



BUCKLEY SANDLER

Financial services licensing developments



2018-2019

APPROVED Licensing

Maryland Office of the Commissioner of
Financial Regulation*

** The views expressed are the personal views of the presenter, Jedd Bellman, and do not reflect those of the Maryland Office of the Commissioner of Financial Regulation*

November 14, 2018

Outline

- ☑ NMLS developments
 - ✔ NMLS Policy Guidebook
 - ✔ Definition of “control”
 - ✔ Mortgage Call Report
 - ✔ UST
 - ✔ NMLS 2.0
- ☑ Legislative and Regulatory Developments
 - ✔ Arizona fintech regulatory sandbox
 - ✔ SAFE Act amendment – MLO temporary authority to operate
 - ✔ Multistate compact on MSB licensing
 - ✔ Data broker regulation
- ☑ Trends
 - ✔ Federal regulatory rollback
 - ✔ Bank partnerships
 - ✔ Sports betting regulation



NMLS Policy Guidebook

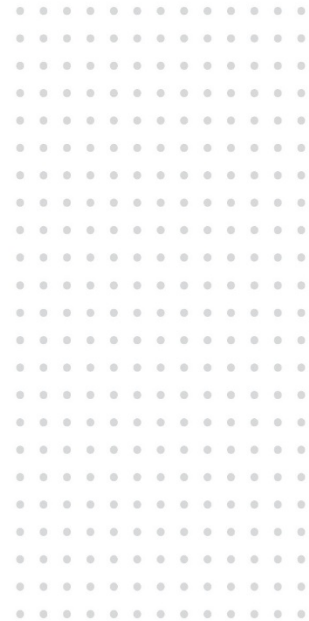
- ☑ Updates made in early February to align with current system functionality and reflect newly-adopted policies
 - ✔ For example, money services business call report and electronic surety bonds
- ☑ Additional updates made in late July





NMLS Policy Guidebook definition of “control”

“The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person that (i) is a general partner or executive officer, including Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Credit Officer, Chief Compliance Officer, director, and individuals occupying similar positions or performing similar functions; (ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities; (iii) in the case of an LLC, Managing Member; or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital, is presumed to control that company.”



Definition of “control”

- ☑ Development of new definition expected to be multimonth (perhaps multiyear) process
- ☑ Working group comprised of regulators and industry members being formed
- ☑ Keep in mind that states may have definitions of “control” that do not conform to NMLS definition



Mortgage Call Report

- ☑ 60-day public comment period on Proposal 2018-1 began on Feb. 1 (and was extended to April 13)
- ☑ Proposed changes
 - ✔ Business activities approach
 - ✔ Definitions and instructions
 - ✔ Financial condition component
 - ✔ Supplemental state-specific form
- ☑ Implementation initially scheduled for Q1 2019, but pushed back to Q1 2020



UST

- ☑ Launched in April 2013 as an option
- ☑ With adoption by MN in August, all states and U.S. territories now use



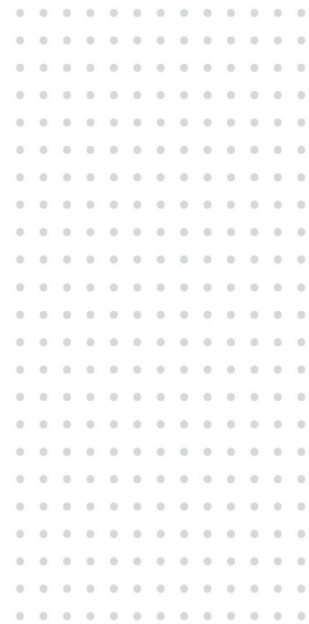
NMLS 2.0

- ☑ “NMLS is being rebuilt on a more modern platform in order to improve its operations, enhance the user experience, and strengthen supervision.”
 - 🕒 <https://new.nmls.org/>
- ☑ Requirements gathering and development began in April 2017. Go-live date undetermined
- ☑ Examples of proposed updates
 - 🕒 Single login concept
 - 🕒 Multiple attestations
 - 🕒 Elimination of activities outside of system
 - 🕒 Foreign national account creation





“In Arizona’s sandbox, startups, entrepreneurs, and even established companies can launch products on a limited, temporary scale to consumers to test innovative products, services, business models, and delivery mechanisms in the real market without incurring the regulatory costs and burdens that would otherwise be imposed.”



Arizona fintech regulatory sandbox

- ☑ AZ H.B. 2434 (signed by governor on March 22) made AZ first state to enact fintech regulatory sandbox
- ☑ 24-month participation period
- ☑ Up to 10,000 AZ consumers
- ☑ Transaction limits:
 - ⌚ Consumer loans: \$15K per loan; \$50K total
 - ⌚ Money transmission: \$2.5K per transaction; \$25K total
- ☑ To date, three applications approved



SAFE Act amendment – MLO temporary authority to operate

- ☑ SAFE Act amended to permit transitional authority (both state to state and federal to state)
- ☑ Law requires states to implement transitional authority by Nov. 24, 2019
- ☑ A few states had already enacted laws to permit state to state MLO license transitions
- ☑ New Jersey A.B. 2035 amends NJ Residential Mortgage Lending Act to create framework for issuance of transitional MLO license



Multistate compact on MSB licensing

- ☑ If one participating state has reviewed key elements of company's money transmitter license application, other participating states will accept that state's findings
 - ✔ IT
 - ✔ Cybersecurity
 - ✔ Business plan
 - ✔ Background check
 - ✔ Compliance with BSA
- ☑ Initially, seven states signed the compact (GA, IL, KS, MA, TN, TX, and WA)



Data broker regulation

- ☑ On May 22, VT enacted country's first law regulating data brokers (i.e., companies that collect and sell people's information)
- ☑ Required to register with VT Secretary of State and pay \$100 fee, among other things
- ☑ Expect other states to follow suit



Federal regulatory rollback

- ☑ Reduction in rulemaking, supervision, and enforcement at federal level following 2016 election
- ☑ MD Special Commission
- ☑ Some states adopting interpretations that bring products and services within scope of existing laws
 - ⊙ Lead generators
 - ⊙ Master servicers



Bank partnerships

- ☑ Bank originates and funds loan that online lender purchases and either retains or sells
- ☑ Model relies on federal preemption with respect to state interest rate caps
- ☑ Broker and credit services organization licenses may be required for online lender



Sports betting regulation

- ☑ Following *Murphy v. NCAA*, number of states expected to legalize some form of sports betting
- ☑ Expect states to borrow heavily from those with more mature sports betting industries (e.g., NV, NJ)
- ☑ License applicant should expect to provide information about organization, governance, finances, control persons, and business plan



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- ☑ Please plan to join us on January 16, 2019 for our next webcast
- ☑ Website: approvedlicensing.com
- ☑ Blog: approvedlicensing.com/news-and-insights



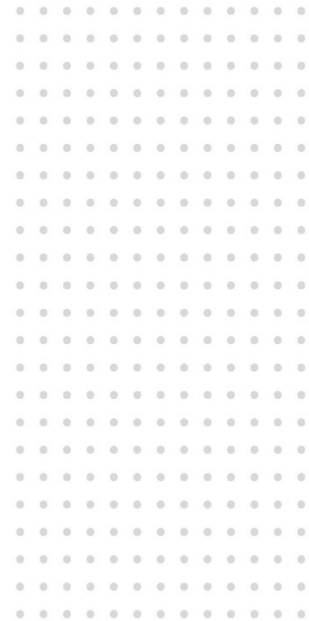


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Questions

