



Financial Services & Products ADVISORY ■

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Multi-State Mortgage Committee Issues Expectations for Use of Electronic Tools in State Examinations

On September 29, 2015, the Multi-State Mortgage Committee (MMC)¹ and Conference of State Bank Supervisors (CSBS)² issued an industry bulletin – Supervisory Expectations Regarding the Use of Electronic Examination Tools – clarifying “their supervisory expectations regarding the use of electronic examination tools.” According to the bulletin:

- “State regulators expect mortgage lenders and brokers to provide data that completely and accurately reflects the status of their loan portfolios in a timely manner and in an acceptable format”;
- Some companies’ inability “to provide comprehensive and accurate data in an acceptable format” has complicated and extended the time required to complete examinations; and
- The MMC is recommending that state regulators “take an enforcement action should a company be unable to timely provide data that accurately reflects the status of its loan portfolio.”

The bulletin highlights an aspect of MMC examinations that lenders and brokers may not otherwise consider: that the format in which they must submit loan portfolio data – the “Licensee Examination File,” which includes approximately 200 data points – may not align with the format in which they otherwise maintain such data (as a matter of business practices and pursuant to applicable state law). State licensing laws generally dictate the types of records that a lender or broker must retain, but do not specify the format in which records must be retained other than to require that the format facilitate production for examination purposes. (For electronic formats, such laws may further require that the licensee maintain the hardware and software required to permit access during the required retention period.) The CSBS and MMC utilize ComplianceEase’s automated compliance system for examinations, and mortgage lenders and brokers can upload their loan data through that software platform for examination purposes without cost. While

¹ The MMC is a 10-state committee appointed by the states to implement the CSBS and American Association of Residential Mortgage Regulators’ Nationwide Cooperative Protocol and Agreement for Mortgage Supervision that has been signed by all state agencies regulating the mortgage industry. The MMC’s primary focus is for lenders operating in 10 or more states. Currently, the MMC has representatives from Arkansas, Florida, Maryland, Massachusetts, Montana, Ohio, Oregon and Washington.

² The CSBS is the nationwide organization of financial regulators from all 50 states, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico and U.S. Virgin Islands.

we are not aware of any state laws requiring records to be maintained in a particular electronic format, providing information in the format required by the MMC may lead to a smoother examination experience.

The bulletin's final recommendation – that state regulators take enforcement action against entities that cannot provide certain data – also raises an interesting question: do state regulators have authority to bring an enforcement action against a company that is unable to provide data in the format requested by the MMC?

Certainly, state regulators have broad powers to examine licensees that may include safety and soundness examinations, ensuring that entities can effectively identify, monitor and control all of the risks associated with a licensee's origination activity. For that reason, licensees would be well served to heed the MMC's warning.

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