



# Implementation of the S.A.F.E. Mortgage Licensing Act & Transition to the NMLSR

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**Texas Department  
of  
Savings & Mortgage Lending**

Doug Foster, Commissioner

# Licensing Requirements of Mortgage Brokers/Loan Officers (MBLAct)

- **Texas** has one of the **most restrictive** licensing frameworks in the nation
- Current Texas Licensing Requirements:
  - Pass a pre-licensing exam (58% overall pass rate);
  - Meet pre-licensing education (0-90 hours) & on-going continuing education (0-15 hours) requirements biennially;
  - Prove net worth of \$25K or \$50K bond (MBs only);
  - Not have been convicted of a crime determined to be of concern to Commissioner in order to conduct lending activity;
  - Satisfy Commissioner as to moral character, including integrity, honesty, trustworthiness; and
  - Not be under any violation of court or state order.
  - Two-year license issued.



# Approval Requirements of Financial Service Companies & Agents (MBLAct)

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- Registered Financial Services Company Requirements:
  - Be a depository institution exempt from §156.202(1)(A) or (B) & chartered by the OTS or OCC, or be a subsidiary or affiliate of the institution
  - Post \$1M surety bond
  - Provide an acceptable business plan
  - Yearly registration fee NTE \$350,000
  
- Registered Financial Services Agent Requirements:
  - Conduct loan origination exclusively for the registered FSC
  - Pass criminal history & professional license investigation



# Registration Requirements of Mortgage Bankers (MBRA Act)

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- Mortgage Banker Registration Requirements:
  - Approved or authorized:
    - Unconditional direct endorsement underwriting authority granted by HUD;
    - Seller or servicer of Fannie Mae or Freddie Mac; or
    - Issuer for Ginnie Mae
  - Yearly registration
  - Loan originator “employees” are not required to have individual registration or licensing to conduct business
  - **NO** authority beyond consumer complaints



# S.A.F.E. MORTGAGE LICENSING ACT

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## OVERVIEW

# S.A.F.E. Mortgage Licensing Act



- President Bush signed into law on July 30, 2008, P.L. 110-289, the Housing & Economic Recovery Act
- Title V of the Act is the Secure & Fair Enforcement **(S.A.F.E.)** Mortgage Licensing Act of 2008
- Industry notification efforts:
  - Copies of released e-mails posted on SML website under Notices and Consumer Information button
  - New informational webpage:

[http://www.sml.state.tx.us/tdsml\\_important\\_information.html#safe\\_nmlsr](http://www.sml.state.tx.us/tdsml_important_information.html#safe_nmlsr)

# S.A.F.E. Mortgage Licensing Act



## ■ **Purpose of S.A.F.E.:**

- Sets objectives for the Nationwide Mortgage Licensing System & Registry (NMLSR)
- Increases uniformity, reduces regulatory burden, enhances consumer protection, and reduces fraud
- Requires that residential mortgage originators act in the best interests of the consumer
- Requires the NMLSR to facilitate the collection and distribution of consumer complaints

# S.A.F.E. Mortgage Licensing Act

## ■ Applies to:

- ALL residential mortgage loan originators
  - Depository institutions' employees will be registered
  - Depository institutions' contractors will be licensed
  - Non-depository companies' employees and contractors will be licensed
- NO exemptions identified at this time
  - Possibility of "fair and reasonable" exemptions being explored

## ■ Objective:

- Obtain and maintain annually –
  - Registration or licensing as a residential mortgage loan originator
  - Obtain a **unique identifier**



# S.A.F.E. Mortgage Licensing Act



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- “Registered loan originator” defined by SAFE as any loan originator who is an employee of
  - 1) a depository institution;
  - 2) a subsidiary owned and controlled by a depository institution and regulated by a Federal banking agency; or
  - 3) an institution regulated by the Farm Credit Administration and is registered with and maintains a unique identifier through NMLSR

# S.A.F.E. Applies To:



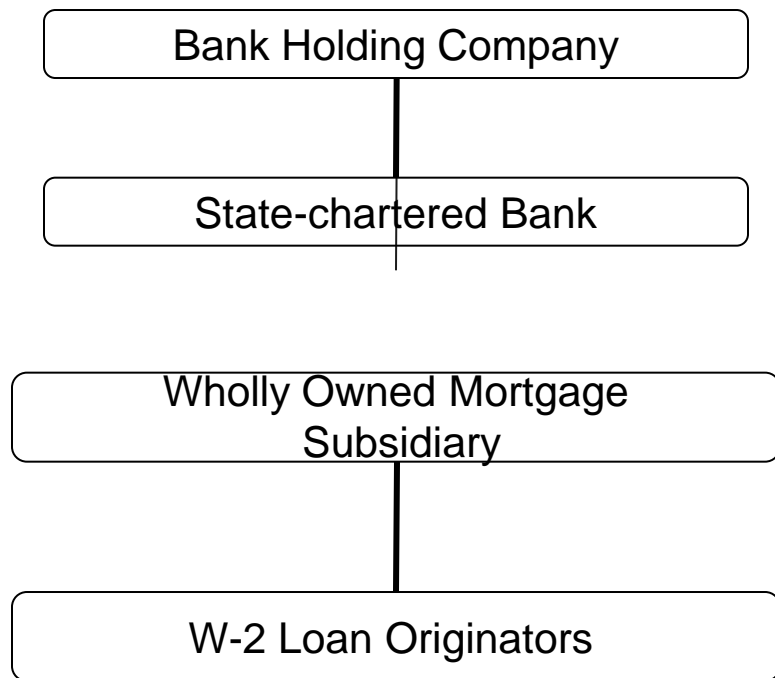
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- All residential mortgage loan originators
  - For profit or financial gain:
    - Takes an application (looks person in the eye), **or**
    - Offers or negotiates rates and terms
- Government employees
- Nonprofits
- Attorneys
- Independent/contracted Processors or Underwriters
- Contracts for deed
- No de minimus (originate – get licensed)



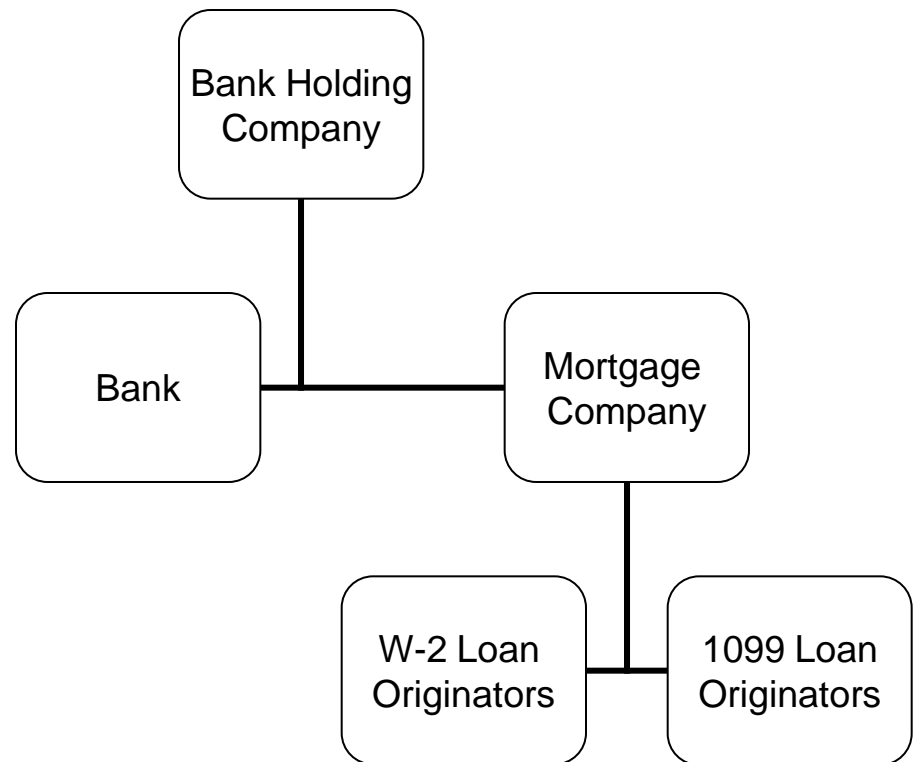
## Scenario 1

### REGISTERED



## Scenario 2

### LICENSED





# S.A.F.E. Mortgage Licensing Act

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- Requirements for **Registration**:
  - Criminal background checks
  - Personal history and experience
  - Complete application with NMLSR
  - Renew registration annually
- **ADDITIONAL Licensing** Requirements:
  - Pre-licensing education of at least 20 hours
  - Pre-licensing examination



# S.A.F.E. Mortgage Licensing Act

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- Timeframe for states to implement Act requirements:
  - Within 1 year (NLT July 30, 2009)
  - If a state does not implement SAFE, HUD would take responsibility for the state to meet SAFE requirements
  - Project implementation timeframes for Texas will be discussed later in presentation
  - HUD may grant limited extensions if reasonable efforts are being made to meet requirements – Texas SML will not require an extension

# S.A.F.E. Licensing Requirements



- **Background Checks – Criminal History:**
  - Has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:
    - During the 7-year period preceding the date of the application or
    - At any time if the felony involved fraud, dishonesty, a breach of trust, or money laundering.
  - Every mortgage loan originator will need to provide a new set of fingerprints for an FBI criminal history report regardless of any past fingerprinting.

# S.A.F.E. Licensing Requirements

- Background Checks – **Personal History & Experience**
  - Look-back period is 10 years for criminal, regulatory, civil, and financial actions or disclosures
    - *Exceptions include certain felonies, license revocations, lifetime bans*
  - Credit report obtained from a consumer reporting agency
    - *States may determine how information will be used in licensing decisions*
  - Administrative, civil, or criminal findings by any governmental jurisdiction
    - *Has not had a residential loan originator license revoked by any government jurisdiction*

# S.A.F.E. Pre-Licensing Education

- Approval of providers, courses & instructors transfers to NMLSR
  - NMLSR has developed provider/course/instructor requirements
  - NMLSR will approve or disapprove, & collect fees for processing
- No exemptions for other occupational licenses
- Minimum 20 hours must include:
  - **3** Hours of Federal mortgage related laws & regulations
  - **3** Hours of ethics, including fraud, consumer protection, & fair lending issues
  - **2** Hours related to lending standards for the nontraditional mortgage product marketplace
- Current licensees **MUST** meet this requirement
  - With submitted **education certificates** the Commissioner will have discretion to certify licensee meets requirement – NMLSR charges \$15.
  - Licensees not eligible for certification **must complete 20 hours** of NMLS-approved pre-licensure education before filing for a license with NMLSR.



# S.A.F.E. Pre-Licensing Test

- Consists of a national component & state-specific components
  - Tests developed by NMLSR's education and testing provider, FINRA, and PearsonVUE with State regulators and industry subject matter experts participated in development
    - National test requires a passing score of 75% out of 90 questions; cost for test is \$92 — NOW AVAILABLE
    - State test will require a passing score of 75% out of 45-55 scored questions; State test cost is \$69 — Texas NMLS State test available May 2010; Current MB/LO Examination acceptable until Texas SML State Component is available
    - Commissioner can certify licensee meets the state component with prior passage of our test – NMLSR \$5 fee for this certification
  - Limits how many times exam can be taken during a specific time
  - Has an expiration date if licensee fails to maintain valid license for five years or longer
  - Current licensees **MUST** meet this requirement



# S.A.F.E. Licensing Renewal

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- Requirements for continued licensure:
  - Comply with financial requirement by paying into the Mortgage Industry Recovery Fund
  - Each residential mortgage company shall submit to the NMLSR “reports of condition” referred to as Mortgage Call Reports.
    - Replaces current Annual Report submission required of mortgage brokers
    - Probably available for the collection of calendar year 2010 production information

# S.A.F.E. Licensing Renewal



- Requirements for renewing a license:
  - All licenses will expire annually on December 31
  - Must continue to meet minimum license standards
  - Continuing education of 8 hours must include:
    - **3** Hours of Federal mortgage related laws & regulations
    - **2** Hours of ethics, including fraud, consumer protection, & fair lending
    - **2** Hours on lending standards for the nontraditional mortgage product
  - Licensee may only receive credit for course in the year in which course is taken
  - May not take the same course multiple times and receive credit in current or subsequent years
  - **NO exemptions** for holding certain other Texas occupational licenses



# S.A.F.E. Mortgage Licensing Act

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- **Any questions on the S.A.F.E. Mortgage Licensing Act?**



# NATIONWIDE MORTGAGE LICENSING SYSTEM & REGISTRY (NMLSR)

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## OVERVIEW

# NMLSR



- Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) began working in a joint effort to accomplish a system that meets ALL the needs of the states in 2003
- The State Regulatory Registry, LLC, (SRR), comprised of CSBS and AARMR members, was established on September 29, 2006, to develop & operate a nationwide system for state regulators in the financial services industry
- The National Mortgage Licensing System was launched in January 2008 with 7 states initially participating
- Implementation was on-time and within budget
- As of August 2009 there are 31 states/territories on the NMLSR with a total of 49 expected on by July 2010

# NMLSR



- SML signed a Letter of Intent to participate in the NMLSR on September 24, 2008
- SML currently developing a strategy for transitioning to the NMLSR—initial “kick-off” meeting with NMLSR staff held 9/10/2009
  - All licensing records would be maintained by the NMLSR
  - Each licensee would be responsible for entering information into the system and for keeping their record updated; SML staff will not have authority to modify a licensee’s record, only status changes and explanatory notes
  - SML licensing specialists will work from information in the NMLSR as work-flow items to review and approve or disapprove a license
- SML Licensing Fees
  - Licensing fees are currently under review
  - Current fees will go from a two-year base to a one-year base

# NMLSR Processing Fees



- NMLSR Processing Fees (Not Including SML Fees)
  - Initial set-up fees for new and existing licensees
    - **MU1** - Establishing a sole proprietorship, company, limited partnership, or limited liability company record: **\$100**
    - **MU2** - Establishing a control person or direct/indirect owner record): **No charge**
    - **MU3** - Establishing a branch address: **\$20**
    - **MU4** - Establishing a mortgage loan originator record: **\$30**
  - Annual processing fees
    - MU1: \$100
    - MU3: \$20
    - MU4: \$30
  - Company Sponsorship Transfer fee
    - MU4: \$30





# NMLSR Texas Timeline

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## Finance Commission

- Promulgating implementing rules beginning October 2009 for **Chapter 80** and **Chapter 81** rules in place by **January 2010**

## Department of Savings and Mortgage Lending

- **April 2, 2010**—first group begins with new licenses as **Mortgage Bankers, Financial Service Agents, Credit Union Service Organizations, Etc.** (i.e., government entities, non-profits, attorneys)
- **July 1, 2010**—second group begins transition as **Entities, Brokers, and Loan Officers**
- **December 31, 2010**—**ALL** Texas loan originators on the NMLSR including current existing licensees

# NMLSR Texas Timeline

## Transition Timeline

BIENNIUM FY2008-2009															
												FY 2010			
CY 2009															
Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	
81st Legislative Session							FC Rule Making Period					Stagger Renewals for MB, LO,			
												SML Prepares for Transition to NMLSR			

BIENNIUM FY2010-2011														
							FY 2011							
CY 2010							CY 2011							
Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11
EMB, & FSC licensees to Expire on 12/31/2010									All Licensing Functions Performed Through the NMLSR					
New ML, MLO, FSC, & FSA Applicants will submit through the NMLSR / Existing Licensees will transition			New MB, LO, & EMB Applicants will submit through the NMLSR / Existing Licensees will transition			Complete SML Reconciliation	Renewals Through NMLSR							

# NMLSR



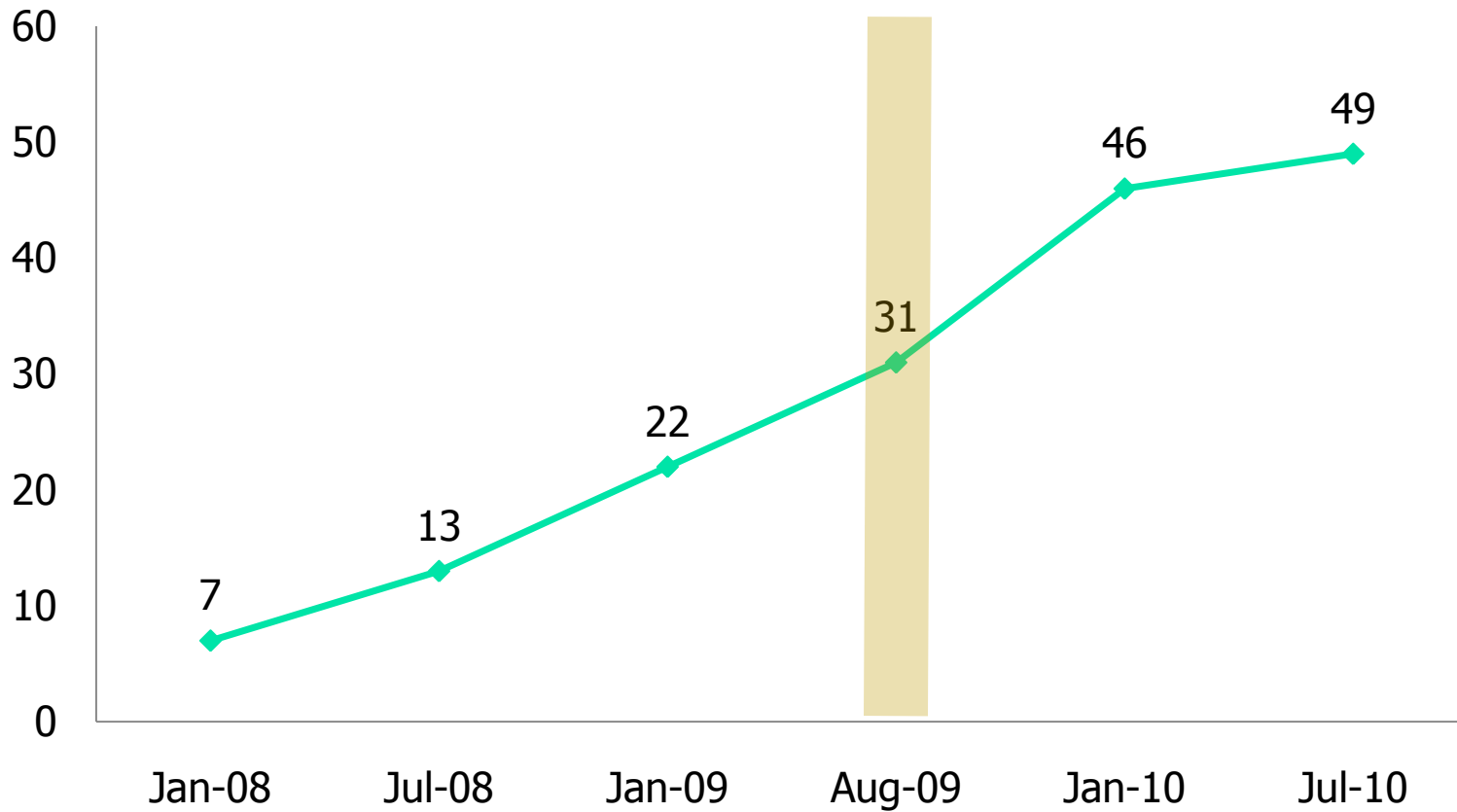
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- Industry Outreach
  - Finance Commission Members
  - Mortgage Broker Advisory Committee
  - Webinars with industry associations' leadership
  - Attending local chapter meetings
  - Presentations to interested groups
  - E-Mail blasts
  - SML website postings

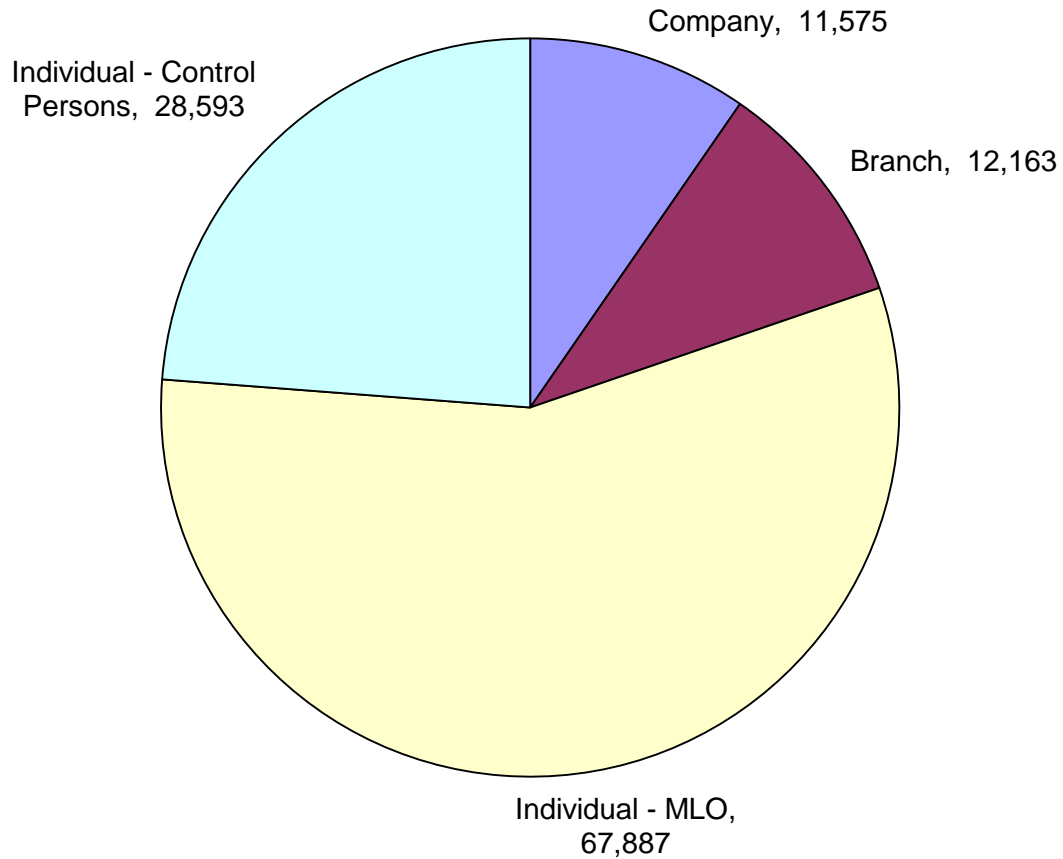


# NMLSR Participation

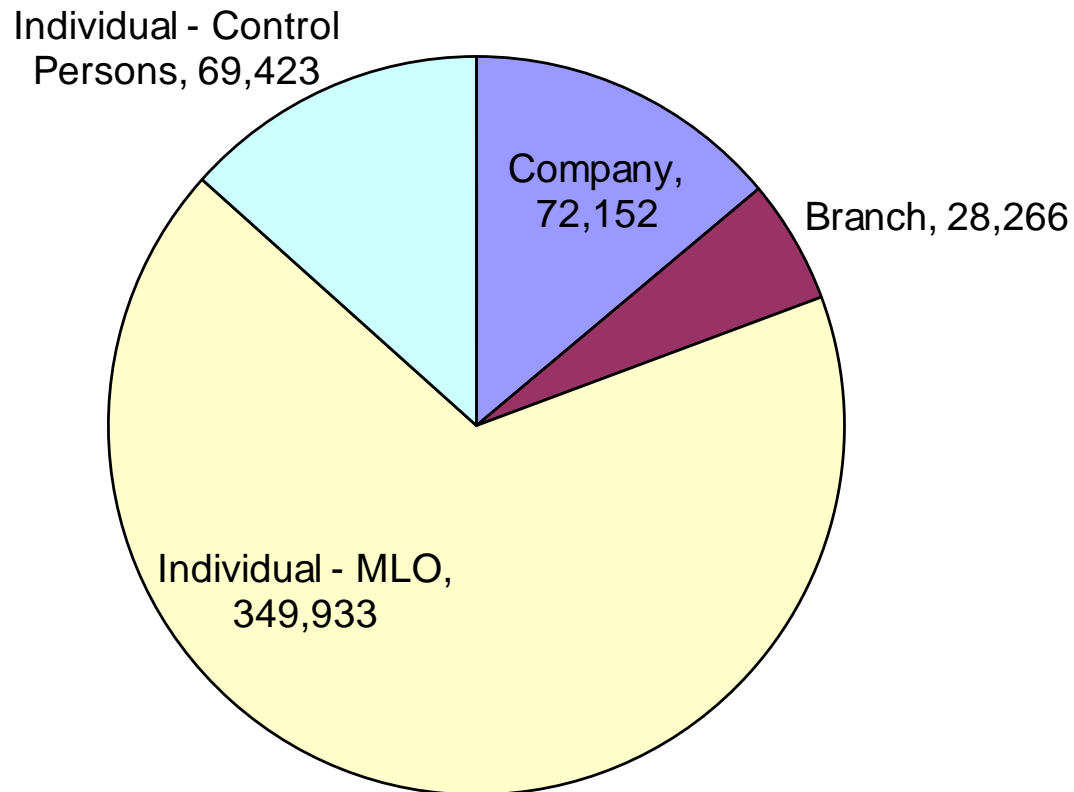
55 State agencies, including DC  
5 Territories



# Entities in NMLS Today (8/2009)

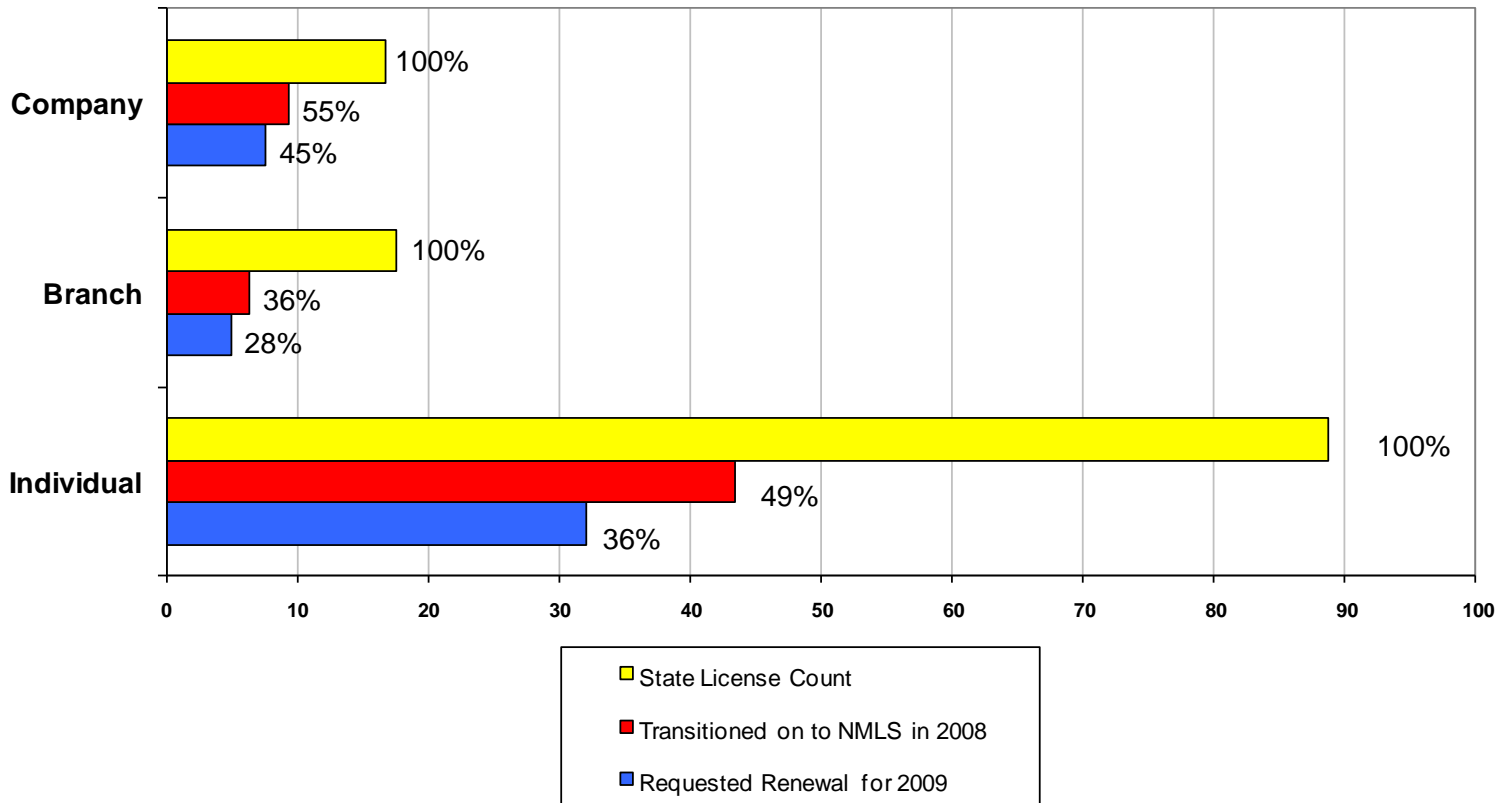


# Entities in NMLS Project 2011



# NMLS License Counts

(in thousands)



# NMLS Education Approval



- Education providers and courses are now being approved by NMLS
  - SML will accept NMLS approved courses for credit
  - SML will stop approving courses prior to January 2010
  
- Two step process: Approving provider and approving course
  - Criteria to become an NMLS approved provider
    - Demonstrate course quality and rigor
    - Means to demonstrate student satisfaction
    - Ensure instructor qualifications
    - Evidence of satisfactory course completion
    - Meet legal and business integrity guidelines
  - Internal review process
  - Approximately two weeks processing time



# NMLS Education



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- Pre-licensure Education (PE) Formats
  - Classroom
  - Classroom equivalent
  - Instructor-led online
  
- Continuing Education (CE) Formats
  - Classroom
  - Classroom equivalent
  - Instructor-led online
  - Self-paced online

# NMLS Testing National Component



- Available NOW with registration on the NMLS website
- Includes 100 items with 90 scored and 10 pre-test
- 180 minute appointment with 150 minutes for test
- Content outline includes:
  - Federal laws and regulations (35%)
  - General mortgage knowledge (25%)
  - Mortgage loan origination activities (25%)
  - Ethics (15%)

**Content details available on NMLS website**

# NMLS Testing State Component

- Availability dependent on state
  - States and territories divided into 10 groups
  - Groups 1-3 now available (WA, LA, ID, IA, NH, MA, NC, AZ, VT, RI, MI, PA)
  - Group 7 (includes Texas SML) will be available May 2010
- Includes 55-65 items with 45-55 scored
- 120 minute appointment with 90 minutes for test
- Content outline includes:
  - State Mortgage Regulatory Commission (5%)
  - State Law and Regulation Definitions (10-15%)
  - License Law and Regulation (15-20%)
  - Compliance (50-60%)
  - Disciplinary Actions (10-15%)



# NMLS Testing and Education

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- Further Development of Governance and Operational Infrastructure
  - Mortgage Testing and Education Board
  - Industry Advisory Committee
  - Course Evaluation Resource Center
  - Audit and Review Process
  - Internal Staffing
  - CE Approval Process Begins Fall 2009



# Current NMLS Functionality

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- Apply for, maintain, and renew licenses
  - 1,180,346 transactions processed through July 2009
- Collection and disbursement of state fees
  - \$35,000,000 collected and disbursed through July 2009
- Regulator work-flow software for state review of applications, amendments, and renewals
- Electronic acceptance of financial statements
- Testing and education
- NMLS Resource Center
  - 1,275,000 website hits through July 2009
  - 234,743 calls handled through July 2009

# Implementing a 21<sup>st</sup> Century System of Mortgage Supervision



- NMLS & SAFE Act
  - Greater uniformity/consistency
    - Regulation, information, application of laws and regulations
  - Better information from application (MU) forms
    - On who is regulated (company and individual)
    - Trends (# of licensees by type and area; enforcement actions)
    - Quality and consistency of data
  - Better information from mortgage call reports (2010)
    - To replace the state annual report
    - Consistency of data collected from regulated entities
    - Trends (financial data, origination volume by type and area)

# FHFA Announcement



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- Four NMLS Unique ID numbers must be attached to each residential mortgage loan application (Form1003):
  - Mortgage loan originator's NMLS Unique ID
  - Mortgage company's NMLS Unique ID
  - Appraiser's state license number
  - Supervisory appraiser's state license number
- Requirement for purchase of loans by GSEs
- Effective with mortgages taken Jan 1, 2010
- FHFA flexible on January 2010 date for those state not yet on NMLS

# NMLSR



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- **Any questions on the NMLSR?**





# Contact information

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- SML Website: [www.sml.state.tx.us](http://www.sml.state.tx.us)
- SRR Website: [www.stateregulatoryregistry.org](http://www.stateregulatoryregistry.org)
- Email: [licensing@sml.state.tx.us](mailto:licensing@sml.state.tx.us)
- Toll Free: 877-276-5550
- Main Phone: 512-475-1350
- Licensing Fax: 512-475-1360
- Office: 2601 North Lamar Blvd.,  
Suite 201, Austin, Texas 78705