



REGULATORY COMPLIANCE OUTLOOK:

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Mortgage Call Reports



The Nationwide Mortgage Licensing System (NMLS) Mortgage Call Report (MCR) filing will now be required, commencing with the first calendar quarter of 2011. It will be fully activated on the Nationwide Mortgage Licensing System & Registry (NMLSR) Web site in April 2011. Filing of the MCR is required by the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act)—the same Act that requires licensing and registration of mortgage loan originators (MLOs)—as codified in the following provision:

“MORTGAGE CALL REPORTS—Each mortgage licensee shall submit to the National Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.” (My emphasis)

The provision has come under intense debate, mostly based on the view that the state banking departments are overreaching in their authority to require the MCR. They are relying largely on the aforementioned provision for the authority. The Act pertains to licensing of loan originators who are employees of state licensed mortgage companies and registration of the loan originator employees of institutions regulated by the federal banking agencies. However, the state banking departments say that the mortgage licensee is not a loan originator, and that the reports of condition are, based on the Act, “A statement of condition on the company that employs licensed mortgage loan originators and its operations, including financial statements and production activity volumes reported per state.”¹ So state banking departments maintain they have the authority to require companies, not just loan officers, to file the MCR.

Maybe a particular state banking department may have or seek authority under its state law to require licensees to submit quarterly financial statements and loan activity reports, but I don’t find that authority under the Act. Without a statutory basis to extend the MCR filing requirement to mortgage companies, there seems to be a prima facie case here against the requirement for mortgage companies to submit through the NMLSR quarterly financial statements and quarterly reports on its mortgage activity.

Public comments were concluded on this matter last spring, and resistance is futile—so here we go, like it or not!

FAQs

Who-What-When-Where-How (But Not Why)

Who

Q: Who must file the MCR?

A: All state-licensed companies and all state-registered companies that employ licensed mortgage loan originators. The vast majority of state agencies require by law or regulation that companies complete the MCR on behalf of their MLOs.

Q: We are a subsidiary of a federal regulated institution. Do we file the MCR?

A: Yes. Financial condition is for the licensed entity—results are not consolidated with a parent company.

Q: We are a Fannie Mae and/or Freddie Mac Seller/Servicer and/or Ginnie Mae Issuer. Do we file the MCR?

A: Non-Servicing Fannie and/or Freddie Seller/Servicer and/or Non-Pool Ginnie Mae Issuers employing state licensed MLOs must complete the MCR even if they have had no activity during the reporting period.

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Q: There are two different sections to the MCR. Which section do I complete?

A: There are two sections: Standard and Expanded. All companies complete the Standard section of the MCR. Companies that are approved Fannie Mae or Freddie Mac Sellers/Servicers or are Ginnie Mae Issuers must complete the Expanded Section on a calendar quarterly basis. Also, the Expanded Section primarily consists of information collected on the Mortgage Bankers' Financial Reporting Form (MBFRF), as well as the production/origination data from the Standard Section.⁵ Companies completing the Expanded Section are not required to complete the annual financial portion of the Standard Section.

Q: My state is not licensing yet through the NMLS. Do we still have to file an MCR?

A: Some states are still not licensing via the NMLS; consequently, MLOs must submit Mortgage Call Reports if licensed in those states. Functionality will be available for individual MLOs to submit the Standard section of the NMLS Mortgage Call Report, if their employing companies do not submit the MCR on their behalf. (The vast majority of state agencies require by law or regulation that companies complete the report on behalf of their MLOs. Consult your state banking department for guidance.)

Q: I am an individual MLO, not a company. Do I have to file an MCR?

A: Certain states will require individual MLOs to submit mortgage call reports. It has not been determined if the functionality for such individual filings will be fully available at the time that the functionality for the company MCR is available.

What

Q: Briefly, what is in the MCR?

A: The MCR consists of production and financial reporting components.

Q: Will the information on the MCR exclude the information required by state filing requirements?

A: The financial condition fields in the report are in addition to any state-required financial fields, although uniformity is sought overall for broad use by regulators.

Q: Some fields in the MCR undoubtedly will not be related to my financial institution. What then?

A: Companies will only be required to complete sections of the report that are relevant to its activities.

Q: Can you provide an outline of what components are actually required in the MCR?

A: Quarterly activity reporting for each state includes the following components: Application data; closed loan data; MLO data; required repurchases (mortgage lenders); and, lines of credit (mortgage lenders). The information is to be reflective of that quarter specified in the report and is not cumulative.

Q: What if we also file annually. Are there additional components?

A: Annual financial information by a company includes the balance sheet and the income statement. The financial condition report of the Standard section is due annually 90 days from a company's fiscal year end.

Q: Is the MCR an extensive report?

A: There are two reports, a detailed (Expanded) and an abbreviated (Standard) version. The latter requires data in about three dozen fields—and provides information about the MLO per state, per quarter.

When

Q: When does the MCR get filed?

A: Starting the second calendar quarter of 2011 for activity and financial information reflective of the first quarter of 2011. Functionality is expected to be available in the NMLSR by the end of April 2011. The MCR is filed on a calendar quarter basis and submitted through the NMLSR. Reports will be due within 45 days of the end of each quarter. After MCR access becomes available in April, the first quarterly reports are due May 15, 2011.

Q: What will happen if an MCR is not filed?

A: Failure to submit the NMLS Mortgage Call Report may result in the suspension and/or revocation of the financial institution's license in the licensee's state. If the MCR is not filed, some states have announced that they will result, at a minimum, in a deficiency notice on your license. A failure to cure the deficiency may cause

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civil monetary penalties to be issued against the company, prevent a company from renewing its license, and/or cause the company to receive license suspension or revocation.⁶ Consult your state banking department for guidance.

Q: When is the MCR considered complete for each state?

A: The MCR cannot be submitted until all state fields in which the institution is licensed are completed. For instance, if your company is licensed in New York and California, your report cannot be submitted if only the New York information has been completed: you must also complete the information for California.

Where

Q: If the MCR is filed, do I also file a quarterly or annual report with the state banking department?

A: Many state banking departments have indicated that they will accept the MCR in satisfaction of their respective state-specific reporting requirements. If state law requires an annual unaudited financial statement, the submission of the annual unaudited financial information through the NMLS Mortgage Call Report may satisfy the state's annual unaudited financial statement filing requirement. Consult your state banking department for guidance.

Q: We did no loan origination business in the calendar quarter. Must the MCR still be filed?

A: Yes. Companies that did not have mortgage loan origination activity during a particular quarter will be able to indicate this on the MCR.

Q: Is my MCR available to the public?

A: Individual company reports are confidential, but will be available to regulators. Aggregate state, regional, or national data may be made publicly available.

How

Q: Is there a filing fee?

A: A filing fee or processing fee is expected to be required.

Q: Is there a format to the MCR?

A: The NMLS will implement an XML format. Licensees will input information into the data fields in the MCR on the NMLS's Web site.

Q: We are licensed in many states. How are we supposed to file the MCR?

A: Only one NMLS Mortgage Call Report is filed per company, per quarter, including breaking out data for each state in which the company is licensed and/or has licensed MLOs.

What to know and what to do⁷

The NMLS Mortgage Call Report will require substantial consolidation and careful formatting of information pertaining to many aspects of a mortgage loan originator's loan origination platform(s). The following outline provides a brief overview of what you need to know and what you need to do.

What you need to know	
❖	All companies holding a state mortgage license or registration and companies employing MLOs licensed in any state using the NMLS must complete the NMLS Mortgage Call Report on a calendar quarter basis and submit it through the NMLS.
❖	The NMLS Mortgage Call Report is a single report of condition that reflects the entire mortgage activity and financial information of a company.
❖	An NMLS Filing or Processing Fee is expected for the submission of the NMLS Mortgage Call Report.
❖	Failure to submit the NMLS Mortgage Call Report will result, at a minimum, in a deficiency placed on the respective license.
❖	Failure to cure the deficiency before a renewal period will prevent renewal of the respective license or registration.

What you need to do	
❖	Visit the NMLS Resource Center >> Popular Links >> Mortgage Call Report to find out what information your company will need to submit as part of the NMLS Mortgage Call Report. This information will be reported through NMLS starting in the second calendar quarter of 2011 for the 2011 first calendar quarter activity and financial information. NMLS functionality will enable companies to submit this data either manually or through an upload option.
❖	Your company must ensure the "Other Business" section of your MU1 record is accurate. All companies that are Fannie Mae (FNMA) or Freddie Mac (FHLMC) approved Seller/Services or Ginnie Mae (GNMA) authorized issuers are required to submit comprehensive call report information that is substantially similar to the information submitted as part of the Mortgage Bankers' Financial Reporting Form (MBFRF). Companies not so authorized will submit less comprehensive call report information.
❖	Download Resources ⁸ from the NMLS Resource Center >> Popular Links >> Mortgage Call Report
❖	Download Resources from the Mortgage Call Reports Toolbox in my firm's Library at http://bit.ly/dPrpF3
❖	Visit the NMLS Users Forum, at NMLSUsersForum.com . This is a Web space I developed for sharing knowledge about the NMLS. The Web site contains resources and links to the forum on LinkedIn, Facebook, and Twitter.

Conclusion

Regulators claim that the MCR will enable them to determine exam schedules, calculate assessments, determine bond requirements, compile statewide reports, and monitor MLO activity. By the time of the first filing, report forms, instructions and filing requirements will be coordinated with many state banking departments. Agreements with state banking departments regarding enforcement actions at the state level will be under review or executed.

Now is the time to prepare for filing the MCR in a timely manner and to become

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familiar with the actions needed for such filing for each and every quarter. Given that there are civil monetary penalties for failure to file the MCR, immediate attention to this filing requirement is an operational and administrative necessity.

Submit your questions ...

Do you have a regulatory compliance issue that you'd like to see addressed in the Regulatory Compliance Outlook Column? If so, e-mail your issue or concern to Jonathan Foxx at jfoxx@lenderscompliancegroup.com.

Jonathan Foxx, former chief compliance officer for two of the country's top publicly-traded residential mortgage loan originators, is the president and managing director of Lenders Compliance Group, a mortgage risk management firm devoted to providing regulatory compliance advice and counsel to the mortgage industry. He may be contacted at (516) 442-3456 or by e-mail at jfoxx@lenderscompliancegroup.com.

Footnotes

1—The SAFE Mortgage Licensing Act of 2008 requires mortgage licensees to submit reports of condition to the Nationwide Mortgage Licensing System and Registry (NMLSR) in such form and containing such information as the NMLSR may require [12 USC 5014(e)].

2—Subsection (e) of Section 1505 of the SAFE Act [12 USC 5104(e)].

3—NMLS Call Report—Request for Public Comment, March 15, 2010, page 3.

4—This section constitutes a synopsis of NMLS Mortgage Call Report—Basics, Nationwide Mortgage Licensing System & Registry, and the following Presentations given at the “2011 NMLS User Conference & Training,” Feb. 7-10, 2011, Orlando, Fla.: NMLS Mortgage Call Report, Part I, and NMLS Mortgage Call Report, Part II, Stuart McKee—Assistant Finance Bureau Chief, Iowa Division of Banking and Darin Domingue—Deputy Chief Examiner, Louisiana Office of Financial Institutions.

5—The MBFRF collects activity and financial information on a quarterly basis from approved Fannie Mae, Freddie Mac Sellers/Serviceers and Ginnie Mae Issuers.

6—As but one example of a state banking department policy regarding a failure to file the MCR, see letter to licensees, Re: NMLS Call Report/Annual Report, Department of Banking and Consumer Finance, State of Mississippi, issued by Traci McCain, Director, Mortgage Division, Feb. 16, 2011.

7—To provide a brief outline about appropriate action, I have looked at several directives from state banking departments, such as the Michigan Office of Financial and Insurance Regulation (OFIR), letter to Michigan Mortgage Licensee/Registrants, Mortgage Loan Originator Licensees and Sponsors, Attention: 2011 NMLS Mortgage Call Report Notification, Jan. 26, 2011.

8—Whether you visit the NMLSR Mortgage Call Report Web page or my firm's Library, download and read the following documents: NMLS Mortgage Call Report Basics, Mortgage Call Report Standard Section—Entities: Loan Originators, Mortgage Call Report Expanded Section—Entities: Fannie Mae or Freddie Mac Seller/Serviceer, or a Ginnie Mae Issuer, Field Definitions—Definitions and Instructions, and Examples: Wholesale, Retail, Reverse Lender and Broker.