TESTIMONY OF

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On behalf of the

CONFERENCE OF STATE BANK SUPERVISORS

On

"MORTGAGE ORIGINATION: THE IMPACT OF RECENT CHANGES ON HOMEOWNERS AND BUSINESSES"

Before the

INSURANCE, HOUSING AND COMMUNITY OPPORTUNITY SUBCOMMITTEE

COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

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INTRODUCTION

Good afternoon, Chairman Biggert, Ranking Member Gutierrez, and distinguished Members of the Subcommittee. My name is Anne Balcer Norton, and I serve as the Deputy Commissioner of the Office of the Commissioner of Financial Regulation for the State of Maryland.

Maryland's Office of the Commissioner of Financial Regulation (Office) is part of the Maryland Department of Labor, Licensing and Regulation, which is led by Secretary Alexander Sanchez. The Office, headed by Commissioner Mark Kaufman, is responsible for chartering and regulating 63 state-chartered depository institutions including banks, credit unions, and trust companies. In addition, the Office licenses and regulates approximately 10,000 non-depository financial institutions and individual service providers, including mortgage lenders, brokers, servicers and loan originators, consumer loan companies, money transmitters, check cashers, installment loan lenders, credit services businesses, sales finance companies, consumer debt collection agencies, and debt management service providers. The Office conducts periodic examinations of entities under its supervision, responds to consumer complaints, and undertakes enforcement actions to ensure compliance with Maryland law.

It is my pleasure to testify before you today on behalf of the Conference of State Bank Supervisors (CSBS). CSBS is the nationwide organization of banking regulators from all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. State banking regulators supervise over 5,600 state-chartered commercial banks. Further, the majority of state banking departments also regulates a variety of non-bank financial services providers, including mortgage lenders. For more than a century, CSBS has given state supervisors a

national forum to coordinate supervision of their regulated entities and to develop regulatory policy. CSBS also provides training to state banking and financial regulators and represents its members before Congress and the federal financial regulatory agencies.

I thank you, Chairman Biggert, and the Members of the Subcommittee, for holding this hearing on issues affecting residential mortgage origination. State regulators play a central role in overseeing the mortgage origination market, and we appreciate the opportunity to be part of this important discussion.

In my testimony, I will briefly discuss the evolution of the mortgage industry over the past two decades and will speak about the efforts of state regulators to enhance supervision of this industry. Included in my testimony will be a discussion of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) and the Nationwide Mortgage Licensing System and Registry (NMLS), as well as how state regulators conduct supervision of residential mortgage loan originators (MLOs) on a daily basis. Additionally, I will provide state regulators' perspective on some of the specific regulatory topics discussed by other witnesses. Finally, I will discuss some areas of concern to state regulators as we move forward to strengthen supervision of the residential mortgage origination system.

EVOLUTION OF RESIDENTIAL MORTGAGE ORIGINATION

To better understand the current system of mortgage origination, we need to review briefly how we got here. The changes in the residential mortgage industry over the past two decades have been dramatic and far-reaching. Over the past 20 years, the market has ushered in new players, new products, a new originate-to-distribute securitization model, and has had a tremendous impact on the economy as a whole.

This evolution led to a vast flow of liquidity into the mortgage market and increased availability of mortgage credit. But it also brought moral hazard and ultimately, significant harm and financial hardship to many, as the allocation of accountability and risk of a default became muddied through complex arrangements that begin with the local mortgage broker and ultimately end up with a Wall Street investor. Controls that had previously been in place to govern the industry were simply overwhelmed by the evolution and supervision could not keep pace with industry advancements.

STATE REGULATORY RESPONSE TO MORTGAGE EVOLUTION

The policy and regulatory response to the financial crisis remains a work in progress, involving Congress as well as state and federal regulators. State mortgage regulators, concerned about the consequences for communities and consumers of the practices of certain mortgage lenders and brokers, have taken significant action to enhance supervision of the non-depository residential mortgage industry. These efforts have been undertaken with an eye toward maintaining a diverse origination system. State regulators, individually and through CSBS and the American Association of Residential Mortgage Regulators (AARMR), have worked diligently and in an unprecedented manner to create a regulatory system that can support a diverse system of mortgage origination, while still ensuring safety and soundness and consumer protections.

Development and Launch of NMLS

While few may have fully understood the broader risks the radical evolution of the mortgage origination system would have upon the nation's housing finance system, state regulators did see the risks emerging among non-depository mortgage originators. State

regulators, who typically have an explicit consumer protection mandate, felt compelled to act to bring greater accountability and transparency to this sector of residential finance that grew so dramatically during the late nineties and into the new century. During the years of 2004 through 2007, while the industry was calling for less regulation, state regulators sought to create a more comprehensive and coordinated supervisory framework to oversee the residential mortgage market and protect consumers.

To that end, NMLS was conceptualized and created by state regulators acting through CSBS and AARMR with the goal to unify state mortgage supervision in a single system that would allow regulators to better coordinate regulation and provide the industry a more uniform licensing process.

The creation of NMLS was a complete transformation of mortgage supervision. NMLS provides the foundation for coordinated, consistent, and comprehensive supervision of the mortgage industry. Prior to the launch of NMLS, there was a great deal of inconsistency in the regulation of the mortgage industry, with licensing and registration standards that varied from state-to-state. NMLS still allows state regulators autonomy, but has now coordinated supervisory processes and documentation.

Perhaps the most critical element introduced by NMLS is the NMLS Unique ID Number. By creating a single system of record shared by separate and sovereign state regulators, NMLS was able to assign each mortgage company, each branch, and each MLO a unique identification number that could be used to track that company, branch, and individual across states and over time. The NMLS Unique ID assists in coordinated state oversight and provides the opportunity

for investors and the secondary market to develop better metrics of loan originations and of loan performance.

Further, the NMLS Unique ID has become a central component of the fabric of residential mortgage supervision. The Federal Housing Finance Agency (FHFA) requires Fannie Mae and Freddie Mac to collect the NMLS Unique ID for each loan they purchase. Similarly, the Federal Housing Administration (FHA) requires the NMLS Unique ID for all mortgage loans submitted for insurance. These entities are involved in over 90 percent of the residential mortgage loans originated over the past two years.

The relatively quick adoption of the NMLS Unique ID by mortgage investors and insurers is a testament to the rapid and uniform adoption of NMLS by state agencies. For instance, by October 2010—just 33 months after the launch of NMLS—all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands were using NMLS as the system of record to manage their MLO licenses. This is a tremendous demonstration of the states' commitment to coordination and adoption of a new, comprehensive regulatory scheme.

Passage of the SAFE Act

At its launch, NMLS was a voluntary state initiative. Subsequently, Congress, through the leadership of Chairman Bachus, embraced and codified the system into federal law through the SAFE Act, creating an integrated and comprehensive state-federal approach to licensing and registering mortgage lending professions. The SAFE Act certainly helped propel NMLS to the complete supervisory framework it is today. By requiring all states to adopt robust licensing and regulatory standards for state-licensed companies and individuals and mandating registration for federally regulated MLOs through NMLS, the SAFE Act created a coordinated

system of state-federal mortgage supervision, while still preserving state autonomy to regulate the mortgage industry.

SAFE Act Implementation and Compliance

After the SAFE Act's enactment, state regulators went to work quickly to implement the law, including development of a model state law to execute the mandates of the SAFE Act in a uniform manner. By July 2009—just one year after the passage of the SAFE Act—49 states, the District of Columbia, and the U.S. Virgin Islands had all passed legislation to bring their laws into compliance with the SAFE Act. This rapid and uniform implementation of a law by so many states was remarkable and demonstrates the commitment and dedication of state officials and state legislatures to enhance supervision of the mortgage industry.

State regulators have moved aggressively to implement the many provisions of the SAFE Act, which include testing requirements, pre-licensure and continuing education requirements, facilitating criminal and credit background checks, providing free public access to licensing information, and creating a mortgage call report.

Since passage of the SAFE Act in July 2008, state regulators and NMLS have:

- Developed and administered the national and state components of the mortgage loan originator licensing test;
- Approved pre-licensure and continuing education courses;
- Implemented a national network of electronic fingerprint capture sites to facilitate processing of fingerprints for required criminal history background checks;
- Created a process for the provision of a single credit report to be used by all relevant state regulators for MLOs licensed in their state;

- Launched www.NMLSConsumerAccess.org, a website for consumers to verify basic information concerning state-licensed MLOs free of charge; and
- Developed the NMLS Mortgage Call Report, which is already beginning to provide timely data on mortgage originations by non-depositories, both at the state and national levels.

One of the main objectives of the SAFE Act was to expand a then state-only initiative into a comprehensive regime covering all mortgage loan originators. To that end, federally regulated MLOs began registering with NMLS on January 31, 2011. This event was the culmination of well over a year's worth of close cooperation between CSBS and the federal banking agencies to modify NMLS in order to provide a system that allows both depositories and individual MLOs to efficiently meet the SAFE Act requirements for registration.

By July 29 2011, all individuals who act as mortgage loan originators and are employed by depositories must be registered on NMLS in order to conduct those activities. The MLOs will have an NMLS unique ID number. Additionally, the depositories that employ these MLOs must also have an account on NMLS and have a NMLS unique ID number. As we near the end of the six-month initial transition period for federally regulated MLOs, over 9,000 institutions and 272,000 individuals have completed the registration process and we anticipate thousands more are working to complete the process.

BENEFITS TO CONSUMERS, POLICYMAKERS, AND INDUSTRY

Information regarding federally regulated MLOs will be available on August 1, 2011 on NMLS Consumer Access (www.NMLSConsumerAccess.org) so that consumers will be able to verify the licensure or registration of all MLOs and their employing company. In other words, just three years after passage of the SAFE Act, nearly every single residential mortgage loan

originated in this nation will carry with it the identification of the individual and the company that originated the mortgage. And, through www.NMLSConsumerAccess.org, consumers will have free access to a means for verifying the status and legitimacy of the companies and MLOs they may wish to do business with. This will afford consumers, policymakers, and the industry better transparency about the residential mortgage industry in this country.

Another initiative recently launched that will further improve the amount of information available to policymakers is the NMLS Mortgage Call Report. The NMLS Mortgage Call Report is a quarterly report by companies that hold a state license or registration or employees state-licensed MLOs. One goal is that the NMLS Mortgage Call Report can replace the unique reports that many states currently collect from licensees, thereby providing more efficiency for the industry.

The deadline for the first quarter 2011 NMLS Mortgage Call Report just recently passed and state regulators are busy reviewing this data for accuracy and quality. We believe these reports will provide state regulators more timely information about the activities of their licensees as well as providing policymakers more timely data on the industry as a whole. While data from the NMLS Mortgage Call Report is not yet available, NMLS is providing policymakers better information about the non-depository mortgage origination sector (See Exhibit A).

MARYLAND-SPECIFIC EFFORTS

Maryland completed its transition to the NMLS in December 2010. Currently, there are over 5,100 individual MLOs and over 1,400 mortgage companies licensed in the state of Maryland. All of these companies and individuals were evaluated and approved during the 18-month transition cycle—a massive task. To date, approximately: 60 individual applicants have

been denied; 1,950 individual licenses were terminated on January 1 because their license expired; 210 company & branch licenses were terminated on January 1 due to expiration; 360 individuals surrendered their license; 300 companies & branches surrendered their license; 450 individuals voluntarily withdrew their applications; and 50 companies and branches voluntarily withdrew their applications. The significant number of licensees who did not renew in Maryland is consistent with the experience in other states as the non-bank segment of the mortgage industry has contracted in the wake of the mortgage crisis.

Because of our close proximity to those entities we regulate and the local nature of mortgage lending, state regulators are most often best positioned to identify emerging threats and are able to move quickly in response. Accordingly, as foreclosure rates began to rise across the nation in 2007, Maryland Governor Martin O'Malley convened the Homeownership Preservation Task Force, which brought together representatives from the banking and lending industries, federal, state and local government entities, and consumer advocates to study the issue and make recommendations.

The Task Force and its work groups studied the issue, looked at best practices in the industry, and examined laws enacted in other states. The report and recommendations of the Task Force represented broad consensus: all stakeholders at the table were interested in proposals that would reform lending and provide greater protections for consumers. The recommendations resulted in a package of reforms designed to help both those in and at risk of foreclosure as well as comprehensive and common sense credit regulations for mortgage lending practices in the state and providing for more meaningful mortgage licensing requirements including instituting a minimum net worth requirement.

Under Governor O'Malley's leadership, a series of legislative and regulatory reforms enacted in Maryland have included: banning prepayment penalties; assuring a borrower's ability to repay a mortgage loan and verify sources of income; requiring a tangible net benefit in refinance transactions; requiring disclosure on first lien loans to provide borrowers with a notice of housing counseling or homebuyer education available through certified non-profits/HUD-certified institutions; and implementing a duty of good faith and fair dealing by mortgage professionals. Through constant dialogue with both the industry and borrower advocates, the reforms have provided a balanced approached to addressing the overall concerns relating to lending in the state without undue regulatory burden on Maryland licensees.

Prior to 2008, Maryland lacked the necessary regulatory tools needed to combat mortgage fraud. There was no criminal mortgage fraud statute in place and prosecutors were reluctant to bring cases for mortgage fraud relying on general tenets of common law; law that at best, imperfectly fit the crime perpetrated. Legislation was passed to create a criminal mortgage fraud statute to include restitution, forfeiture, enhanced penalties for violations involving vulnerable adults, a private right of action, and a duty for companies to report convictions to any licensing body. During the 2011 legislative session, this law was amended to give the Commissioner authority to issue summary orders directing persons to cease and desist from engaging in alleged violations of this law and to give the alleged offender an opportunity for a hearing. The authority to bring action for such offenses, under the revisions to the Maryland Mortgage Fraud Protection Act, was extended to stop illegal conduct against individuals or companies not licensed by the Commissioner. In other words, the Commissioner

is now authorized to address fraud where fraud is found whether or not the perpetrator of such action is licensed in Maryland (MD Code Ann. Real Prop. § 7-401, et seq.). As a result, in fiscal year 2011, our office investigated 264 cases representing more than 1,000 Maryland consumers that had escalated from consumer complaints, 208 of which were mortgage-fraud related resulting in more than 90 Cease and Desist Orders and roughly 30 license revocations.

As we leverage available resources to address mortgage-related fraud, the Maryland Mortgage Fraud Task Force, led by US Attorney Rod Rosenstein, was established in 2009 to unify the agencies that regulate and investigate mortgage fraud and promote the early detection, identification, prevention, and prosecution of mortgage fraud schemes. In addition to our office, participants include the U.S. Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), Maryland's Office of Attorney General, the U.S. Department of Housing and Urban Development (HUD), the Internal Revenue Service, and other state and federal law enforcement and regulatory agencies. The work of the Task Force is evident in a wide-range of indictments, federal prosecution and restitution ordered to aggrieved consumers since its inception.

The goals of the Task Force include: streamlining the procedures for criminal mortgage fraud referrals; developing and implementing a training program for state and federal investigators and prosecutors who handle mortgage fraud cases; sharing useful information with and facilitating cooperation among the many agencies that have a stake in these cases; tracking open investigations to ensure that partner agencies do not duplicate their efforts; pursuing asset forfeiture and securing restitution for victims; and communicating information

to the public in order to warn people about common schemes and help prevent them from becoming victims of mortgage fraud and related financial crimes.

This type of cooperation between law enforcement and state regulators on fraud investigation efforts is not unique to Maryland. State regulators across the country have joined forces with the DOJ, the FBI, HUD, and local law enforcement to aggressively combat mortgage fraud. For instance, in April of this year, the Washington state legislature extended its successful mortgage fraud prosecution fund an additional five years. The law requires the collection of one dollar on every mortgage loan closing. This money is set aside in a special account held by the Washington Department of Financial Institutions that funds the costs of criminal prosecution for mortgage fraud. To date, 38 felony convictions can be attributed to this law.

STATE MORTGAGE SUPERVISION

NMLS and the SAFE Act are key parts of a larger effort aimed at creating a framework for seamless and comprehensive mortgage supervision, but this framework still relies on regulators to utilize the framework to supervise and regulate the industry effectively. States have long utilized our proximity to the entities we supervise to identify emerging trends and take action when necessary. For instance, in 2009 alone, state mortgage regulators took over 9,000 actions against mortgage providers (See Exhibit B).

As the mortgage industry continued to evolve, state regulators recognized a need to create more coordinated supervision. To that end, in 2008 CSBS and AARMR established the Multi-state Mortgage Committee (MMC) to serve as the coordinating body for examination and enforcement supervision of multi-state mortgage entities (MMEs) by state mortgage regulators.

The MMC is tasked with developing examination processes that will assist in protecting consumers from mortgage fraud; ensuring the safety and soundness of MMEs; supervising and examining in an integrated, flexible and risk-focused manner while minimizing regulatory burden and expense; and fostering consistency, coordination and communication among state regulators. The MMC is made up of mortgage regulators from ten states and represents all states' mortgage supervision interests under the Nationwide Cooperative Agreement for Mortgage Supervision. I am honored to serve as a member of the MMC.

In response to the extraordinary evolution of the mortgage industry, the continuing deterioration of the real estate market, and the dramatic rise in mortgage delinquencies and foreclosures which helped fuel the financial crisis and exposed fraudulent practices, state regulators began to formalize the overhaul of their examination practices and methodologies in 2007. Regulators made an assessment that continued refinement and expansion into more sophisticated technological tools and examination techniques were necessary to enhance supervision, as well as to create more efficient regulation for the industry.

Methods of Examining

Preliminary assessment of risk by the MMC is critical to an effective examination program. Using data from the NMLS Mortgage Call Report, the MMC analyzes an MME's loan portfolio, origination practices, and financial condition to determine the safety and soundness risk of the organization and the risk it may pose to consumers. This analysis produces a risk profile which informs the MMC's prioritization process and the scope of the review.

The MMC has long held that the financial condition of MMEs is determined in large part by the degree of successful compliance with state and federal consumer protection laws and

sound underwriting standards. To that end, the refinement of a broad, technologically sophisticated electronic examination initiative is a major component of the MMC examination platform. The significance and benefits of the technology are realized throughout the course of an examination, from the off-site work that occurs prior to the exam, all the way through to the compilation of the report.

This thorough examination process enables regulators to attain a 100 percent review of an MME's loan portfolio to assess its underwriting, while flagging potential compliance violations for further review. A surgical approach is then undertaken by examiners who focus on the loans identified as having potential violations. A physical review by the examiner determines whether or not the violation is in fact valid, whether consumer harm has occurred, and the degree of risk any such violation may pose to the operations of the MME. The examination also addresses issues such as depth of management; adequacy of policies and procedures; processes to identify and prevent mortgage fraud; underwriting procedures, including a determination of ability to repay; and examiner interviews with borrowers.

The automated loan review tools are a supplement to the procedures outlined in an extensive examination manual the MMC issued earlier this month. The examination approach and focus has shifted from a pure compliance check to a substantive investigation of the lending operations and financial condition of the MMEs. The culmination of the MMC's examination process is a single composite report of examination containing the findings of all participating states. Through this report, regulators and the regulated are afforded a uniform, national view of their operations and compliance performance.

This coordinated supervisory effort is intended to minimize regulatory burden and expense for the industry, and foster consistency, coordination and communication among the state regulators. Rather than subject an MME and its management to multiple state requests for electronic data uploads, the MMC is conducting these examinations under a single examiner in charge with a coordinated approach and request for information.

Combating Mortgage Fraud

Through the examinations of licensed companies and originators in their states, and through multi-state mortgage exams, state regulators identified some troubling practices and began closing mortgage companies for mortgage fraud in 2007. Exams found that both lenders and brokers were funneling a pipeline of unsustainable loans to closing, which were largely based on two premises: that potential borrowers were able to pay more on their monthly mortgage payments than they could afford; and that the products that were created allowed for a preponderance of misrepresentation on the part of both industry participants and borrowers. As the states began to receive data on rising delinquency rates, it became apparent that the methodologies the regulators were using were not adequately preventing mortgage fraud. The states quickly changed their approach and began utilizing a number of techniques in their examinations that had not previously been tried. For instance, state mortgage regulators began to attend mortgage closings, and witnessed first-hand the fabricated loan documentation that was being used to "push" loans through, even though the borrowers stated that the application figures for income were not what they had stated to the lender.

State regulators also began conducting surprise examinations in an effort to obtain documentation that was fraudulent. State regulators interview past and present employees of

mortgage companies, in an effort to garner as much information on the internal processes a lender is using to process their loans. State regulators also interview current borrowers, and borrowers that have been foreclosed upon during their examinations, in addition to the traditional documentation review.

These examinations and innovative techniques produced viable documented results. The most recent example of these efforts is the prosecution and sentencing of executives at Taylor Bean and Whitaker (TBW), a national lender engaged in the underwriting and selling of mortgage loans. This successful prosecution was the direct result of a multi-state examination that began in 2008 and resulted in the exposure of vast mortgage fraud being committed at the company. A $9 million penalty heightened the case's profile, and ultimately resulted in the FHA removing authority for TBW to originate FHA loans. Just over one week ago today, the chairman and owner of TBW was sentenced to 30 years in prison and a forfeiture of $38.5 million. This is one example of many that document the effect state mortgage regulators are exerting on mortgage fraud.

LOOKING AHEAD

Across many of the industries that we regulate, we see a great deal of anxiety that reflects fears about the effect of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and other regulatory actions deemed necessary to address identified weaknesses in the financial system. Coupled with uncertainty as to the structure and role of larger institutions in the economy and the future of mortgage finance, this anxiety is understandable. While financial regulatory reform was enormously challenging, the debate

over mortgage finance reform will prove even more so with broad effects on consumer finance and the economy.

Appraisal Issues

As this Subcommittee knows, the regulation of appraisers includes a blend of state and federal regulatory responsibility. While the majority of state banking and mortgage regulators do not have regulatory authority over appraisers, from a safety and soundness and consumer protection standpoint, we understand that properly regulating appraisers is a critical ingredient for a healthy mortgage market. The changes made by Dodd-Frank to provide state and federal regulators with more tools in this area should benefit the overall market.

RESPA/TILA Disclosures

CSBS is supportive of providing more transparency and clarity to consumers as they deliberate what is often the most significant financial transaction of their lives. Therefore, we support the Congressional mandate imposed by the Dodd-Frank Act to streamline the disclosures currently required by the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA). Further, requiring fewer disclosures will reduce regulatory burden for mortgage providers and provide more efficiency for the industry. The Consumer Financial Protection Bureau recently released its initial thinking in this area. We are heartened by the generally positive reaction to their initial work and the extensive feedback provided by interested parties. The differences between RESPA and TILA have been a long-standing problem for the industry with little value to the consumer. It is possible that we are on a path towards resolution to the benefit of all.

Ability to Repay

The Dodd-Frank Act's provisions that require creditors to consider and verify a borrower's ability to repay is sound policy. Lenders should determine whether a borrower has a reasonable ability to repay, and this determination should be based on income, credit history, indebtedness, and the other relevant factors outlined in both the statute and proposed rule. Prudent lenders engage in this ability to repay analysis as a standard business practice, which reflects the economic sensibility behind this requirement. Creditors are in the business of extending loans that have a reasonable expectation of repayment, and ability to repay factors only strengthen this decision making process.

Risk Retention

As required by Dodd-Frank, the federal financial regulators have issued proposed rules implementing the Dodd-Frank requirements that securitizers retain at least 5% of the credit risk of the assets underlying asset-backed securities. In particular, the proposed rules define residential loans that will be exempt from the credit risk retention requirement, known as "qualified residential mortgages," or QRMs.

State banking and mortgage regulators support credit risk retention as a means of encouraging prudent underwriting. To achieve that goal, the federal regulators should implement a dynamic framework to monitor the performance of loans subject to credit risk retention. Additionally, the credit risk retention requirement must be implemented in a manner that enables a diverse set of institutions to be involved in originating and securitizing all loans, including QRMs. The QRM should be the least risky category of mortgage available because those securities backed by QRMs do not require securitizers to retain credit risk. At

the same time, the QRM must allow for other standard mortgage products to be developed and originated, and it should not be the only mortgage available on the market.

Ultimately, the risk retention requirement represents an integral piece to a holistic regulatory effort in which we address the market and regulatory shortcomings that led to the recent economic meltdown. This requirement must be implemented in a manner that serves the law's goal of improving accountability and the alignment of incentives without creating unintended consequences for the housing market.

Loan Officer Compensation

The Federal Reserve Board of Governors (Board) introduced loan originator compensation restrictions in its proposed amendments to Regulation Z in July of 2009. The Board included prohibitions against payments based on interest rates and steering activities because disclosures alone are not always a sufficient tool to protect consumers. In a joint letter, CSBS, AARMR, and the National Association of Consumer Credit Administrators supported the loan originator compensation restriction, reasoning that

> "Deceptive loan originator compensation practices have worked to create an unfair environment for consumers. Providing financial incentives to originators to provide nontraditional mortgage loan products has led to consumers taking on excessive risks in unsuitable mortgage loans."

The Final Rule on loan originator compensation was released September 10, 2010, and became effective April 5, 2011. Though state regulators continue to support the prohibition of payments to mortgage brokers or a creditor's loan officer based on the loan's interest rate or other payment features, the rule's complexity raises significant challenges in terms of implementation. Both industry and regulators have raised many interpretive questions—

suggesting the need for guidance beyond the rule itself. This uncertainty could result in inconsistent application across the industry.

State regulators will need to determine how to examine for the regulation. In the current environment, it is very difficult to determine what is or is not a violation of the rule. At the request of the states, CSBS has coordinated a working group to develop guidance for use by state regulators. However, in absence of additional official guidance from the issuing agency, any guidelines developed by the joint state initiative will only provide a modest level of certainty for institutions as to how state examiners are evaluating compliance.

CONCLUSION

The work of state mortgage regulators over the past decade has been focused on improving and enhancing mortgage regulation to better protect the consumer and to strengthen the mortgage market itself. Key to serving these goals is ensuring that the industry is diverse and supports a variety of business models. As in other areas of financial services, state financial regulators remain concerned about policies that encourage or accelerate industry consolidation. As state regulators, we benefit from our proximity to the mortgage origination transaction and to the communities served by the mortgage industry. We hear first-hand about the regulatory burdens, and we see up close the consequences of bad actors.

The challenge for policymakers—and for the regulators who implement those policies—is to create a regulatory framework that ensures industry professionalism, industry and regulatory accountability, and the proper alignment of incentives but that also avoids unnecessary regulatory inefficiencies and burdens. For state regulators, policies and

approaches that encourage regulatory collaboration and coordination and that support regulatory innovation have been vital to striking this balance.

Thank you for the opportunity to testify before you today. I look forward to answering any questions you may have.

APPENDIX

Exhibit A: Nationwide View on State-Licensed Mortgage Entities, Quarter I 2011

Exhibit B: State Mortgage Enforcement Actions From 2000 - 2009

Nationwide Mortgage Licensing System & Registry

Nationwide View on State-Licensed Mortgage Entities

Quarter I 2011

Updated July 8, 2011
Conference of State Bank Supervisors
1129 20th Street, NW, 9th Floor
Washington, DC 20036-3403

NMLS

A Nationwide View on State-Licensed Mortgage Entities

This report compiles data from the first quarter of 2011 concerning companies, branches, and mortgage loan originators who are state licensed or state registered through the Nationwide Mortgage Licensing System & Registry (NMLS). Unless otherwise noted, the data reflects licensing and registration information from NMLS as of March 31, 2011.

Approved Entities and Licenses in NMLS

Type	Unique Entities	Licenses
Company	14,980	28,415
Branch	15,957	24,021
Individual	100,098	182,880

NOTE: Includes companies holding a state license or a state registration through NMLS. License information includes separate licenses required for DBAs ("Other Trade Name") required in certain states and multiple licenses for different authorities (e.g. Lender and Broker) required in certain states.

Mortgage Related Business

State-licensed companies in NMLS by business activity

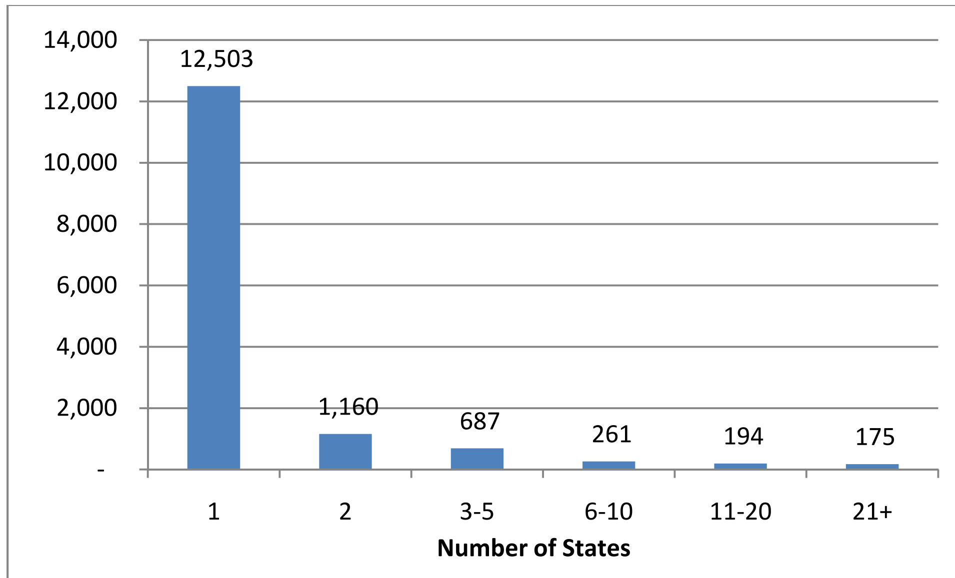
Description	Companies	% in NMLS
First mortgage loan brokering	13,298	89%
Second mortgage loan brokering	11,065	74%
First mortgage lending	3,308	22%
Second mortgage lending	2,466	16%
First mortgage servicing	1,322	9%
Second mortgage servicing	1,068	7%
Home equity loans, including lines of credit	7,038	47%
Federal Housing Administration (FHA) - Loan Correspondent	4,473	30%
Federal Housing Administration (FHA) - Direct Endorsement mortgagee	1,376	9%
Ginnie Mae approved Issuer/Servicer	340	2%
Fannie Mae approved Seller/Servicer	1,076	7%
Freddie Mac approved Seller/Servicer	940	6%
Loans guaranteed by the Veterans Administration (VA)	5,292	35%
Reverse mortgage loans	3,515	23%
High cost home loans (refer to state definitions)	1,173	8%
Other mortgage products and settlement services	1,105	7%
Credit Insurance	208	1%
Other mortgage-related business	598	4%
Engaged in non-mortgage-related business	3,269	22%

NOTE: Mortgage Related Business activity is self-reported by licensee/registrant on the "Other Business" section of their Form MU1. Licensees may be relying on different definitions in indicating their business activity. As of December 31, 2010, FHA no longer approved Loan Correspondents (See FHA Mortgagee Letter 2010-20). Answers to this section likely do not reflect this change. It is anticipated that FHA Loan Correspondent will be removed as a designation on Form MU1 in January 2012.

Exhibit A

Mortgage Companies Operating in Multiple States

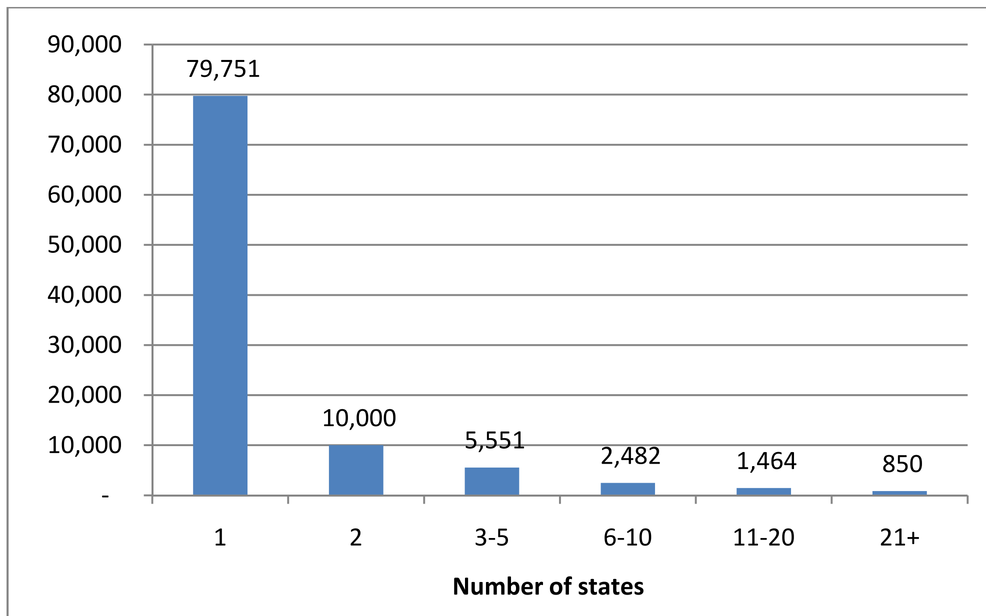
83% of companies are licensed in just one jurisdiction



NOTE: Graph represents data by state, not state agency (several states have two agencies on NMLS). For example, a company which holds a license in both California agencies is counted only once.

Mortgage Loan Originators Operating in Multiple States

80% of individual mortgage loan originators are licensed in just one jurisdiction

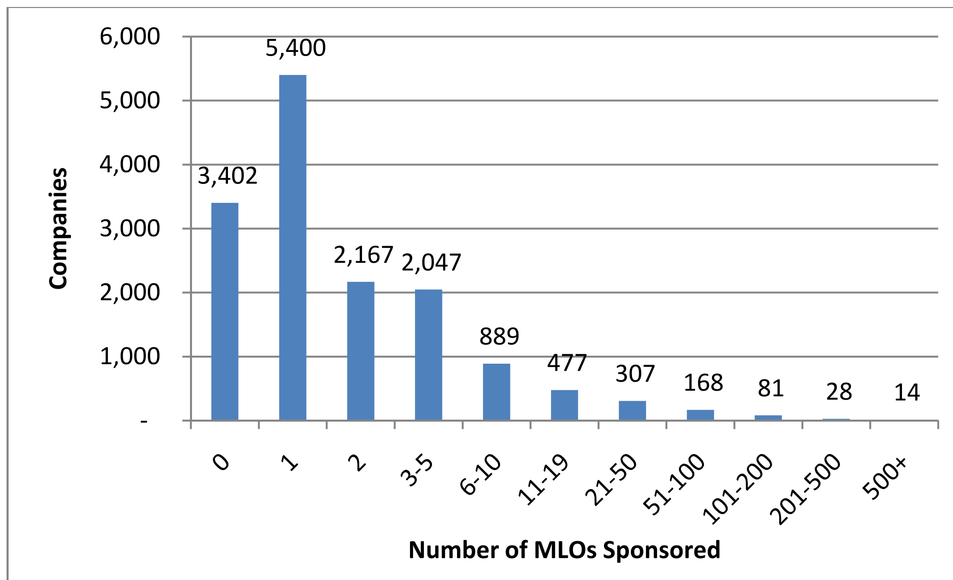


NOTE: Graph represents data by state, not state agency (several states have two agencies on NMLS). For example, a mortgage loan originator which holds a license in both California agencies is counted only once.

Exhibit A

Mortgage Loan Originators Per Mortgage Company

83% of companies employ 1-5 mortgage loan originators

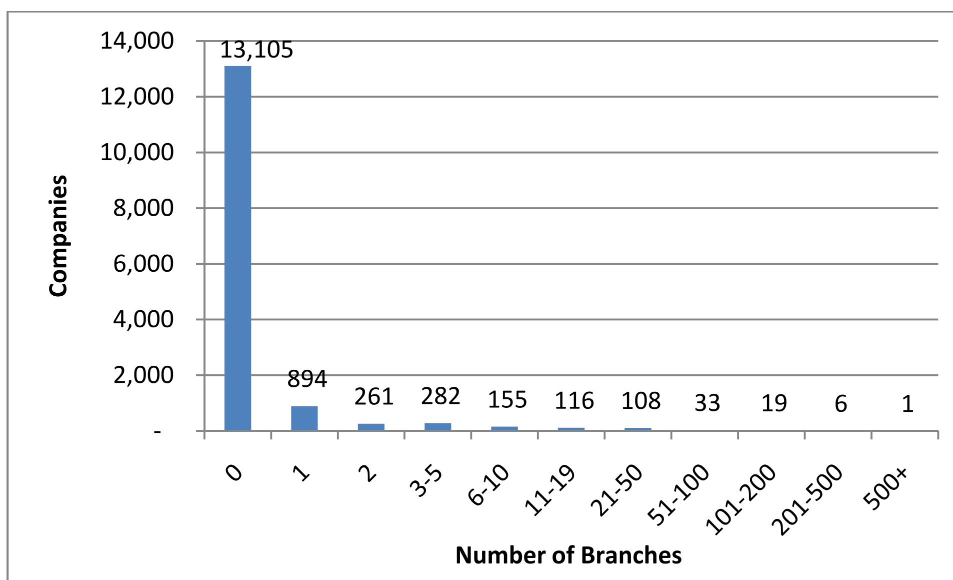


Average MLOs per Company	**5.5**
Average MLO Licenses per Company	**9.9**
Average Licenses per MLO	**1.8**

NOTE: The significant number of companies with no MLOs is due in part to the fact that some companies may hold a state license but have no individuals that must hold a mortgage loan originator license (e.g. Mortgage Servicers). The number is mostly due to the fact that some states do not require Sponsorship of MLOs by the employing mortgage company and therefore NMLS cannot provide an average.

Branches Per Company

87% of mortgage companies have only a single location

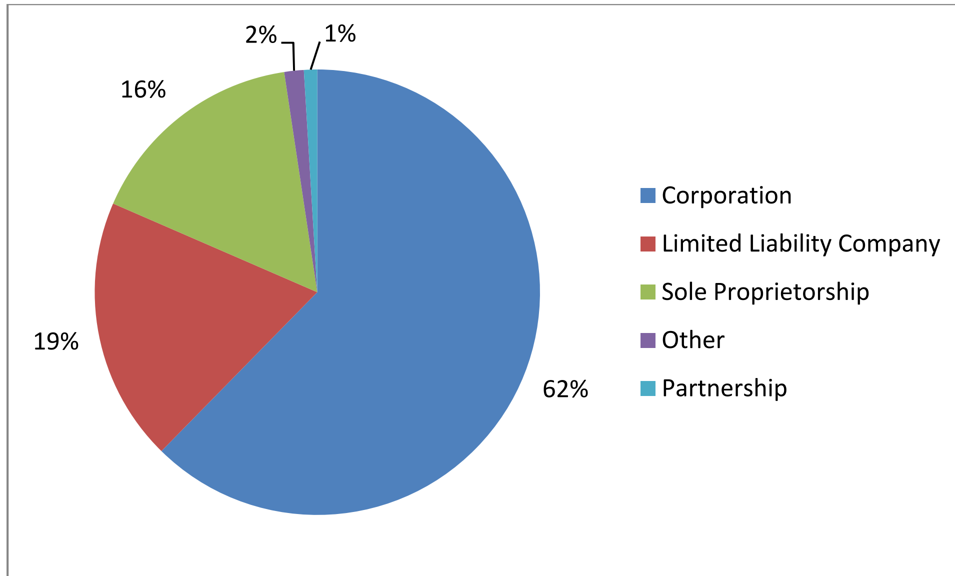


Average Branches per Company	**1.06**
Average Branch Licenses per Company	**1.58**

NOTE: Graph represents the number of Form MU3 filings per company. It is possible for a company to file two Form MU3s on the same physical location.

Exhibit A

Legal Status of Companies



Companies controlled by depository institution **287**

Exhibit A

State-Licensed/Registered Mortgage Entities

As of March 31, 2011

	Companies	Branches	Individual MLO	Average MLOs per Company	Avg Branches per Company	Companies Controlled by Depository	
District 1							
Connecticut	623	308	4,243	6.3	0.5	30	4.8%
Delaware[2,3]	-	-	1,294	-	-	-	-
District of Columbia	326	265	1,312	3.8	0.8	34	10.4%
Maine[2,3]	-	-	1,481	-	-	-	-
Maryland	650	529	4,640	1.1	0.8	43	6.6%
Massachusetts	572	586	3,858	6.3	1.7	39	6.8%
New Hampshire	353	267	1,843	5.1	0.8	38	10.8%
New Jersey	613	792	6,740	10.3	1.3	22	3.6%
New York	1,159	930	4,843	4.0	0.8	17	1.5%
Pennsylvania	954	901	6,659	6.6	0.9	31	3.2%
Puerto Rico[1]	66	263	-	-	4.0	11	16.7%
Rhode Island	285	165	1,189	3.8	0.8	42	14.7%
Vermont	181	141	677	3.1	1.0	35	19.3%
District 2							
Illinois	678	336	5,939	7.8	0.5	39	5.8%
Indiana-DFI	261	-	2,845	10.2	-	20	7.7%
Indiana-SOS	200	28	611	2.4	0.1	3	1.5%
Iowa	330	355	1,275	3.6	1.2	33	10.0%
Kentucky[3]	351	287	2,705	0.0	0.8	14	4.0%
Michigan	628	-	3,595	8.4	-	59	9.4%
Minnesota	468	329	2,780	5.3	0.6	34	7.3%
Missouri[2,3]	-	-	2,630	-	-		-
Ohio	535	1,450	3,886	7.2	2.8	35	6.5%
Wisconsin	388	492	2,695	6.4	1.6	38	9.8%
District 3							
Alabama	416	469	2,811	6.2	1.1	19	4.6%
Arkansas	265	226	1,392	5.2	0.9	8	3.0%
Florida[1,3]	428	99	4,875	0.5	0.2	1	0.2%
Georgia	860	509	4,671	4.9	0.6	32	3.7%
Louisiana	400	433	2,483	5.6	1.1	12	3.0%
Mississippi	266	319	1,481	5.5	1.2	14	5.3%
North Carolina	546	661	5,504	8.6	1.2	17	3.1%
South Carolina-BFI	281	441	2,514	8.2	1.6	12	4.3%
South Carolina-DCA	145	101	456	2.7	0.7	1	0.7%
Tennessee	527	636	4,275	7.4	1.2	21	4.0%
Virgin Islands	15	11	26	1.5	0.7	2	13.3%
Virginia[1]	-	-	5,434	4.0	-	-	-
West Virginia	244	174	863	3.4	0.8	29	11.9%

	Companies	Branches	Individual MLO	Average MLOs per Company	Avg Branches per Company	Companies Controlled by Deposity	
District 4							
Colorado[3]	715	-	4,424	3.6	-	15	2.1%
Kansas	330	347	1,747	5.0	1.1	35	10.6%
Nebraska	259	191	938	3.4	0.7	29	11.2%
New Mexico	348	348	1,749	4.8	1.0	19	5.5%
North Dakota	221	111	636	2.7	0.5	37	16.7%
Oklahoma	258	280	1,897	6.4	1.1	13	5.0%
South Dakota	155	-	473	2.9	-	10	6.5%
Texas - OCCC[2,3]	-	-	659	-	-	-	-
Texas - SML	1,444	1,445	10,557	6.8	1.0	14	1.0%
Wyoming	219	160	703	2.9	0.7	15	6.8%
District 5							
Alaska	92	77	396	3.8	0.7	5	5.4%
Arizona	685	810	4,443	5.6	1.2	13	1.9%
California - DOC	785	2,770	11,624	13.1	3.6	47	6.0%
California - DRE	4,907	749	17,695	2.8	0.2	1	0.0%
Hawaii[1]	124	55	443	3.5	0.4	4	3.2%
Idaho	345	332	1,564	4.2	1.0	11	3.2%
Montana	138	107	732	4.8	1.0	11	8.0%
Nevada	250	227	2,133	7.1	1.0	19	7.6%
Oregon	585	667	4,218	6.5	1.1	15	2.6%
Utah-DFI[2,3]	-	-	154	-	-	-	-
Utah-DRE	468	245	3,372	6.4	0.5	-	-
Washington	758	1,252	6,745	8.7	1.6	27	3.6%
Nationwide	**14,980**	**15,957**	**100,098**	**5.5**	**1.1**	**287**	**1.9%**

[1] Agency in the process of completing transition onto NMLS.

[2] Agency does not manage company licensing through NMLS.

[3] Agency does not require Sponsorship of MLOs by the employing company.

This report counts the number of companies, branches, and mortgage loan originators in each state, regardless of the number of licenses these entities may hold in each state. Thus, if a company holds two licenses within a state (e.g. broker and lender), the company is only counted once. The same is true for the Average MLOs per Company and Average Branches per Company. The chart is organized geographically according to the Districts established by the Conference of State Bank Supervisors (CSBS) in order to provide some regional context.

Exhibit A

State-Licensing/Registration Activity

For Period Q1 2011

	New Applications			Applications Approved			Applications Denied			Applications Withdrawn			Pending Applications			Licenses Revoked			Licenses Suspended			Licenses Surrendered		
	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO
District 1																								
Connecticut	33	64	616	28	51	694	-	-	-	7	11	239	23	25	312	3	-	-	-	-	-	13	23	24
Delaware[1]	-	-	173	-	-	189	-	-	-	-	-	26	-	-	141	-	-	-	-	-	-	-	-	32
District of Columbia	15	31	170	31	38	174	-	-	-	1	2	10	11	17	120	-	-	-	-	-	-	5	8	5
Maine[1]	-	-	239	-	-	207	-	-	-	-	-	3	-	-	97	-	-	-	-	-	-	-	-	19
Maryland	31	72	725	20	85	702	-	-	2	9	2	306	38	43	456	-	-	-	-	-	-	11	41	22
Massachusetts	25	96	505	17	76	525	-	-	-	6	8	120	47	55	87	-	-	-	-	-	-	19	37	30
New Hampshire	8	30	251	19	35	248	-	-	-	7	10	51	16	16	139	1	-	1	-	-	-	11	18	101
New Jersey	27	82	671	41	122	631	-	-	-	-	8	73	29	59	1,518	-	-	-	-	-	-	13	79	35
New York	22	44	594	11	39	787	-	-	10	10	13	3,001	173	199	2,045	-	-	-	2	-	-	51	8	33
Pennsylvania	66	83	814	65	76	737	-	-	-	10	9	213	46	70	496	-	-	1	-	-	68	21	54	94
Puerto Rico	1	-	-	1	-	-	-	-	-	-	-	-	6	11	6	-	-	-	-	-	-	2	-	-
Rhode Island	9	26	159	9	18	109	-	-	-	3	4	14	37	42	212	-	1	-	-	-	12	12	10	5
Vermont	34	21	89	23	27	78	-	-	-	6	4	20	52	16	171	-	-	-	-	-	-	13	17	3
District 2																								
Illinois	28	30	737	14	32	956	-	-	18	2	30	15	56	28	1,108	-	-	-	-	-	-	29	2	3
Indiana-DFI	28	-	365	18	-	355	-	-	-	-	-	354	16	-	89	-	-	-	-	-	-	17	-	6
Indiana-SOS	6	7	40	5	4	34	-	-	-	-	3	12	8	3	42	-	-	-	-	-	-	7	2	17
Iowa	18	16	195	19	16	230	-	-	1	-	-	67	12	5	72	-	-	-	-	-	-	10	24	80
Kentucky	22	41	323	25	46	286	-	-	-	4	8	146	18	7	151	-	-	-	-	-	-	9	9	21
Michigan	63	-	520	44	-	708	-	-	1	19	-	205	42	-	433	-	-	-	-	-	-	17	-	12
Minnesota	43	50	525	27	85	1,125	-	-	1	3	1	16	44	17	446	-	-	-	-	-	-	6	13	-
Missouri[1]	-	-	297	-	-	261	-	-	20	-	-	97	-	-	163	-	-	-	-	-	-	-	-	8
Ohio	31	72	644	31	66	991	4	-	26	21	29	476	64	66	559	-	-	-	-	-	-	12	25	10
Wisconsin	30	125	467	51	157	471	16	-	46	2	1	73	26	12	186	-	-	-	-	-	-	14	30	63
District 3																								
Alabama	17	46	310	14	46	351	-	-	4	2	8	266	22	30	232	-	-	-	-	-	-	16	22	41
Arkansas	17	26	256	24	30	213	-	-	-	1	2	31	17	14	172	-	-	-	-	-	-	15	15	170
Florida[2]	215	160	1,279	388	98	3,854	-	-	-	29	11	23	1,692	1,097	11,003	-	-	-	-	-	-	-	-	-
Georgia	38	37	690	19	16	579	-	2	28	14	10	236	33	14	332	5	-	12	-	-	-	14	20	26
Louisiana	23	53	352	27	58	504	-	-	-	3	8	43	33	41	205	1	-	3	6	-	-	7	22	10
Mississippi	16	46	263	14	42	246	-	-	-	3	25	124	20	31	149	-	-	-	-	-	-	7	9	110
North Carolina	19	71	565	20	49	516	-	12	46	9	8	192	14	26	245	-	-	-	-	-	-	15	40	51
South Carolina-BFI[2]	35	113	344	25	162	623	-	-	-	17	62	509	37	62	624	-	-	-	-	-	-	6	5	10
South Carolina-DCA	9	8	70	5	6	46	-	-	-	1	3	19	15	5	54	-	-	-	-	-	-	3	12	9
Tennessee	18	102	473	58	103	642	-	-	16	3	-	17	32	28	304	-	-	-	-	-	-	3	29	17
Virgin Islands	1	2	6	-	2	1	-	-	-	-	-	-	1	-	7	-	-	-	-	-	-	-	-	-
Virginia[2]	35	128	765	1	96	699	-	-	3	6	7	241	779	1,002	700	-	-	-	-	-	-	-	-	13
West Virginia	22	23	169	14	23	174	-	-	-	3	-	15	20	6	39	-	-	-	-	-	-	4	5	3

Exhibit A

	New Applications			Applications Approved			Applications Denied			Applications Withdrawn			Pending Applications			Licenses Revoked			Licenses Suspended			Licenses Surrendered		
	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO	Company	Branch	MLO
District 4																								
Colorado[2]	190	-	536	270	-	482	-	-	-	-	-	-	79	-	1,174	-	-	-	-	-	-	-	-	-
Kansas	20	35	201	7	21	159	1	-	4	3	-	9	22	15	63	-	-	-	-	-	-	3	26	11
Nebraska	16	16	118	12	17	158	-	-	7	4	4	23	24	13	199	-	-	-	-	-	-	4	9	13
New Mexico	12	29	211	12	32	228	-	-	-	22	6	224	10	4	87	-	-	-	2	-	41	11	23	12
North Dakota	10	10	67	10	11	60	-	-	-	1	-	9	5	1	14	-	-	-	-	-	-	11	11	31
Oklahoma	18	27	164	22	40	230	-	-	-	3	6	2	22	30	309	-	-	-	-	-	-	2	3	1
South Dakota	13	-	95	13	-	99	-	-	-	1	-	14	15	-	66	-	-	-	-	-	-	4	-	5
Texas - OCCC[1]	-	-	72	-	-	96	-	-	-	-	-	45	-	-	434	-	-	-	-	-	-	-	-	-
Texas - SML	117	210	1,319	147	200	1,405	-	-	9	37	11	351	54	41	306	-	-	-	-	-	233	8	96	47
Wyoming	9	19	86	14	19	77	-	-	1	-	-	4	3	7	105	-	-	-	-	-	-	17	22	7
District 5																								
Alaska	6	10	55	7	9	54	-	-	4	1	1	14	8	3	52	-	-	-	-	-	-	2	6	1
Arizona	25	91	562	16	72	553	-	-	2	4	17	287	44	83	284	-	-	-	2	26	-	63	113	6
California - DOC	44	411	1,834	27	295	1,927	-	-	5	19	40	747	74	170	1,743	27	-	-	-	-	-	26	165	10
California - DRE	76	67	87	1,041	742	1,591	-	-	-	6	2	9	1,191	218	7,232	-	-	-	-	-	-	-	-	-
Hawaii[2,4]	42	37	201	88	44	353				9	15	22	73	55	405	-	-	-	-	-	-	-	-	-
Idaho	18	42	200	21	41	214	-	-	-	5	12	24	14	20	63	-	-	-	-	-	-	4	18	123
Montana	18	11	102	16	15	78	-	-	2	7	9	44	19	5	86	-	-	-	-	-	-	8	6	3
Nevada	15	42	217	47	35	195	-	-	-	4	7	16	28	25	166	-	-	-	-	-	-	11	12	21
Oregon	27	99	540	23	86	472	-	-	-	4	4	71	12	28	251	-	-	-	-	-	-	13	70	10
Utah-DFI[1]	-	-	51	-	-	52	-	-	8	-	-	11	-	-	30	-	-	-	-	-	-	-	-	1
Utah-DRE	34	23	217	33	35	256	-	-	5	4	-	136	15	10	158	-	-	-	-	-	3	4	12	2
Washington	52	142	745	22	139	822	-	-	1	4	56	79	89	121	227	2	2	2	1	-	-	50	227	29
Nationwide	**1,767**	**3,026**	**22,341**	**2,956**	**3,557**	**28,507**	**21**	**14**	**270**	**339**	**477**	**9,394**	**5,280**	**3,896**	**36,569**	**39**	**3**	**19**	**13**	**26**	**357**	**623**	**1,398**	**1,416**

[1] Agency does not manage company licenses through NMLS

[2] Agency was in the transition process for company licenses or registrations during the quarter

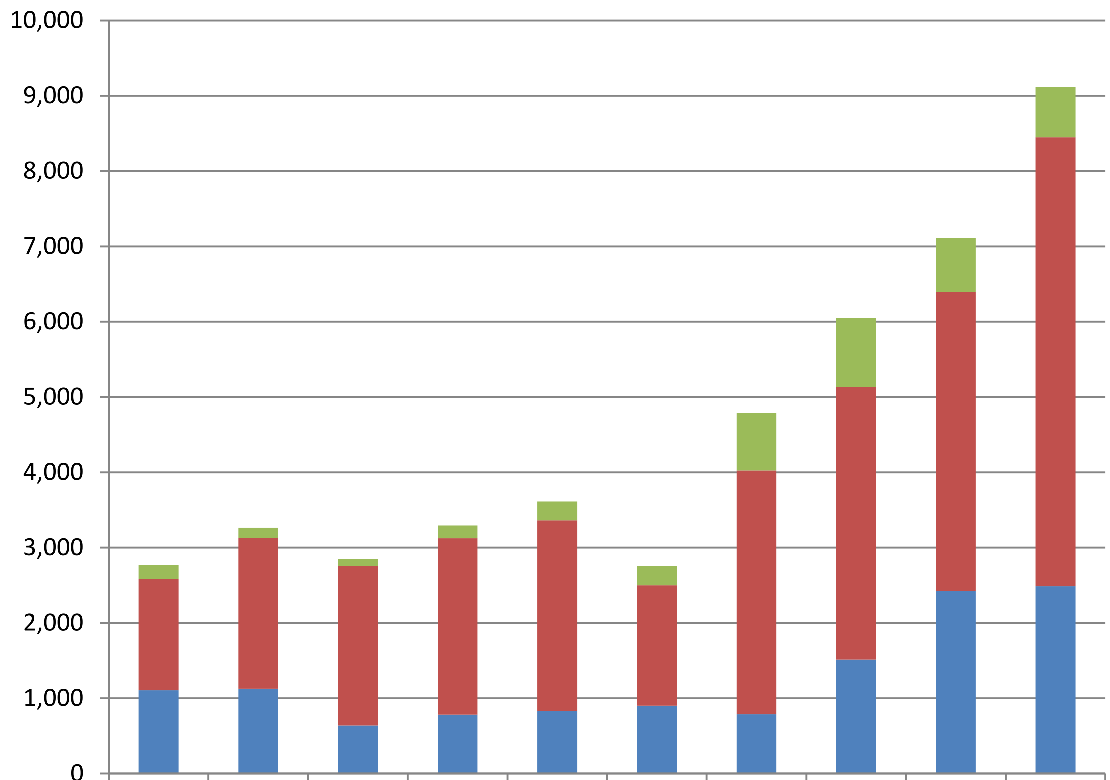
[3] Agency was in the process of completing MLO license transition during the quarter

[4] The Hawaii Division of Financial Institutions has indicated that it is not able to release the number of license applications denied.

This chart provides data on the number of license applications, application approvals, application denials, application withdrawals, license revocations, license suspensions, and license surrenders that took place between January 1, 2011 and March 31, 2011 (Quarter 1 2011) through NMLS. The chart also provides the number of licenses that were in a pending status on March 31, 2011. "License" on this chart also includes state registrations. "Application Denied" typically indicates a final denial after appeals have been exhausted, though state process and definitions may vary concerning this point.

Exhibit B

State Mortgage Enforcement Actions from 2000 - 2009



	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Disciplinary / Fines	180	137	93	171	249	260	761	920	719	672
Cease & Desist	1480	2002	2117	2343	2534	1596	3234	3619	3970	5957
Criminal / Revocation	1106	1127	638	782	829	904	789	1514	2424	2489

Source: LexisNexis Mortgage Asset Research Institute