STATEMENT OF SCOPE

Department of Financial Institutions
Division of Banking

Rule No.: DFI-Bkg 73, 75, 76, and 79

Relating to: Use of the Nationwide Multistate Licensing System and Registry by State-Licensed Adjustment Service Companies, Payday Lenders, Sales Finance Companies, and Sellers of Checks

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The proposed rules seek to modernize the division's licensing system for payday lenders, sellers of checks, sales finance companies, and adjustment service companies by requiring utilization of the Nationwide Multistate Licensing System and Registry (NMLS). The NMLS is a national database developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators that streamlines licensing, renewal, and other regulatory filings for both licensees and regulators. The system also facilitates cooperation among state regulators, which reduces red tape and inefficiencies for both regulators and licensees who do business in multiple states.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The proposed rules do not reflect new policies, but rather extend existing policies to additional license types. Mandatory NMLS filing is already in effect for mortgage loan originators licensed with the division. *See* Wis. Stat. ss. 224.725(2)(a), 224.725(2)(c), 224.728. When drafting these proposed rules, the division anticipates it will borrow heavily from existing statutory language requiring utilization of the NMLS for mortgage loan originators.

As described above, use of the NMLS would substantially modernize the licensing system for payday lenders, sellers of checks, sales finance companies, and adjustment service companies. Modernization of rules, processes, and technology is one of the Department of Financial Institutions' strategic pillars. Moreover, greater coordination with other state financial regulators—commonly referred to as "networked supervision"—is increasingly critical as e-commerce makes it easier for companies to do business across state lines.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The Division of Banking, a division of the Department of Financial Institutions, licenses and regulates payday lenders pursuant to s. 138.14 of the Wisconsin Statutes. Applications for licenses under that section "shall be made in the form and manner prescribed by the division," Wis. Stat. s. 138.14(4)(a)1., and the division has the authority to "promulgate such rules as it considers necessary for the administration of this section," *id.* s. 138.14(8)(b).

The division also licenses and regulates sellers of checks pursuant to ch. 217 of the Wisconsin Statutes. Applications for licenses under that chapter "shall contain such information and be in such form as the division prescribes," Wis. Stat. s. 217.05(1), and the division has the authority to "make such rules not inconsistent with this chapter as it deems necessary for the administration of this chapter," *id.* s. 217.10(3).

The division also licenses and regulates sales finance companies pursuant to ch. 218, subch. I of the Wisconsin Statutes. Applications for licenses under that subchapter shall be made "in such form and with such information as the licensor shall require," Wis. Stat. s. 218.0114(4), and the division (as licensor) has the authority to "promulgate such rules as it considers necessary or proper for the effective administration and enforcement" of that subchapter, *id.* s. 218.0152(3).

The division also licenses and regulates adjustment service companies pursuant to s. 218.02 of the Wisconsin Statutes. Applications for licenses under that section shall be "in a form to be prescribed by the division," Wis. Stat. s. 218.02(2)(a)1., and the division has the authority to "make such rules and require such reports as the division deems necessary for the enforcement of this section," *id.* s. 218.02(9)(a).

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

75-150 hours

6. List with description of all entities that may be affected by the proposed rule:

The rules would affect payday lenders licensed with the division under Wis. Stat. s. 138.14, sellers of checks licensed with the division under Wis. Stat. ch. 217, sales finance companies licensed with the division under Wis. Stat. ch. 218, subch. I, and adjustment service companies licensed with the division under Wis. Stat. s. 218.02.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The NMLS is a system developed by and for state financial regulators for the purpose of administering state licensing and regulatory requirements. There is no overlapping federal regulation.

Federal law does, however, contemplate and facilitate use of the NMLS by state regulators. Title 12, Section 5110 of the U.S. Code, for example, requires the federal Department of Justice to provide criminal history information to state officials responsible for regulating financial service providers, and to utilize the NMLS as a channeling agent of the states for requesting and distributing this information.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

These proposed rules would not have a significant economic impact upon the division or its licensees. While implementation of the rules will require division staff to devote time to helping licensees learn the new system, the division believes it can provide this assistance in the normal course of business without the need for additional positions. There is no cost to the state to utilize the NMLS. While licensees who are individuals must pay an annual processing fee of $30 to help maintain the NMLS system (licensees that are corporate entities must pay $100), the division believes—based on its experience in using the NMLS for mortgage loan originators— that most licensees will find that those modest costs are more than offset by the efficiencies gained in trimming red tape and reducing the need for redundant filings in multiple states.

Contact Person:

Kim Swissdorf
Acting Administrator, Division of Banking
Wisconsin Department of Financial Institutions
PO Box 8861
Madison, WI 53708-8861
Kim.Swissdorf@dfi.wisconsin.gov