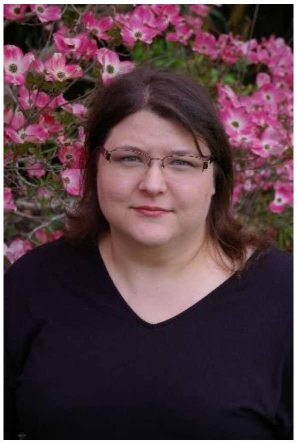
MULTI-STATE MORTGAGE COMMITTEE REPORT TO STATE REGULATORS 2016

TABLE OF CONTENTS

Message from the Chair



Kirsten Anderson
Chair, MMC

Looking back on 2016, the Multi-State Mortgage Committee (MMC or Committee) realized new successes and confronted familiar challenges. Amid all of the hard work the MMC put forward this past year, I am happy to report that the Committee remained focused on the goals set forth in the Nationwide Cooperative Protocol and Agreement for Mortgage Supervision (Protocol and Agreement). Back in 2007, state mortgage regulators came together and agreed to synchronize their efforts, outlining specific goals for multi-state mortgage supervision. Fast forward nine years and the same commitments to "foster consistency, coordination, and communication among state regulators" proves to be just as important to the states and the MMC today as they were in 2007. Multi-state mortgage supervision has certainly evolved over this time, but these goals continue to serve as guiding principles for the MMC, and more importantly the states.

With a well-established, risk-based approach to non-bank mortgage supervision, the MMC is always working to improve the efficiency and effectiveness of multi-state examinations and enforcement. From our perspective, effective supervision needs effective communication. The mortgage supervision process requires coordination with several stakeholders, both inside and outside the state regulatory system. The Consumer Financial Protection Bureau (CFPB) and the state Attorneys General proved to be great partners throughout this past year.

In 2016, the MMC once again had the opportunity to work with the CFPB and the state Attorneys General on a number of mortgage supervision matters. These partnerships, which leveraged each other's respective resources, expertise and authorities, yield a stronger and safer mortgage lending and servicing environment for consumers. And similar to recent years, the MMC worked with the State Coordinating Committee (SCC) to facilitate and oversee coordinated mortgage examinations with the CFPB, focusing on mortgage origination (forward and reverse) and servicing activities.

The SCC, CFPB and the MMC began this coordinated effort of mortgage supervision in 2014. And though we have always operated quite well together, I think we will look back on 2016 as the year in which coordinated state and federal mortgage supervision began to reach its full potential. Examiners-in-charge (EICs) for both the MMC and the CFPB are encouraged to be proactive, in terms of sharing information, sharing examination findings and meeting with each other on a regular basis throughout the examination process. Leadership from the SCC, the CFPB, and the MMC have brought this partnership forward to where we are all operating in an environment that fosters collaboration and positive results for all.

Coordination among state and federal regulators has never been more important given the size and complexity of the non-bank mortgage lending and servicing markets. In 2016, non-bank mortgage lenders originated 4.4 million loans totaling over $1 trillion dollars in mortgage lending production, and in this same time serviced roughly 25 million loans.[1] This volume of activity is significant within the overall U.S. economy, and the safety and soundness of this industry is always a consideration at the forefront of the Committee's risk-based supervision approach.

As we look forward into 2017, and to the current rising interest rate environment, the MMC expects to see entities, who were once heavily reliant on the refinance market, to shift their focus to new revenue sources, such as purchase business and/or mortgage servicing. Some of these entities will undergo substantial shifts in their business operations and plans; and with these shifts the potential compliance risks will be high. The MMC will be watching for these changes in the market, and will work to understand the impact these changes will have on consumers.

On behalf of the MMC, I would like to thank the states that participated in MMC examinations in 2016. We recognize that, in today's time of competing needs and limited resources, states who participate are making a conscious choice to use their resources to make the state system stronger. We also extend our deepest appreciation to the examiners, EICs, and the Single Points of Contact for the examinations, for their hard work and dedication. We recognize that it can be challenging to balance a multi-state examination along with other work, so we thank them for their efforts. Finally, we thank our partners, at both the state and federal level, for their invaluable efforts as we work to advance mortgage supervision. We are committed to working closely with members of the industry to support activities that foster a consumer-friendly mortgage environment. Both mortgage regulators and industry participants play a significant role in upholding consumer protection standards, promoting economic growth, and fostering innovation. With these shared goals in mind, the MMC looks forward to a successful 2017.

Thank you for all your support.

Kirsten Anderson
Oregon Division of Financial Regulation
Chair, Multi-State Mortgage Committee

[1] Nationwide Multi-state Licensing System: 2016 Quarter 4 Mortgage Call Report Data.

Composition of the Multi-State Mortgage Committee

The MMC is made up of 10 members: five appointed by the Board of Directors of the Conference of State Bank Supervisors (CSBS) and five appointed by the Board of Directors of the American Association of Residential Mortgage Regulators (AARMR). Each member serves a two-year term. The composition of the MMC is significant, as it represents both a geographic and philosophical perspective on the state regulatory system. By engaging members from across the country, a fair and reasonable approach to state regulation is achieved. Significant deliberations take place every week on issues confronting state regulators. Building and maintaining a coalition that strengthens the entire state system is accomplished through teleconferences and in-person meetings as these representatives from the states provide a clear avenue for sharing information. This upholds a consistent supervisory approach across state lines. In its role, the MMC serves as the main coordinating body for the state system of mortgage supervision. As a single representative voice, the MMC is able to effectively and efficiently communicate with state agency leadership and carry out commissioner directives on a national level.

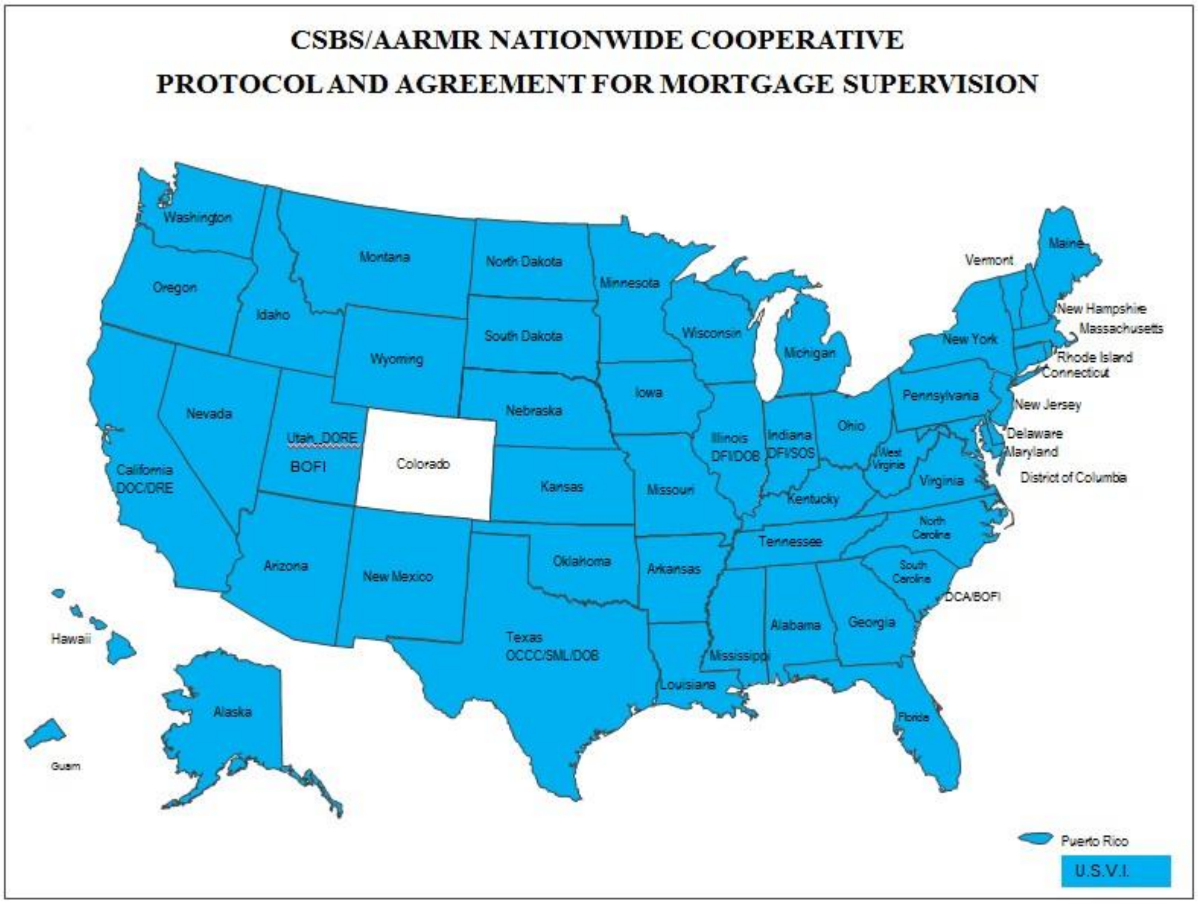
2016 Multi-State Mortgage Committee	
Arkansas Securities Department	Karyn Tierney
Florida Office of Financial Regulation	Andrew Grosmaire
Illinois Department of Financial & Professional	Mark Clayton
Kentucky Department of Financial Institutions	Gary Davis
Maryland Office of Financial Regulation	Jedd Bellman
Massachusetts Division of Banks	Christopher Pope – Vice Chair
Montana Division of Banking & Financial Institutions	Christopher Romano
Ohio Department of Commerce	Brian Landis
Oregon Division of Financial Regulation	Kirsten Anderson – Chair
Washington Department of Financial Institutions	Rick St. Onge

The MMC meets weekly throughout the year devoting significant attention to both examinations and regulatory enforcement. In addition to its regular meetings, the MMC held two in-person meetings in 2016 to review processes and progress in multi-state supervision.

Several members of the Committee contributed to various regulatory and trade events throughout the year. This interaction keeps the Committee connected to current issues and trends, while enabling the MMC to maintain a dialogue with both their colleagues and the industry.

CSBS/AARMR Nationwide Cooperative Protocol and Agreement for Mortgage Supervision

In early 2007, state mortgage regulators began signing the Nationwide Cooperative Protocol and Agreement (Protocol and Agreement) outlining a basic framework for the coordination and supervision of multi-state mortgage entities. The initiative established the MMC as the oversight body charged with implementing and directing processes under the Agreement. All states have signed on to the agreement, except for Colorado (Figure 1).



Source: CSBS **Figure 1: State Adoption of the Agreement, as of February 2017**

The Agreement sets forth the following goals for the MMC:

- Protect consumers;
- Ensure the safety and soundness of multi-state mortgage entities;
- Identify and prevent mortgage fraud;
- Supervise and examine in a seamless, flexible, and risk-focused manner;
- Minimize regulatory burden and expense; and
- Foster consistency, coordination, and communication among state regulators.

MMC Guide to Coordinated Supervisory Action for Mortgage Servicers

Multi-state mortgage servicers, who are non-bank entities that specialize in loan servicing, have grown dramatically in size, complexity and market importance in the post-crisis mortgage market. These entities have acquired substantial portfolios of mortgage servicing rights (MSRs), many of which consist of riskier loans that require a heightened level of service and support. These portfolios generally operate in all 50 states for the largest servicers, which emphasizes the need for supervisory coordination within the states

In light of the potential enforcement challenges these multi-state mortgage servicers present, in 2016 the MMC finalized and provided to all states a comprehensive guide for state mortgage regulators to coordinate supervisory actions against a mortgage servicer. The guide is titled, *Guide to Coordinated Supervisory Action: Mortgage Servicers* (Guide). It is intended to provide process and legal options for supervisory actions that contemplate or result in the restructuring or resolution of a multi-state mortgage servicer. In providing these options to state mortgage regulators the guide outlines principles, a process for coordinating supervisory actions, legal considerations for the remedies available to the states, and a framework to respond to bankruptcy proceedings.

The Guide also establishes a process to facilitate communication between states contemplating actions, including recommending that any signatory to the Protocol and Agreement notify the MMC of any anticipated action against a multi-state mortgage servicer. It provides guidance on the development and implementation of supervisory actions, which includes building a common set of underlying facts for supervisory actions and coordinating the corresponding corrective action. Template documents are available within the Guide to assist in this development and implementation.

Servicing Examination Findings

Over the past three years, a significant portion of the MMC's supervisory efforts have been focused on mortgage servicing examinations and the enforcement related to those examination findings. Non-bank mortgage servicers continued to increase their mortgage servicing market share in 2016, accounting for 40% of the overall market.[2] This is a continuing market trend, evident within the examinations conducted and concluded in 2016.

Another sustained and concerning market trend within mortgage servicing supervision is that the likelihood of a negative consumer experience increases as a non-bank mortgage servicer undergoes rapid growth. Accelerated growth through the acquisition of MSRs is challenging to institutions from a compliance perspective. The MMC is working to ensure that the technology,

[2] *Sources: Inside Mortgage Finance via Bloomberg and NMLS Mortgage Servicing Data.*

policies and operational procedures within the industry are in place to uphold borrower protections.

Mortgage servicing examination results over the past year have once again identified issues regarding the ineffective oversight and management of third-party service providers. Examination teams found that a number of non-bank mortgage servicers failed to effectively oversee core mortgage servicing functions carried out by third-party service providers, particularly with respect to escrow account maintenance. Common consumer issues cited in connection with this lack of oversight include: failure to timely pay taxes and homeowners' insurance, improperly imposing lender force-placed insurance, and failure to provide an accurate accounting of escrow balances.

The MMC found little difference in the violations of state and federal law noted in 2016, when compared to the prior year. Generally, the 2016 servicing examination findings include violations and deficiencies related to the following:

- Annual disclosures and timely notices
- Error resolution
- Loan transfer disclosures
- Escrow maintenance and analysis
- Records retention
- Payment processing and account maintenance
- Default servicing and loss mitigation
- Notices of lender placed insurance

In prior years, a significant portion of servicing examination findings were tied to the mortgage servicing requirements of the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA), and 2016 proved to be no different. As non-bank mortgage servicers continue to purchase large pools of MSRs, the MMC recognizes the difficulties within the loan transfer process, but the Committee has also noted the industry's operational struggles to achieve successful transfers while maintaining compliance with state and federal law. The impact to consumers has not been minimal, and the MMC is working to address these issues through examinations, monitoring loan transfer activity, and by evaluating the impact of significant bulk transfers.

As the Committee remains focused on mortgage servicing activity, the importance of effective technology and the underlying systems that make up a servicing platform cannot be understated. The mortgage servicing industry is heavily reliant on technology solutions to carry out the daily activities needed to comply with consumer rights and protections. MMC examinations indicate that mortgage servicing platforms with incompatible or improperly configured technology systems have a direct negative impact on borrowers, particularly in the loan transfer process. Furthermore, MMC examination teams have found that when technology systems within a mortgage servicing platform are not operating in unison it is difficult and time consuming to create a complete and accurate loan file. This tends to slow down the supervision process and ultimately points to record retention issues, all of which are problematic for consumers, regulators and the institution.

Origination Examination Findings

In 2016, two new types of mortgage origination examination findings stood out as emerging issues. The first issue relates to Bank Secrecy Act (BSA)/Anti-Money Laundering (AML) compliance. MMC examination teams uncovered multiple instances of companies failing to have independent third parties conduct audits to assess compliance with its anti-money laundering policies, procedures and controls. MMC examiners also found that in certain cases companies failed to provide AML training to their employees as required by their internal AML programs. Since 2012, non-bank mortgage companies have been required to meet BSA/AML requirements, and the MMC views compliance with these rules as an important component of a safe and sound mortgage operation. These BSA/AML findings are tied to the core pillars of the regulation, and this is a trend the Committee will continue to monitor.

Another emerging issue identified this past year relates to the Home Mortgage Disclosure Act (HMDA). MMC examination teams found numerous data discrepancies within the Loan Application Registers (LAR) submissions, when compared to the data contained in the reportable loan files. Within the review process, examiners seek to validate the accuracy of the LAR data submitted to meet the requirements of HMDA, and in multiple instances it was determined that the data was either inaccurate or incomplete. As the CFPB works to update the HMDA submission process, which may eliminate some of these issues, the MMC will also continue to monitor this trend. In 2018, HMDA LAR submissions will be provided to the CFPB through a new web interface the Bureau has developed called the HMDA Platform. This new web-based data submission and edit-check system was designed to streamline the HMDA submission process and reduce burden on HMDA filers.[3]

Licensing violations were, again, a significant finding in MMC mortgage origination examinations. Unlicensed activity at both the branch level and the loan originator level has been identified. With the passage of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 and the codification of the Nationwide Multi-State Licensing System (NMLS) in to law, state mortgage regulators are required to ensure compliance with licensing mandates. Whereas many types of compliance violations are handled as routine regulatory matters, the MMC views company adherence to licensing requirements for both origination and servicing activities as critical components of board oversight and management controls. This type of violation, in most instances, is addressed through enforcement, and the MMC will continue to coordinate multi-state actions for unlicensed activity.

While the mortgage origination industry has mature operational processes in place, companies were cited for a wide range of state and federal violations in 2016. Generally, the MMC's 2016

[3] Source: CFPB Home Mortgage Disclosure Act website, https://www.consumerfinance.gov/data-research/hmda/tech-preview

origination examination findings include violations related to the following:

- Records retention
- Timely application disclosures
- Oversight of third-party agents
- Collection of unallowable fees
- Inaccurate HMDA submissions
- Inaccurate application
- Advertising
- Unlicensed activity

Risk-Profiling Group Analytics Tool

In 2014 the Risk Profiling Group (RPG) of the MMC, in partnership with the NMLS, developed metrics for an examiner risk profiling tool that has become a key component to the Committee's risk-based approach to mortgage supervision. The examiner risk profiling tool, called the Mortgage Call Report (MCR) Analytics Tool, provides examiners with key information, such as market share, loan data, and a composite risk score that can be used to identify companies with certain risk profiles. The tool allows the user to drill down for more detailed information about the loan portfolio and financial condition of a particular company. The tool also eliminates the need for examiners to manually conduct certain calculations and allows for direct export of the calculations to an examination report.

The MCR Analytics Tool provides valuable charts and graphs of loan origination volume by dollar and number of loans, as well as categories of loans that quickly provide a picture of lending performance in a single state, region or nationwide. It also allows users to set up side-by-side performance comparisons of companies, segregated by state, region or nationwide to identify commonalities or distinctions. The MMC has reported that in 2016 examiners across the country used the MCR Analytics Tool more than 10,000 times throughout the year to assist in their day-to-day examination work.[4]

In 2015 the RPG set its sights on building out the reporting capabilities of the tool. The group created new functionality within the MCR Analytics Tool that allows examiners to auto-generate a formatted report that offers information about the volume of mortgage origination activity, financial condition and loan originator activity as it relates to an individual company. The report is titled the *Mortgage Examiners Report*. Examiners can simply select the company, state(s) and filing quarters for the examination period under review and the tool will provide a company-specific report that assists examiners in their pre-exam scoping responsibilities.
Within the *Mortgage Examiners Report* there is a company profile that includes licensing information and identifies the peer group to which the company belongs. The report also includes information regarding unlicensed mortgage loan originator (MLO) activity, where the tool cross-

[4] Source: State Regulatory Registry (SRR) Data Analytics

references licensing dates from the NMLS, with the activity for loan originators in the MCR quarterly filings. Having this information in a single, concise document has helped improve the speed and effectiveness of state mortgage regulators' examination efforts. The MMC has also reported that in 2016 examiners across the country used this report generated from the MCR Analytics Tool more than 6,900 times throughout the year to assist in their day-to-day examination work.[5]

The initial version of the *Mortgage Examiners Report* was created to assist examiners in their mortgage origination examinations, however, given its success, the MMC will create a new version of the report focusing on mortgage servicing activity. The MMC views the creation and usage of these reports as an important step in advancing mortgage supervision through a uniform collection of tools for examiners, allowing them to more efficiently analyze the data collected.

CFPB-State Coordinated Supervision

In 2013, the CFPB and CSBS established the CFPB-State Supervisory Coordination Framework (Framework) to facilitate a process of coordinated supervision of non-bank entities under joint federal and state authority. The SCC is the official state coordinating body under the Framework. The SCC is responsible for annually developing a list of proposed coordinated examination targets and working with the CFPB to set a coordinated examination schedule.

Within the normal course of this coordinated process, the SCC delegates to the MMC the responsibility for developing the initial list of proposed mortgage examinations. Once the list has been agreed to by both the SCC and the CFPB, the MMC sends invitations to participate to state regulators, selecting EICs and SPOCs, directing the scope of the examination, monitoring and oversight, and ultimately approving the final report and follow up.

In 2015 the CFPB and SCC developed the CFPB-SCC Coordinated Examination Guidance tool. The guidance is designed to provide direction for both the CFPB EIC and the SCC EIC for coordinated examinations. The guidance includes suggested best practices for coordinated examinations and a step-by-step listing of action items to be completed during a coordinated examination. The development of the CFPB-SCC Coordinated Examination Guidance exemplifies the states' commitment to coordinate with the CFPB, and offers consistency within the coordinated examination process.

The MMC strongly supports the EIC/SPOC events coordinated by CSBS and the CFPB to provide the EICs and SPOCs of the examinations the opportunity to meet in person to begin exam planning early in the process. We believe these events have contributed substantially to the

[5] Source: SRR Data Analytics

improvements we have seen in coordinated examinations.

The coordinated mortgage examinations included a combination of origination and servicing examinations and ranged in size from seven to 22 states participating. A total of 37 states participated in coordinated mortgage examinations in 2016. The EICs and SPOCs for these examinations were provided by Connecticut, Florida, Georgia, Idaho, Kansas, Kentucky, Maine, Montana, New York, Ohio, Oregon, and Washington state.[6]

Summary

In 2017 the MMC will continue to refine its processes to provide more efficient and effective supervision, and to ensure that state examiners are well educated and prepared in supervising the mortgage industry. One initiative the Committee began in 2016 that will continue in 2017 is the development of a comprehensive mortgage examiner training program that will address the training needs for examiners at all experience levels. The MMC has also started to update and enhance the MMC Mortgage Examination Manual (found HERE) and its corresponding job aides by incorporating updated examination procedures for new rules and regulations.

The MMC spent a considerable amount of its time examining the non-bank servicing sector in 2016. As discussed, the rapid growth and acquisition of MSRs by non-bank mortgage servicers has again led to significant examination findings. Several examinations reflected a need for improvement in management information systems for accurate and efficient monitoring of mortgage servicing operations, particularly with respect to escrow account maintenance.

For the near term, the MMC will continue to focus supervisory resources on the non-bank mortgage servicing sector, which is a vital part of the housing market. Non-bank mortgage servicers are facilitating hundreds of millions of mortgage payments every year. This effort requires a high level of coordinated communication between federal and state regulators, law enforcement, and the industry, to assess mortgage servicing risk assessments and decrease the possibility of borrower harm.

The MMC's heavy focus on mortgage servicing follows the understanding that mortgage loans originated with problems have a higher likelihood of continuing with problems as they mature through the life-cycle of the transaction. Further, the increase in transfer of mortgage servicing rights to non-depositories in recent years have stressed these servicers' sometimes inadequate operating systems and infrastructures, requiring greater regulatory attention. Despite the regulatory needs of the servicing market, the Committee also intends to allocate resources in 2017 to the supervision of both the servicing and origination market.

[6] The majority of examinations the MMC oversees are coordinated examinations with the CFPB.

Similar to past years, the MMC is committed to the use of technology in the examinations it coordinates. The use of risk profiling and data analytics is the most effective means to enhance examination efficiency. Assessing the risk of the largest non-bank mortgage originators and servicers in the country requires a comprehensive supervisory platform that is not only deep, but wide enough to provide a true picture of an institution. Without technology, such depth and breadth would be inefficient and unfeasible.

Participation in the multi-state process gives individual states the opportunity to share valuable supervisory knowledge, while conserving precious examination resources and strengthening the entire state regulatory system. The MMC will continually seek EICs and examiners who want to share their skills and enhance their experience and knowledge by being a part of the coordinated examination and multi-state examination process. The MMC looks forward to a successful 2017 and to working with all of the Committee’s state and federal partners.

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