

August 22, 2022

**SUBMITTED to the Conference of State Bank Supervisors at [comments@csbs.org](mailto:comments@csbs.org).**

Conference of State Bank Supervisors (CSBS)  
State Regulatory Registry, LLC  
1129 20<sup>th</sup> Street, NW  
9<sup>th</sup> Floor  
Washington, DC 20036

***Re: Request for Public Comment on NMLS Disclosure Questions Proposal***

Dear Board of Managers:

INFiN appreciates the opportunity to provide comments on the CSBS' proposed changes to the NMLS Disclosure Questions ("Proposal" or "Questions" or "Proposed Changes").

**INFiN, A Financial Services Alliance**

INFiN, a Financial Services Alliance, is the leading national trade association representing the diverse and innovative consumer financial services industry. INFiN includes more than 350 companies, operating approximately 8,000 locations throughout the United States and online. Headquartered in Washington, DC, INFiN serves as the voice of the vital and rapidly evolving consumer financial services industry to advocate on behalf of its customers.

INFiN members offer critical access to financial services to millions of Americans, particularly middle-income working families, who are often underserved by banks and credit unions and value the wide range of services provided by community-based financial service providers. Consumers choose these providers because they are affordable, offer integrated services through multiple convenient channels, and deliver services in a transparent and regulated environment.

Those consumer financial services include check cashing, pre-paid cards, money transfers, electronic bill payments, and small-dollar loans, among others. These simple, popular financial solutions play an integral role in the financial lives of millions of American households, helping them to manage their financial obligations and challenges and providing essential financial inclusion and stability. Consumer financial services are available across a range of platforms and channels – from community-based storefronts to online tools powered by the latest technology.

INFiN's membership includes some large companies that operate hundreds of locations in multiple states, but also consists of small businesses, including "mom and pop" operators.

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INFiN members are licensed and regulated in the jurisdiction in which their customers reside and, as such, are subject to consumer protection laws throughout the U.S. In addition, INFiN members are classified as money services businesses (“MSBs”) and are subject to the Bank Secrecy Act’s anti-money laundering provisions.

INFiN understands that the NMLS Company and Individual Disclosure Questions may require review and updating if there are concerns about the current set of questions becoming outdated. We view this process as an admirable one if it ultimately serves to create clarity, remove inconsistency, conform to new laws and regulation, and make necessary improvements.

However, we are concerned that the proposed revisions to the questions serve to greatly expand the amount of information requested – information that will be duplicative, unnecessary, or confidential. Such an expansion to the question set will undoubtedly raise many questions and create difficulties for companies and individuals alike. Additionally, the “Explanation Document,” which purports to provide detail and rationale for each of the proposed revisions, often fails to provide sufficient justification or rationale as noted below. Therefore, INFiN offers the following comments about the Proposal:

### **General Concerns**

Overall, the proposed changes to the NMLS Disclosure Questions create unnecessary and repetitive questions, as well as confidentiality concerns and problems. For example, there are many instances in which the revised questions would be expanded by breaking down the question areas into several different sub-sections for both the company and the individual. With perhaps the goal of increasing specificity with these changes, the proposed revisions would serve to often repeat the same questions over again and lead to much duplication. Additionally, by expanding the scope of the regulatory questions, even minor exam findings could be required to be reviewed, disclosed, and subsequently updated each year. These proposed changes, many of which appear unnecessary and duplicative, would serve to create additional burdens and costs on licensed entities, especially on small businesses.

There are also confidentiality concerns with the Proposal. For instance, with the revised changes, companies would be required to disclose even those third-party vendors with which they are negotiating and have confidentiality agreements.

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### **Specific Concerns re. Company Disclosure Questions**

- *Question #12. Has a third-party service provider notified the entity or a control affiliate of its intent to modify or cancel an arrangement with the entity or a control affiliate that would materially alter the entity's ability to conduct its business activities for the license it holds or intends to hold?*

Question 12 creates concern by intruding into private business contractual arrangements and negotiations. Most all lending entities will have financing agreements with third parties, and these agreements are generally subject to negotiations, modifications, and renewals. These matters are not the regulators' concern; rather, at the end of such negotiations, the licensee/control affiliate has secured such funding. Additionally, the "explanation document" does not provide sufficient rationale, including, for example, disclosure of information that will aid in supervisory or enforcement activity, for defining "third-party service provider" in such a broad manner. For these reasons, we do not believe this is a necessary question.

- *Question #22. Have any key individuals or control individuals as identified in the entity's NMLS record ever had a financial services license or any other professional license revoked, suspended or restricted?*

Question #22 is overly broad in that it seeks information regarding any and all professional licensing, notwithstanding whether it is relevant or not. For example, requesting information about a prior barber license or pilot's license or other type of unrelated professional license, which is clearly not relevant, should not have to be disclosed here. Requiring such information will result in burdensome reporting.

The "explanation document" merely states that: "Questions 22 and 23 are new and refer to the ability to act pursuant to a financial services license or any other professional license." This explanation is inadequate and does not sufficiently explain why these questions are necessary.

- *Question #23. Is there a pending regulatory action, either administrative or civil, against any key individual or control individual as identified in the entity's NMLS record whereby the remedy being sought is or could result in the revocation, suspension or restriction of such individual's financial services license or any other professional license?*

Here too, question #23 is also overly broad and will result in burdensome reporting. Most all regulatory actions hold the potential of resulting in such possible sanctions as revocation,

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suspension of restrictions of one's license; notwithstanding that such remedy is remote, it is set forth *pro forma* in nearly any complaint against a licensed entity.

### **Specific Concerns re. Individual Disclosure Questions**

- *Question #20.* Have you ever had a financial services license or other professional license restricted, revoked, debarred or suspended?

Similar to the Company Question #23 discussed above, this question is duplicative, and overly broad in that it seeks any and all professional licensing information regardless of whether it is relevant. Again, why should a prior barber's license or pilot's license be required? Additionally, the reason that has been provided in the explanation document seems inadequate and does not provide sufficient rationale for the proposed revision.

- *Question #21.* Are there any pending regulatory actions against you whereby the remedy being sought is or could result in the restriction, revocation, debarment or suspension of your financial services license or other professional license?

Similar to the Company Question 24, this question is also overly broad and will result in burdensome reporting. Most all regulatory actions hold the potential of the possible sanctions of revocation, suspension of restrictions of one's license; notwithstanding that such remedy is remote, it is set forth *pro forma* in nearly any complaint. Additionally, the reason that has been provided in the explanation document seems inadequate and does not provide sufficient rationale for the proposed revision.

- *Question #23. Based on activities that occurred while you exercised control over an organization:*
  - a. is there a pending financial services civil action against such organization which alleges a violation of a financial services statute or regulation?*
  - b. was the organization found to have violated a financial services statute or regulation?*

Question 23(b) is over broad and will also result in burdensome reporting. In addition, it would seem that the answer to this question will nearly always be 'yes,' as over time all organizations undergoing a regulatory examination or action will have violated a financial services statute or regulation. No doubt the follow-up question will be to list them, which would result in a listing of all such past actions being recited each year. Additionally, the explanation document provides no reasons or justification for adding 23(b).

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Finally, INFiN is concerned about the expected increase in cost and resources that would be required to comply with many proposed changes to the questions. The proposal is certain to create additional burdens and requirements that could be challenging for some INFiN members and others.

INFiN appreciates the opportunity to provide comments and feedback with respect to this Proposal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "E. D'Alessio". The signature is fluid and cursive, with a large initial "E" and "D".

Edward D'Alessio  
Executive Director