past Chair of the NDSC, Director of the Washington State Department of Financial Institutions Charles Clark, wrote to inform you of the need for licensed mortgage loan originators (MLOs) to be able to conduct business from unlicensed locations (typically their home) during this crisis. In response, many of you established flexibility or no-action positions for MLOs transitioning to alternative locations. *Thank you* for that response and for demonstrating the fairness, flexibility, and responsiveness of state supervision.

In recent weeks, state commissioners and CSBS received multiple industry letters asking that state regulators continue their stance of flexibility and no action during this crisis. While your previous notices to industry may not yet have expired, some soon will and others are connected to determinations at the federal level, creating an uncertain future for the industry. The state-licensed industry, which includes more than MLOs, is concerned that its responsibility to protect the health and welfare of employees could suddenly put it in jeopardy of violating state licensing laws.

The Mortgage Bankers Association wrote to CSBS on July 24, 2020, stating:

"Our reality is that the re-opening of the economy is happening unevenly among the states and sometimes among counties/regions within a state. These uncoordinated public policy decisions are creating confusion and potentially significant regulatory risk for state-regulated independent mortgage bankers (IMBs) that employ licensed mortgage loan originators (MLOs) and servicing personnel. Mortgage companies licensed in several states or nationally must face the complicated challenge of balancing their team's needs against each state's directives. This has made it particularly challenging when individual MLOs are licensed in states where they do not physically reside."

The NDSC has considered the gravity of this situation multiple times since June. We have determined that the authority to act on this situation lies with each sovereign state and should not be addressed by any formalized national policy. However, the committee remains concerned about continued disruptions to the financial markets and voted to send this notice to the states to ensure that each commissioner is aware of the continuing situation and is considering how best to handle the matter within their jurisdiction.

In rendering this decision to act, the NDSC considered not only today's crisis environment, but also the following:

- The current ability of licensees to provide products and services and consumers' efficient and safe access to those products and services.
- Returning to work at a licensed location may not be feasible or safe, even following an official end to the crisis. Workplaces are likely in need of architectural or space modifications, routine sanitizing, phased-in returns, or staggered work schedules.





- A required return to licensed facilities could result in some employees contracting and/or spreading COVID-19, causing further business disruption.

The NDSC believes that practicing safe social distancing measures is not only a sound practice for employees, when conducted appropriately it provides protection for consumers and communities. While we understand your legal and formal options around flexibility may be limited, communicating concern for the situation will likely go a long way toward relieving your licensees' anxiety over potential violations, allowing them to continue with safe social distancing policies.

We ask that you consider the following possible steps for signaling continued flexibility to your licensed industry:

- **If you have provided a public notice of flexibility or no action, consider whether that notice is scheduled or likely to expire in the coming weeks or months, and where possible, extend the expiration as appropriate.**
- **If you have not provided a public notice, consider allowing MLOs and other licensee employees to work temporarily from safe unlicensed locations, or adopt a no-action position in the following situations:**
 - The licensed MLO or other licensee is able to access the company's secure platforms (including a cloud-based system) directly from an out-of-office device (laptop, phone, desktop computer, tablet, etc.) using a virtual private network or similar system that requires passwords or other forms of authentication to access.
 - All security updates, patches or other secure alterations to devices must be maintained.
 - The licensed MLO or other licensee must not keep any physical business records at any location other than a licensed office.
 - MLOs or other licensees working from unlicensed locations must not have consumers come to those locations.

Following is a link to the Washington Department of Financial Institutions extension of its original notice for your reference: <https://dfi.wa.gov/sites/default/files/mlo-interim-guidance-extension.pdf>.

Thank you for considering this notice and request from the NDSC. We would appreciate receiving any new notices or extensions so that staff can update the NMLS Coronavirus page. To provide this information, or for any questions please contact CSBS staff at ccross@csbs.org or mpfaff@csbs.org.

Sincerely,



Deborah Hagan
NDSC Chair
Secretary, Illinois Department of Financial and Professional Regulation