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BULLETIN NO. 19-13

TO: ALL NEW JERSEY STATE CHARTERED BANKS, SAVINGS BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS, NEW JERSEY LICENSED RESIDENTIAL MORTGAGE LENDERS, LICENSED CORRESPONDENT RESIDENTIAL MORTGAGE LENDERS, LICENSED RESIDENTIAL MORTGAGE BROKERS, AND OTHER INTERESTED PARTIES

FROM: MARLENE CARIDE, COMMISSIONER

RE: LICENSING AND REGISTRATION UNDER THE MORTGAGE SERVICERS LICENSING ACT, N.J.S.A. 17:16F-27 TO -46

On April 29, 2019, the [Mortgage Servicers Licensing Act, N.J.S.A. 17:16F-27 to -46](#) ("Act") was enacted and became effective on July 28, 2019. The Act requires non-bank finance companies that are in the business of servicing residential mortgage loans,¹ secured by real property in this State, and which are not already licensed as residential mortgage lenders or otherwise exempt from licensing under the Act, to become licensed as mortgage servicers.² The Act also subjects mortgage servicer licensees and other mortgage servicing entities, including

¹ The Act defines residential mortgage loan to mean "a loan made to a natural person or persons to whom credit is offered or extended primarily for personal, family or household purposes which is secured by a mortgage constituting a lien upon real property located in this State on which there is erected or to be erected a structure containing one, two, three, four, five, or six dwelling units, a portion of which structure may be used for nonresidential purposes, in the making of which the mortgagee relies primarily upon the value of the mortgaged property." N.J.S.A. 17:16F-28 (emphasis added).

² A mortgage servicer under the Act is broadly defined to mean "any person, wherever located, who, for the person or on behalf of the holder of a residential mortgage loan, receives payments of principal and interest in connection with a residential mortgage loan, records the payments on the person's books and records and performs the other administrative functions as may be necessary to properly carry out the mortgage holder's obligations under the mortgage agreement including, when applicable, the receipt of funds from the mortgagor to be held in escrow for the payment of real estate taxes and insurance premiums and the distribution of the funds to the taxing authority and insurance company." "Mortgage servicer" also includes "a person who makes payments to borrowers pursuant to the terms of a home equity conversion mortgage or reverse mortgage." N.J.S.A. 17:16F-28.

entities that are exempt from licensure, to various regulatory obligations, restrictions, and prohibitions. The Act creates new operational requirements for some mortgage servicers, creates a list of prohibited activities for all mortgage servicers, and provides the Department of Banking and Insurance (“Department”) with investigative, examination, and enforcement authority, including the power to impose civil monetary penalties of up to \$25,000 per violation. The Department is issuing this Bulletin to provide guidance to those entities that currently conduct or wish to conduct mortgage servicing business in this State, and other interested parties, to help those entities meet their obligations under the Act, pending the adoption of rules. The Department anticipates proposing such rules in the near future.

The Act prohibits entities from acting, either directly or indirectly, as a mortgage servicer in this State without first obtaining a license from the Department for its main office and for each branch office where mortgage servicing business is conducted. N.J.S.A. 17:16F-29(a). Licensure as a mortgage servicer in this State authorizes the licensee to engage in first mortgage servicing, third party servicing, subordinate lien servicing, reverse mortgage servicing, and mortgage loan modifications. The New Jersey Mortgage Servicer License (“Mortgage Servicer License”) applies to all holders of mortgage servicing rights, including holders of master servicing rights.

The following are exempt from licensure under the Act:

- Any bank, out-of-state bank, credit union chartered in New Jersey, federal credit union, or out-of-state credit union, provided that that bank or credit union is federally insured. N.J.S.A. 17:16F-29(b)(1);
- Any wholly-owned subsidiary of that bank or credit union. N.J.S.A. 17:16F-29(b)(2);
- Any operating subsidiary in situations in which each owner of the operating subsidiary is wholly-owned by the same bank or credit union. N.J.S.A. 17:16F-29(b)(3);
- Any entity licensed as a Residential Mortgage Lender or Correspondent Residential Mortgage Lender pursuant to the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 to -89, (“RMLA”) (note that Residential Mortgage Lenders and Correspondent Residential Mortgage Lenders that conduct mortgage servicing business (collectively, “RMLA-Licensed Mortgage Servicers”) must meet the registration requirements under the “RMLA-Licensed Mortgage Servicer Registration” section set forth below). N.J.S.A. 17:16F-29(b)(4);
- The New Jersey Housing and Mortgage Finance Agency. N.J.S.A. 17:16F-29(b)(5);
- Any individual or entity that is exempt from licensure as a residential mortgage lender pursuant to N.J.S.A. 17:11C-55 of the RMLA, while servicing mortgage loans made pursuant to the exemption. N.J.S.A. 17:16F-45(1);
- Any individual or entity servicing five or fewer residential mortgage loans within any period of 12 consecutive months. N.J.S.A. 17:16F-45(2); and
- Any agency of the federal government, any state or municipal government or any quasi-governmental agency servicing residential mortgage loans under the specific authority of the laws of any state or of the United States; N.J.S.A. 17:16F-45(3).

Mortgage Servicer License Applications:

Beginning on January 13, 2020, all entities subject to the Act's licensing requirements must submit applications for the Mortgage Servicer License through use of the [Nationwide Multistate Licensing System \("NMLS"\)](#). The Department anticipates that on or after April 13, 2020, it will begin issuing Mortgage Servicer Licenses for those completed applications that were submitted prior to the close of business on April 13, 2020 and that meet the requirements described in this Bulletin. Entities that are currently conducting business as mortgage servicers in this State and that submit applications for mortgage servicer licensure prior to the close of business on April 13, 2020 may continue to operate as mortgage servicers pending the Department's approval of the submitted application. Entities that are not currently operating as mortgage servicers in this State, that have been denied licensure by the Department, or that fail to submit applications between these dates and are not otherwise exempt from licensure pursuant to the Act, are prohibited from acting as mortgage servicers in this State until the Department has issued a Mortgage Servicer License to the entity. Entities operating without a Mortgage Servicer License will be deemed unlicensed and may be subject to an enforcement action, as set forth in the Act. Accordingly, all mortgage servicers that are not exempt from the mortgage servicer licensure requirements under the Act and that are currently conducting mortgage servicing business in New Jersey must apply for a Mortgage Servicer License by April 13, 2020.

To qualify for a Mortgage Servicer License, an applicant and each of its control persons,³ qualified individuals, and branch managers, must demonstrate that it possesses the financial responsibility, character, and general fitness to warrant a determination that the applicant will operate the business honestly, fairly, and efficiently within the purposes of the Act. See N.J.S.A. 17:16F-30. Those entities seeking to be licensed as a mortgage servicer in this State must submit the following to the Department directly through the [NMLS](#):

- An electronic surety bond in the amount of \$100,000 per location, furnished and submitted by a surety company that is authorized to write bonds in this State. See N.J.S.A. 17:16F-34(a)(1) and (b);
- A fidelity bond, in the amounts set forth in the table below and written by a surety authorized to write coverage in this State, to pay for covered losses that are directly or indirectly incurred by mortgagors of residential mortgage loans that are serviced by the mortgage servicer. Specifically, the fidelity bond must cover losses arising from dishonest and fraudulent acts, embezzlement, misplacement, forgery, and similar events committed by employees of the mortgage servicer. The name and address of the principal insured on the bond must exactly match the full legal name, the trade name, if applicable, and the address of the applicant. If applicable, the applicant must include a power of attorney. The

³ Control person means "an individual that directly or indirectly exercises control over any person that (1) is a director, general partner or executive director; (2) in the case of a corporation, directly or indirectly has the right to vote 10 percent or more of a class of any voting security or has the power to sell or direct the sale of 10 percent or more of any class of voting securities; (3) in the case of a limited liability company, is a managing member; or (4) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10 percent or more of the capital, shall be presumed to be a control person." N.J.S.A. 17:16F-28.

policy should name the Department as an additional loss payee. See N.J.S.A. 17:16F-34(a)(2) and (c);

- Proof of errors and omissions insurance coverage, in the amounts set forth in the table below and written by an entity authorized to write coverage in this State, that must cover losses arising from negligence, errors, and omissions by the mortgage servicer with respect to the payment of real estate taxes and special assessments, hazard and flood insurance, or the maintenance of mortgage and guaranty insurance. If applicable, the applicant must include a power of attorney. The policy should name the Department as an additional loss payee. The errors and omissions coverage may provide for a deductible amount not to exceed the greater of \$100,000 or five percent of the principal amount. See N.J.S.A. 17:16F-34(a)(3) and (c);

VOLUME OF NEW JERSEY RESIDENTIAL MORTGAGE LOANS SERVICED	CALCULATION OF FIDELITY BOND AND ERRORS AND OMISSIONS POLICY AMOUNTS
\$100,000,000 or Less	\$300,000
\$100,000,000.01 to \$500,000,000	\$300,000 plus .15% of residential mortgage loans serviced
\$500,000,000.01 to \$100,000,000,000	\$900,000 plus .125% of residential mortgage loans serviced between
\$100,000,000,000 or greater	\$125,275,000 plus .10% of residential mortgage loans serviced

- An unqualified, audited financial statement demonstrating that the company has a minimum tangible net worth of \$250,000. The financial statement must be prepared by a certified public accountant or a public accountant in accordance with generally accepted accounting principles and cannot be dated earlier than one year prior to the filing of the application. Financial statements should include a balance sheet, income statement, statement of cash flows, and all relevant notes. See N.J.S.A. 17:16F-30(a)(3);
- A business plan that outlines, at a minimum, the following:
 - Marketing strategies,
 - Products,
 - Target markets,
 - Fee schedule, and
 - Operating structure the applicant intends to employ;
- A chart showing, or a description that includes, the percentage of ownership of:
 - Direct owners (total direct ownership percentage must equate to 100%),
 - Indirect owners, and

- Subsidiaries and affiliates of the applicant/licensee;
- A certified copy of formation documentation, including but not limited to the following:
 - Certificate of Incorporation, if the entity is a corporation;
 - Certificate of Formation and Operating Agreement, if the entity is a Limited Liability Company; or
 - The Partnership Agreement, if the entity is a partnership of any form; and
 - If the applicant was organized or formed outside of this State, a Certificate of Authority to do Business in New Jersey;
- If applicable, a filed Trade Name Certificate for a partnership or sole proprietorship using a “trading as” name issued by the New Jersey Division of Revenue. Please note that branch offices may only operate under a trade name where the business entity has received approval from the New Jersey Division of Revenue and the Department. See N.J.S.A. 17:16F-32(a);
- If applicable, a file-stamped copy of each alternate name authorization issued by the New Jersey Division of Revenue for those applicants that will be operating under a name or names other than its legal name, such as a “d/b/a” or fictitious name. Please note that branch offices may only operate under the fictitious or “d/b/a” name where the business entity has received approval from the New Jersey Division of Revenue and the Department. Ibid.
- Authorization for a Federal Bureau of Investigation (“FBI”) criminal history background check for each control person, qualified individual, and branch manager. See N.J.S.A. 17:16F-30(b)(2);⁴
- Authorization for a credit report for each control person, qualified individual, and branch manager. See N.J.S.A. 17:16F-40(a)(1)(b); and
- Complete details of all events or proceedings for any “Yes” answer to any of the Disclosure questions presented on the NMLS.

In addition to the above requirements, the applicant must identify a qualified individual for its main office and a branch manager for each branch office where the business is conducted. See N.J.S.A. 17:16F-30(a)(1). The qualified individual and branch manager must have supervisory authority over the mortgage servicing activities at their respective offices and at least three years’

⁴ The Act provides that “[t]he [C]ommissioner is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation . . . for the purposes of facilitating determinations concerning licensure eligibility for the applicant, any control person of the applicant, the qualified individual and any branch manager.” See N.J.S.A. 17:16F-30(b)(2). During the initial application process, the Department will only request that applicants submit to an FBI criminal background check through the NMLS. The Department reserves the right to require, at any time in the future, that applicants and then current mortgage servicer licensees submit to a State criminal background check through the New Jersey State Police.

experience in the mortgage servicing business⁵ within the five years immediately preceding the date of the Mortgage Servicer License Application. Ibid.

The initial application fee for a Mortgage Servicer License, which is charged for each office that is proposed to be licensed, including both the entity’s principal office and each office where mortgage servicing business occurs, is \$1,000 and is non-refundable. See N.J.S.A. 17:16F-33(a) and (b). In addition to the Department application fee, NMLS charges separate processing fee(s) for application submissions. The applicant is responsible for all costs and fees associated with its Mortgage Servicer License Application, including the non-refundable application fee, the NMLS processing fee(s), and any fees required for criminal background checks and credit reports.

All initial Mortgage Servicer Licenses will expire at the close of business on December 31st of the year in which it was approved. N.J.S.A. 17:16F-33(a). However, any initial Mortgage Servicer License that is approved between November 1st and December 31st will expire at the close of business on December 31st of the year following the year in which the initial license was approved. Ibid. Renewal applications must be filed, through the NMLS, between November 1st and December 31st of the year in which the initial Mortgage Servicer License expires and a renewal license will expire at the close of business on December 31st of the third year after the year in which the renewal license was approved. Ibid. The non-refundable Department renewal application fee is \$3,000 per licensed office, See N.J.S.A. 17:16F-33(a) and (b), and the renewal application is subject to a NMLS processing fee(s).

The following table sets forth what the initial licensure periods would be for 2020, 2021, 2022, and 2023, the expiration dates of those initial licenses, the renewal periods for those expiring initial licenses, and the three-year licensing terms for approved renewal applications:

If you are approved for initial licensure between:	Your initial license will expire:	You must apply for renewal between:	Your three-year licensing terms commence in:
April 13, 2020- October 31, 2020	December 31, 2020	November 1, 2020- December 31, 2020	2021, 2024, 2027, 2030, 2033, etc.
November 1, 2020- October 31, 2021	December 31, 2021	November 1, 2021- December 31, 2021	2022, 2025, 2028, 2031, 2034, etc.
November 1, 2021- October 31, 2022	December 31, 2022	November 1, 2022- December 31, 2022	2023, 2026, 2029, 2032, 2035, etc.
November 1, 2022- October 31, 2023	December 31, 2023	November 1, 2023- December 31, 2023	2024, 2027, 2030, 2033, 2036, etc.

In addition to submitting a renewal application through the NMLS during the renewal periods set forth in the table above, the Department currently expects that between November 1st and December 31st of each year, all licensed mortgage servicers will submit an attestation through the NMLS that will attest to the accuracy of the information that is contained in the NMLS filing

⁵ The Act provides that “experience in the mortgage servicing business” means “paid experience in the (a) servicing of mortgage loans; (b) accounting, receipt and processing of payments on behalf of the mortgagees or creditors; or (c) supervision of these activities, or any other relevant experience as determined by the [C]ommissioner.” See N.J.S.A. 17:16F-30(a).

records for that entity, its branch offices, and each control person, qualified individual, and branch manager. This annual attestation is subject to NMLS processing fee(s), which remains the responsibility of the licensed mortgage servicer.

The Department may refuse to issue a Mortgage Servicer License to any applicant that has made a material misstatement on its application for licensure, has not submitted a complete application, or has otherwise failed to meet any of the application requirements. See N.J.S.A. 17:16F-30(a). The Department may not issue a license if the applicant, its qualified individual, or any of its control persons or branch managers have been convicted of or pleaded guilty or nolo contendere to, unless pardoned or expunged, (i) a felony involving fraud, dishonesty, breach of trust, or money laundering, at any time in the past, or (ii) during the seven years preceding the application, any other felony. See N.J.S.A. 17:16F-30(a)(2). Should the Department determine not to issue a license to an applicant, the Department will notify the applicant of the denial and the reasons for the denial. See N.J.S.A. 17:16F-30(a).

RMLA-Licensed Mortgage Servicer Registration:

An entity licensed as a Residential Mortgage Lender or Correspondent Residential Mortgage Lender under the RMLA is exempt from licensure under the Act but must maintain the supplemental mortgage servicer surety bond, fidelity bond, and errors and omissions coverage required under the Act for mortgage servicer licensees. See N.J.S.A. 17:16F-29(b)(4). In connection with these coverage requirements, beginning on January 13, 2020, RMLA-Licensed Mortgage Servicers must submit a registration application to the Department through the NMLS and provide the following:

- An electronic surety bond in the amount of \$100,000 per location, furnished and submitted by a surety company that is authorized to write bonds in this State. See N.J.S.A. 17:16F-34(a)(1) and (b);
- A fidelity bond, in the amounts set forth in the table below and written by a surety authorized to write coverage in this State, to pay for covered losses that are directly or indirectly incurred by mortgagors of residential mortgage loans that are serviced by the mortgage servicer. Specifically, the fidelity bond must cover losses arising from dishonest and fraudulent acts, embezzlement, misplacement, forgery, and similar events committed by employees of the mortgage servicer. The name and address of the principal insured on the bond must exactly match the full legal name, the trade name, if applicable, and the address of the applicant. If applicable, the applicant must include a power of attorney. The policy should name the Department as an additional loss payee. See N.J.S.A. 17:16F-34(a)(2) and (c); and
- Proof of errors and omissions insurance coverage, in the amounts set forth in the table below and written by an entity authorized to write coverage in this State, that must cover losses arising from negligence, errors, and omissions by the mortgage servicer with respect to the payment of real estate taxes and special assessments, hazard and flood insurance, or the maintenance of mortgage and guaranty insurance. If applicable, the applicant must include a power of attorney. The policy should name the Department as an additional loss payee. The errors and omissions coverage may provide for a deductible amount not to

exceed the greater of \$100,000 or five percent of the principal amount. See N.J.S.A. 17:16F-34(a)(3) and (c).

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\$1,000,000,000 or greater	\$125,275,000 plus .10% of residential mortgage loans serviced

RMLA-Licensed Mortgage Servicers that are currently conducting mortgage servicing business in this State must submit the RMLA-Licensed Mortgage Servicer Registration Application by April 13, 2020. RMLA-Licensed Mortgage Servicers must additionally register each office where mortgage servicing business is conducted. Branch offices that are not licensed under the RMLA for origination purposes are not required to be licensed under the RMLA in order to be registered as a mortgage servicer in this State, provided that, at least, the main office is licensed under the RMLA as a Residential Mortgage Lender or Correspondent Residential Mortgage Lender. RMLA-Licensed Mortgage Servicers that fail to apply for the RMLA-Licensed Mortgage Servicer Registration by April 13, 2020 and continue to operate as mortgage servicers in this State may be subject to an enforcement action, as set forth in the Act.

There is no Department registration application fee associated with the RMLA-Licensed Mortgage Servicer Registration. However, a NMLS processing fee(s) will be charged for each registration application and will be the responsibility of the applicant.

The Department currently expects that between November 1st and December 31st of each year and during their annual renewal period under the RMLA, all RMLA-Licensed Mortgage Servicers will submit an attestation through the NMLS that will attest to the accuracy of the information that is contained in the NMLS filing records for that entity, its branch offices, and each control person, qualified individual, and branch manager. This annual attestation is subject to a NMLS processing fee, which is the responsibility of the RMLA-Licensed Mortgage Servicer.

The license exemption for Residential Mortgage Lender or Correspondent Residential Mortgage Lender licensees under the RMLA only applies to active RMLA licensees. Any Residential Mortgage Lender or Correspondent Residential Mortgage Lender under the RMLA whose license has been surrendered, suspended, or revoked must submit the Mortgage Servicer License Application, as detailed above, and obtain that license in order to continue to service New Jersey residential mortgage loans.

For assistance in using the NMLS system, you may access the [NMLS Resource Center—Getting Started: State-Licensed Companies](#). In addition, the NMLS call center is available Monday – Friday from 9:00 AM to 9:00 PM Eastern Standard Time and can be reached at 1-855-NMLS123 (1-855-665-7123).

Additional information related to the implementation of the Act may be provided by subsequent Bulletin or Order, as needed. All questions regarding the licensing and registration requirements contained in this Bulletin and under the Act may be directed to Bliconline@dobi.nj.gov.

12/23/19
Date

McCaride
Marlene Caride
Commissioner

AV Mortgage Servicers Licensing Act Bulletin/Bulletins