MORTGAGE BANKERS ASSOCIATION

July 22, 2024

Director Charlie Clark
Chair, Board of Directors
Conference of State Bank Supervisors

Commissioner Kevin B. Hagler
Chair, Board of Managers
State Regulatory Registry, LLC

C/O Conference of State Bank Supervisors
1300 I St NW
Suite 700 East
Washington, DC 20005
comments@csbs.org

Subject: Proposed 2025 NMLS Fee Changes

Dear Director Clark and Commissioner Hagler,

The Mortgage Bankers Association (MBA)[1] appreciates the opportunity to provide comments to the Conference of State Bank Supervisors (CSBS) and State Regulatory Registry, LLC (SRR) in response to the proposed *2025 National Multistate Licensing System (NMLS) Fee Changes*.[2]

MBA has long valued its partnership with CSBS. While regulated industries and their regulators rarely agree on every approach to policy, MBA believes that the state system of regulation managed by CSBS and SRR, and the frank discussion on a range of topics has resulted over the last decade and a half in an impressive list of mutually beneficial accomplishments. These include, but are not limited to:

- The model CSBS capital, liquidity, and governance standards released in July 2021 that respect MBA member company obligations to similar standards mandated by federal regulators;

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 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 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 more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

[2] https://mortgage.nationwidelicensingsystem.org/news/ProposalsForComment/NMLS%20Fee%20Changes%20Request%20for%20Comment.pdf

- The work to help define the standard loan data fields and delivery format that MBA members must provide state regulators for the loan portfolio review portion of state examinations being developed by a group of regulator and industry volunteers collaborating on the Mortgage Industry Standards Maintenance Organization's (MISMO) Regulatory Compliance Examination File Development Workgroup (DWG);
- The final language and implementation effort apropos to the federal Temporary Authority law for state licensed mortgage loan originators (MLOs), which has helped create a more level playing field between licensed MLOs and their federal registered counterparts;
- The national uniform state content or UST, which has dramatically cut costs for MLOs and MBA member companies; and,
- The NMLS comment process itself, for which MBA advocated during NMLS Ombudsman meetings and in other comments (aka a "rule on rules)."[3]

It is in that spirit of frank dialogue that MBA, on behalf of its member companies, expresses frustration with the current licensing fee increase proposal and the process by which it has been proposed. MBA believes that much more transparency is needed and that future consideration of other NMLS fees and policy changes should reflect an enhanced industry engagement process reflected in the comments below. MBA believes that the CSBS/SRR should re-propose the licensing fees and provide the specifics of intended updates to the system to justify the cost increases to MBA member companies.

Need for Transparency and Greater Specificity

MBA believes the proposal lacks the necessary specifics to determine if the suggested fee increases are reasonable. For example, while the proposal includes references to rising inflation rates, greater technology costs, and the lack of previous fee increases, it does not, however, include any financial data supporting the need, the rationale for the specific amount of the increases, or how these figures were determined. Also, it is troubling to learn from the NMLS Town Hall that some regulator members of CSBS believe the proposed increases should have been even higher. Presumably, some regulators disagreed with this view, and may have recommended lower fee increases or no increases at all. However, the rationales for different regulator viewpoints have not been shared with industry.

The proposal does not include a planned budget for how these increased MBA member company payments will be allocated programmatically among competing NMLS initiatives and modernization efforts. The proposal does not include requisite information and context that a regulator would normally be obligated to provide to a legislature to support their funding request, and to which they would likely be compelled to discuss and support in public hearings of the committees of appropriate jurisdiction. For example, states' regulatory procedures customarily

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[3] https://www.mba.org/docs/default-source/uploadedfiles/comment-letters/mbacommentsonjuly2015csbsproposal-9-1-15.pdf?sfvrsn=a6b9018a_0; https://mortgage.nationwidelicensingsystem.org/contact/Documents/NMLS%20Ombudsman%20Meeting%20Summary%20August%202015.pdf ; https://www.mba.org/docs/default-source/uploadedfiles/comment-letters/mcrletterfrommba6-1-15final.pdf?sfvrsn=ca00bb69_0

mandate review and disclosure of certain elements such as revenue projections, detailed budget plans, and allocation of priority spending, etc.

In the absence of these details, and to respond to member inquiries, MBA staff reviewed CSBS/SRR annual reports and information available through NMLS Consumer Access to construct an analysis. MBA's rough estimate below is that the new fee changes provided in the proposal, assuming 2024 will have no new individual registrations and reflect the same number of licenses, will increase fee revenue by $8,447,210.

License Type	2023 Annual Report - License Count	Current Fee	Current Fee Total	Proposed Fee	Estimated Proposed Fee Total	Estimated Difference: Prior to Proposed
State Individual	760,526	$30	$22,815,780	$35	$26,618,410	$3,802,630
State Branches	111,609	$20	$2,232,180	$25	$2,790,225	$558,045
State Company Licenses	104,103	$100	$10,410,300	$120	$12,492,360	$2,082,060
Federal Individual	369,163	$30	$11,074,890	$35	$12,920,705	$1,845,815
Federal Company	7,933	$100	$793,300	$120	$951,960	$158,660
					Estimated Total Revenue Increase:	**$8,447,210**

The CSBS 2023 Consolidated Financial Report[4] shows the cost of the NMLS operations and maintenance was $20,923,718 in 2023 and $20,673,034 in 2022. Based on these assumptions, the estimate above would provide an 18% increase in revenue, while the financial report only shows a 1.2% expense increase for NMLS operations and maintenance over the last two years. In the absence of actual data, MBA certainly welcomes a critique of its pro forma.

The regulatory authority that flows from the management of the NMLS and imposition of its requirements may also be undermined if the self-imposed NMLS comment process is not as robust as the legal standards in states' administrative procedures acts. Moreover, MBA argues that because there are so few specifics in the federal SAFE Act of 2008 prescribing this process, it is even more important that CSBS, SRR, and its regulator members hold themselves accountable to high standards on this matter. The process should be as transparent, robust and detailed as those required for equivalent state-specific policy changes. MBA and its members view these fees not just as a cost of regulation, but also as an investment by the real estate finance industry in the NMLS system which is supposed to serve them as well as regulators. Without details related to how regulators arrived at these specific dollar amounts and the benefits of these industry payments to NMLS, it is difficult for MBA's members to support increases however modest the proposal describes them.

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[4] https://www.csbs.org/sites/default/files/reports/Conference%20of%20State%20Bank%20Supervisors%2C%20Inc_23%20FS_Final.pdf

Wrong Time for Fee Increases; Economic Impact Analysis Necessary

MBA believes strongly that any increase in NMLS fees should consider the economic condition of those entities that will bear the lion's share of the cost impact. It is unclear from the proposal that any consideration has been given to the current economic realities of MBA's members. According to MBA's Quarterly Mortgage Bankers Performance Report, Independent Mortgage Banks (IMBs) and mortgage subsidiaries of chartered banks reported a pre-tax net loss of $645 on each loan they originated in the first quarter of 2024. Per-loan costs increased to $12,593 per loan in the first quarter of 2024, up from $7,472 per loan in 2008. MBA's report notes that the first quarter of 2024 marks the eighth consecutive quarter of net production losses for IMBs [5]

In addition to the current market environment, there is a new cost burden on MBA member companies that has just been announced by the Consumer Financial Protection Bureau (CFPB) with its final rule to implement a "repeat offenders database."[6] While MBA and its members are grateful for the forceful objection by state regulators to the CFPB's proposal, it is now final policy moving to implementation. Thus, the warning of increased costs noted in CSBS's objections are a new additional cost MBA members must pay.

> *State regulators strongly recommend that the Bureau not build and maintain its own public CFPB Registry given the* ***cost and confusion it could cause nonbank financial services companies that are already licensed and registered through the statutorily authorized NMLS****, as well as the confusion it could cause consumers and other public users of NMLS Consumer Access. However, if the Bureau chooses to proceed with its own public CFPB Registry, state regulators highly recommend that the CFPB exempt companies from the requirement of filing any public order that is already published on NMLS Consumer Access. Such an exemption would help minimize company, consumer, and other public user confusion when utilizing both NMLS Consumer Access and the proposed CFPB Registry.*[7] [Emphasis added]

MBA recognizes the proposed fee changes would apply broadly to all NMLS regulated industries and to both state licensed and federal registered companies and MLOs. It is important to remember, the original system was mortgage focused. Indeed, the federal SAFE Act of 2008, which is frequently referenced in the proposal, literally retains "mortgage" in its nomenclature. This is because the early years of the NMLS, and its resulting national regulatory structure, were largely financed by the fees paid by MBA member companies. This system of regulatory supervision has grown from seven regulators at the launch of the NMLS as a mortgage industry focused system in 2008 to nearly 70 regulators today across multiple financial services industries.

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[5] https://www.mba.org/news-and-research/newsroom/news/2024/05/23/imbs-report-net-production-losses-in-the-first-quarter-of-2024
[6] https://www.consumerfinance.gov/about-us/newsroom/cfpb-creates-registry-to-detect-corporate-repeat-offenders/
[7] https://www.csbs.org/cfpb-registry-comment-letter

While MBA supports the ability for state regulators to utilize a known and tested system, there has been little acknowledgment of the time, the effort, and most importantly the money invested by the mortgage industry that helped launch the system that others now benefit from. MBA suggests regulators recognize this source of funding and revise the fee increase structure to rely more on nonmortgage financial firms for budgetary needs and recommends an economic impact review be performed prior to finalizing the proposal. MBA further recommends any licensing fee increases be implemented in stages with delays to any future planned increases to other NMLS fees such as fees for testing and education.

Need for More Industry Engagement in NMLS Policy Development

The current NMLS comment process implemented in 2016 was, in part, a response to MBA's urging on multiple occasions for NMLS to implement a "rule on rules."[8] MBA believes that offering proposed NMLS policy changes to notice and comment has enhanced the overall authority of the state regulatory system in general, and the SRR and NMLS in particular. Given this proposal represents a multimillion-dollar revenue increase to the NMLS system, MBA and its members were surprised to see little detail or discussion following the short mention of a planned fee increase at the NMLS Conference earlier this year. Since the proposal was made public, CSBS and two of its state regulator members offered a facsimile of the Ombudsman concept with a "Town Hall." The event was tightly controlled, heavy on presentation, and did not include an opportunity for representatives from regulated entities to have a two-way conversation with their regulators.

The fee increase proposal states "The NMLS Working Group generally consists of state regulators but **may** include industry representatives and is responsible for the subject matter of the update." [Emphasis Added]. MBA believes that the optionality of that engagement needs to change, and MBA is prepared to assist. While other committees in the CSBS, SRR, NMLS infrastructure can be of service on more technical matters, there should be a group of company leaders consulted on larger more consequential matters. This is especially the case if a technical decision in one of the existing committees leads to a change requiring a member company to reallocate assets or balance resources to meet new compliance obligations and mandates. This is especially important if failure to meet a new requirement leads to a fine or penalty.

While the NMLS Ombudsman meetings remain an important forum for industry-regulator communication, they should not be the only forum for industry input to state regulators on NMLS policy. The Ombudsman meetings only take place twice annually, making opportunities for deeper discussion limited. And, even if an MBA member incurs the expense and opportunity cost of attending an NMLS Ombudsman meeting, it is uncertain that all regulators will participate in a given meeting. MBA suggests that the SRR Board and/or the CSBS Non-

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[8] https://www.mba.org/docs/default-source/uploadedfiles/comment-letters/mbacommentsonjuly2015csbsproposal-9-1-15.pdf?sfvrsn=a6b9018a_0; https://mortgage.nationwidelicensingsystem.org/contact/Documents/NMLS%20Ombudsman%20Meeting%20Summary%20August%202015.pdf ; https://www.mba.org/docs/default-source/uploadedfiles/comment-letters/mcrletterfrommba6-1-15final.pdf?sfvrsn=ca00bb69_0

Depository Supervisory Committee regularly engage a mortgage industry advisory committee that can meet for discussion and also serve to inform the process of considering systems changes that result in binding compliance obligations for MBA member companies. Importantly, this group should consist of company leaders or individuals with broad company-wide decision-making authority as well as trade association leaders.

As an example of such an industry advisory committee, the American Association of Residential Mortgage Regulators (AARMR) has an active Industry Advisory Council (IAC) that is governed by the AARMR Board of Directors and is incorporated into AARMR's bylaws. The group consists of balanced representation from different sectors of the mortgage industry and IAC meets regularly with the members of the AARMR board (at least twice annually in video conferences and twice in person). IAC members elect their leader annually and the chair convenes pre-calls to ensure that meetings with regulators are effectively managed, reflect the diversity of views, and are succinct. Conversely, regulators have the opportunity to put questions to the industry. The regular access to and open communication with regulators has led to both the supervisors and the supervised better understanding of each other's issues, needs, and concerns. CSBS and SRR should seek the same level of engagement. While state regulators understand today's mortgage industry and market, there are always aspects where MBA member company leaders can provide better and more focused context up front to avoid duplicative comments in any proposal.

Again, thank you for the opportunity to comment on the proposed licensing fees increase. If you have any questions, or need more information, please feel free to contact me at pmills@mba.org.

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