

## Clearinghouse Rule CR 22-020

### PROPOSED ORDER OF THE DEPARTMENT OF FINANCIAL INSTITUTIONS, DIVISION OF BANKING REPEALING, AMENDING AND CREATING RULES

The Wisconsin Department of Financial Institutions, Division of Banking proposes an order to repeal s. DFI-Bkg 76.11; to renumber s. DFI-Bkg 75.01 (1); to amend ss. DFI-Bkg 75.08 (1) (c) 3. and DFI-Bkg 75.08 (2) (a) 4.; and to create ss. DFI-Bkg 73.001, 73.06, 73.07, 73.08, 73.09, 75.01 (1g), (1r), (6m), (7m), (8g), (8m), and (10), 75.11, 75.12, 75.13, 76.001, 76.14, 76.15, 76.16, and ch. DFI-Bkg 79 of the Wisconsin Administrative Code relating to use of the Nationwide Multistate Licensing System and Registry by applicants for, and holders of, licenses under s. 138.14 (payday lenders), ch. 217 (sellers of checks), ch. 218, subch. I (sales finance companies), and s. 218.02 (adjustment service companies) of the Wisconsin Statutes.

The scope statement for this rule was authorized by the Division of Banking on December 15, 2021; approved by the Governor on January 27, 2022; published in *Administrative Register* No. 794A2 on February 14, 2022; and approved by the Division of Banking on the date signed below.

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#### ANALYSIS

##### 1. Statutes interpreted:

Chapter 217, Subchapter I of Chapter 218, and Sections 138.14 and 218.02 of the Wisconsin Statutes.

##### 2. Statutory authority:

Subsection 138.14 (8) (b), subsection 217.10 (3), subsection 218.0152 (3), and subsection 218.02 (9) (a) of the Wisconsin Statutes.

##### 3. Explanation of agency authority:

The Division of Banking, a division of the Department of Financial Institutions, licenses and regulates payday lenders pursuant to section 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. § 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.* § 138.14(8)(b).

The division also licenses and regulates sellers of checks pursuant to chapter 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. § 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.* § 217.10(3).

The division also licenses and regulates sales finance companies pursuant to chapter 218, Subchapter 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. § 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.* § 218.0152(3).

The division also licenses and regulates adjustment service companies pursuant to section 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. § 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.* § 218.02(9)(a).

#### **4. Related statutes or rules:**

The language of these proposed rules, which require utilization of the Nationwide Multistate Licensing System and Registry (NMLS) for payday lenders, sellers of checks, sales finance companies, and adjustment service companies licensed with the division, is derived from existing statutory language requiring utilization of the NMLS for mortgage loan originators licensed with the division. *See* Wis. Stat. §§ 224.725(2)(a), 224.725(2)(c), 224.728.

#### **5. Plain language analysis:**

The proposed rules would modernize the division’s licensing system for payday lenders, sellers of checks, sales finance companies, and adjustment service companies by requiring utilization of the 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 should reduce red tape and redundant work for both regulators and licensees who do business in multiple states.

#### **6. Summary of, and comparison with, existing or proposed federal regulation:**

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.

## **7. Comparison with rules in adjacent states:**

Each of our neighboring states utilizes NMLS for the licensing of financial services providers.

Minnesota and Iowa have expressly authorized NMLS utilization for these license types by statute or rule. *See* Iowa Code §§ 533D.3.7 (authorizing use of NMLS for delayed deposit service providers, known under Wisconsin law as “payday lenders”); 533C.202.6 (same for money transmitters, known under Wisconsin law as “sellers of checks”); 533A.2.7 (same for debt management companies, known under Wisconsin law as “adjustment service companies”); Minn. Stat. §§ 47.60, subd. 7 (authorizing use of NMLS for payday lenders); 53C.02(f) (same for sales finance companies); 53B.07, subd. 6 (same for money transmitters); 332B.04, subd. 8 (same for debt settlement companies, known under Wisconsin law as “adjustment service companies”).

Illinois and Michigan grant their financial regulators broad discretion over licensing applications and processes, *see, e.g.*, 205 Ill. Comp. Stat. § 665/4, and those regulators have also opted to utilize NMLS for comparable license types. *See* Ill. Dep’t of Fin. & Prof. Reg., *IDFPR’s Financial Institutions Announce Enhanced Participation in NMLS* (press release Aug. 11, 2016), at <https://www.idfpr.com/News/2016/08112016IDFPRFinancialInsEnhancedPartNMLS.asp>; Ill. Dep’t of Fin. & Prof. Reg., *Illinois Debt Settlement Application Checklist* (Feb. 1, 2019), at [https://mortgage.nationwidelicensingsystem.org/slr/PublishedStateDocuments/IL\\_Debt\\_Settlement\\_Consumer\\_Protection\\_License-New\\_App-Checklist.pdf](https://mortgage.nationwidelicensingsystem.org/slr/PublishedStateDocuments/IL_Debt_Settlement_Consumer_Protection_License-New_App-Checklist.pdf); Mich. Dep’t of Ins. and Fin. Servs., *Licensing – Consumer Finance and Mortgage*, at [https://www.michigan.gov/difs/0,5269,7-303-79189\\_23034---,00.html](https://www.michigan.gov/difs/0,5269,7-303-79189_23034---,00.html) (utilizing NMLS for various consumer finance licenses); Mich. Dep’t of Ins. and Fin. Servs., *Money Transmission Services*, at [https://www.michigan.gov/difs/0,5269,7-303-79189\\_43095---,00.html](https://www.michigan.gov/difs/0,5269,7-303-79189_43095---,00.html) (same for money transmitters).

## **8. Summary of factual data and analytical methodologies:**

The proposed changes are based on the input and experience of Division of Banking staff in regulating adjustment service companies, payday lenders, sales finance companies, and sellers of checks in this state, as well as legal counsel’s review of the administrative rules and statutes at issue and communications with the Conference of State Bank Supervisors. The nature of these changes, which are primarily procedural rather than substantive, did not demand or lend itself to analysis of field data.

## **9. Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis:**

N/A

**10. Effect on small business:**

These proposed rules would not have a significant economic impact upon licensees. 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.

**11. Agency contact person:**

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Madison, WI 53708-8861  
[Kim.Swissdorf@dfi.wisconsin.gov](mailto:Kim.Swissdorf@dfi.wisconsin.gov)

**12. Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to the contact person shown below no later than the date on which the public hearing on this proposed rule order is conducted. Information as to the place, date and time of the public hearing will be published in the Wisconsin Administrative Register.

By mail: Marc Shovers, Assistant Chief Legal Counsel, Department of Financial Institutions, PO Box 8861, Madison, WI 53708-8861.

By e-mail: [DFIRulesComments@wisconsin.gov](mailto:DFIRulesComments@wisconsin.gov)

Via the department's website: <http://www.wdfi.org/statutes/ProposedRules.htm>

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**Rule Text**

**SECTION 1.** DFI-Bkg 73.001 is created to read:

DFI-Bkg 73.001 **Definitions.** In this chapter:

- (1) “Applicant” means an applicant for a license under s. 218.02, Stats.
- (2) “Division” means the division of banking.
- (3) “Licensee” means a holder of a license issued under s. 218.02, Stats.

(4) “Nationwide multistate licensing system and registry” or “NMLS” means the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC or any successor or affiliate entity, for the licensing and registration of persons in financial services industries.

(5) “Reinstatement period” means the period beginning January 1 and ending on the last day of February, or such other period prescribed by the division.

(6) “Renewal period” means the period beginning November 1 and ending December 31, or such other period prescribed by the division.

(7) “Unique identifier” means a number or other identifier assigned by protocols established by the NMLS.

**SECTION 2.** DFI-Bkg 73.06 is created to read:

**DFI-Bkg 73.06 Nationwide Multistate Licensing System and Registry. (1)**

PARTICIPATION. (a) The division shall utilize the NMLS with respect to applicants and licensees. The division may establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees. With respect to any form, fee, or other information required to be submitted to the division by an applicant or licensee, the division may require the applicant or licensee to submit such form, fee, or other information directly to the NMLS.

(b) Each applicant and licensee shall register with, and maintain a valid unique identifier issued by, the NMLS.

(c) The division may require an applicant or licensee to provide to the NMLS any information that the division determines to be relevant to the application or to any responsibility administered or conducted through the NMLS that is related to the licensed activity.

(d) The division may require an applicant or licensee, or an individual with the power to direct the management or policies of the applicant or licensee, to submit an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, fingerprints, or any other personal or professional history information deemed necessary by the division. The division may require fingerprints for the purposes of identifying the individual and to determine whether the individual has a record of warrants, arrests, or convictions in any jurisdiction. Fingerprints may be submitted, directly or as provided in sub. (2), to the federal bureau of investigation and any government agency or entity authorized to receive this information for a state and national criminal history record check.

(e) The division may rely on the NMLS to establish any dates relating to application or reporting deadlines for applicants and licensees, to establish requirements for amending or surrendering licenses, or to establish any other requirements applicable to applicants and licensees to the extent the requirements are a condition of the state’s participation in the NMLS.

(f) Applicants and licensees are responsible for any service, access, or other fees charged

by the NMLS for use of the system. Whenever the division requires fingerprinting, an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, or any other information in connection with an application or other filing, any associated costs shall be paid by the applicant or the parties to the application.

(2) CHANNELING INFORMATION. To reduce the points of contact that the division may have to maintain, and to facilitate compliance with any requirement that an applicant provide identity information, including social security number or federal employer identification number, fingerprints, credit reports, or other personal history, the division may use the NMLS as a channeling agent for requesting and distributing information to and from any source so directed by the division, including the federal bureau of investigation, any state or federal department of justice, or any other governmental agency.

(3) CONFIDENTIAL INFORMATION. (a) (intro.) If any information or material is considered confidential or privileged under federal or state law before it is provided or disclosed to the NMLS, it shall continue to be confidential or privileged after it is provided or disclosed to, and while maintained by, the NMLS, except to the extent federal or state law expressly provides otherwise and except as provided in par. (c). Confidential or privileged information or material under this paragraph is not subject to any of the following:

1. Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of federal or state government.

2. Subpoena or discovery, or admission into evidence, in any private civil action or administrative proceeding, unless the person to whom the information or material pertains waives any right or protection of confidentiality or privilege in the information or material.

(b) Confidential or privileged information or material under par. (a) may be shared with any state or federal regulatory agency having supervisory authority over activities governed by s. 218.02, Stats., without losing any right or protection of confidentiality or privilege under federal or state law.

(c) This subsection does not prohibit the NMLS from providing public access to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, licensees.

(4) COOPERATIVE ARRANGEMENTS. The division may enter into cooperative, coordinating, or information-sharing arrangements or agreements with other governmental agencies or with associations representing other governmental agencies, including the Conference of State Bank Supervisors, subject to the requirements of s. 220.06, Stats.

### **SECTION 3.** DFI-Bkg 73.07 is created to read:

DFI-Bkg 73.07 **Changes to information.** A licensee shall keep current and accurate all material information on file with the division and the NMLS. If the information changes in any material respect, the licensee shall notify the division and the NMLS of the change within 10 days after the change.

**SECTION 4.** DFI-Bkg 73.08 is created to read:

DFI-Bkg 73.08 **License renewal and reinstatement.** (1) During the renewal period, a licensee may seek to renew a license by submitting all fees owed to the division or the NMLS, along with any additional documentation required by the division or applicable law, through the NMLS or in such other manner as directed by the division.

(2) During the reinstatement period, a licensee may reinstate a license by submitting all the items in sub. (1), plus an additional non-refundable fee of \$100, through the NMLS or in such other manner as directed by the division.

**SECTION 5.** DFI-Bkg 73.09 is created to read:

DFI-Bkg 73.09 **Annual reports and financial statements.** (1) ANNUAL REPORTS. Each licensee shall annually, on or before March 15, submit through the NMLS or in such other manner as directed by the division, a report giving such reasonable and relevant information as the division may require concerning the business transacted by the licensee. This report shall be made in the form and manner prescribed by the division.

(2) FINANCIAL STATEMENTS. Each licensee shall annually, no later than 90 days following the end of its most recently completed fiscal year, submit through the NMLS or in such other manner as directed by the division, a copy of the licensee's financial statements for that fiscal year. The financial statements shall include a balance sheet and income statement and shall be prepared in accordance with generally accepted accounting principles.

**SECTION 6.** DFI-Bkg 75.01 (1) of the administrative code is renumbered DFI-Bkg 75.01 (1m).

**SECTION 7.** DFI-Bkg 75.01 (1g), (1r), (6m), (7m), (8g), (8m), and (10) of the administrative code are created to read:

DFI-Bkg 75.01 (1g) "Applicant" means an applicant for a license under s. 138.14, Stats.

(1r) "Customer identification number" means a unique number assigned to a customer in a manner specified by the division, or by the database provider acting at the direction of the division.

(6m) "Licensee" means a holder of a license issued under s. 138.14 (5), Stats.

(7m) "Nationwide multistate licensing system and registry" or "NMLS" means the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC or any successor or affiliate entity, for the licensing and registration of persons in financial services industries.

(8g) "Reinstatement period" means the period beginning January 1 and ending on the last day of February, or such other period prescribed by the division.

(8m) "Renewal period" means the period beginning November 1 and ending December

31, or such other period prescribed by the division.

(10) “Unique identifier” means a number or other identifier assigned by protocols established by the NMLS.

**SECTION 8.** DFI-Bkg 75.08 (1) (c) 3. of the administrative code is amended to read:

DFI-Bkg 75.08 (1) (c) 3. Identify the name, address, telephone number, and ~~unique identification number of the customer~~ identification number.

**SECTION 9.** DFI-Bkg 75.08 (2) (a) 4. of the administrative code is amended to read:

DFI-Bkg 75.08 (2) (a) 4. Identify the name, address, telephone number, and ~~unique identification number of the customer~~ identification number.

**SECTION 10.** DFI-Bkg 75.11 is created to read:

DFI-Bkg 75.11 **Nationwide Multistate Licensing System and Registry; Licensing and Renewal.** (1) PARTICIPATION. (a) The division shall utilize the NMLS with respect to applicants and licensees. The division may establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees. With respect to any form, fee, or other information required to be submitted to the division by an applicant or licensee, the division may require the applicant or licensee to submit such form, fee, or other information directly to the NMLS.

(b) Each applicant and licensee shall register with, and maintain a valid unique identifier issued by, the NMLS.

(c) The division may require an applicant or licensee to provide to the NMLS any information that the division determines to be relevant to the application or to any responsibility administered or conducted through the NMLS that is related to the licensed activity.

(d) The division may require an applicant or licensee, or an individual with the power to direct the management or policies of the applicant or licensee, to submit an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, fingerprints, or any other personal or professional history information deemed necessary by the division. The division may require fingerprints for the purposes of identifying the individual and to determine whether the individual has a record of warrants, arrests, or convictions in any jurisdiction. Fingerprints may be submitted, directly or as provided in sub. (2), to the federal bureau of investigation and any government agency or entity authorized to receive this information for a state and national criminal history record check.

(e) The division may rely on the NMLS to establish any dates relating to application or reporting deadlines for applicants and licensees, to establish requirements for amending or surrendering licenses, or to establish any other requirements applicable to applicants and licensees to the extent the requirements are a condition of the state’s participation in the NMLS.

(f) Applicants and licensees are responsible for any service, access, or other fees charged



by the NMLS for use of the system. Whenever the division requires fingerprinting, an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, or any other information in connection with an application or other filing, any associated costs shall be paid by the applicant or the parties to the application.

(2) CHANNELING INFORMATION. To reduce the points of contact that the division may have to maintain, and to facilitate compliance with any requirement that an applicant provide identity information, including social security number or federal employer identification number, fingerprints, credit reports, or other personal history, the division may use the NMLS as a channeling agent for requesting and distributing information to and from any source so directed by the division, including the federal bureau of investigation, any state or federal department of justice, or any other governmental agency.

(3) CONFIDENTIAL INFORMATION. (a) (intro.) If any information or material is considered confidential or privileged under federal or state law before it is provided or disclosed to the NMLS, it shall continue to be confidential or privileged after it is provided or disclosed to, and while maintained by, the NMLS, except to the extent federal or state law expressly provides otherwise and except as provided in par. (c). Confidential or privileged information or material under this paragraph is not subject to any of the following:

1. Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of federal or state government.

2. Subpoena or discovery, or admission into evidence, in any private civil action or administrative proceeding, unless the person to whom the information or material pertains waives any right or protection of confidentiality or privilege in the information or material.

(b) Confidential or privileged information or material under par. (a) may be shared with any state or federal regulatory agency having supervisory authority over activities governed by s. 138.14, Stats., without losing any right or protection of confidentiality or privilege under federal or state law.

(c) This subsection does not prohibit the NMLS from providing public access to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, licensees.

(4) COOPERATIVE ARRANGEMENTS. The division may enter into cooperative, coordinating, or information-sharing arrangements or agreements with other governmental agencies or with associations representing other governmental agencies, including the Conference of State Bank Supervisors, subject to the requirements of s. 220.06, Stats.

#### **SECTION 11.** DFI-Bkg 75.12 is created to read:

DFI-Bkg 75.12 **Changes to information.** A licensee shall keep current and accurate all material information on file with the division and the NMLS. If the information changes in any material respect, the licensee shall notify the division and the NMLS of the change within 10 days after the change.

**SECTION 12.** DFI-Bkg 75.13 is created to read:

DFI-Bkg 75.13 **License renewal and reinstatement.** (1) During the renewal period, a licensee may seek to renew a license by submitting all fees owed to the division or the NMLS, along with any additional documentation required by the division or applicable law, through the NMLS or in such other manner as directed by the division.

(2) During the reinstatement period, a licensee may reinstate a license by submitting all the items in sub. (1), plus an additional non-refundable fee of \$100, through the NMLS or in such other manner as directed by the division.

**SECTION 13.** DFI-Bkg 76.001 is created to read:

DFI-Bkg 76.001 **Definitions.** In this chapter:

(1) “Applicant” means an applicant for a license as a sales finance company under s. 218.0114, Stats., other than a motor vehicle dealer within the meaning of s. 218.0101 (23), Stats.

(2) “Business license” means a license issued by the division of banking under ch. 218, Stats., to a motor vehicle dealer.

(3) “Division” means the division of banking.

(4) “Initial license” means a license issued to a person or business who does not have such a license at the time of application.

(5) “Licensee” means a holder of a sales finance company license issued under s. 218.0114, Stats., other than a motor vehicle dealer within the meaning of s. 218.0101 (23), Stats.

(6) “Nationwide multistate licensing system and registry” or “NMLS” means the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC or any successor or affiliate entity, for the licensing and registration of persons in financial services industries.

(7) “Reinstatement period” means the period beginning January 1 and ending on the last day of February, or such other period prescribed by the division.

(8) “Renewal license” means a license issued to a person or business who has such license at the time of application.

(9) “Renewal period” means the period beginning November 1 and ending December 31, or such other period prescribed by the division.

(10) “Unique identifier” means a number or other identifier assigned by protocols established by the NMLS.

**SECTION 14.** DFI-Bkg 76.11 is repealed.

**SECTION 15.** DFI-Bkg 76.14 is created to read:

**DFI-Bkg 76.14 Nationwide Multistate Licensing System and Registry. (1)**

**PARTICIPATION.** (a) The division shall utilize the NMLS with respect to applicants and licensees. The division may establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees. With respect to any form, fee, or other information required to be submitted to the division by an applicant or licensee, the division may require the applicant or licensee to submit such form, fee, or other information directly to the NMLS.

(b) Each applicant and licensee shall register with, and maintain a valid unique identifier issued by, the NMLS.

(c) The division may require an applicant or licensee to provide to the NMLS any information that the division determines to be relevant to the application or to any responsibility administered or conducted through the NMLS that is related to the licensed activity.

(d) The division may require an applicant or licensee, or an individual with the power to direct the management or policies of the applicant or licensee, to submit an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, fingerprints, or any other personal or professional history information deemed necessary by the division. The division may require fingerprints for the purposes of identifying the individual and to determine whether the individual has a record of warrants, arrests, or convictions in any jurisdiction. Fingerprints may be submitted, directly or as provided in sub. (2), to the federal bureau of investigation and any government agency or entity authorized to receive this information for a state and national criminal history record check.

(e) The division may rely on the NMLS to establish any dates relating to application or reporting deadlines for applicants and licensees, to establish requirements for amending or surrendering licenses, or to establish any other requirements applicable to applicants and licensees to the extent the requirements are a condition of the state's participation in the NMLS.

(f) Applicants and licensees are responsible for any service, access, or other fees charged by the NMLS for use of the system. Whenever the division requires fingerprinting, an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, or any other information in connection with an application or other filing, any associated costs shall be paid by the applicant or the parties to the application.

**(2) CHANNELING INFORMATION.** To reduce the points of contact that the division may have to maintain, and to facilitate compliance with any requirement that an applicant provide identity information, including social security number or federal employer identification number, fingerprints, credit reports, or other personal history, the division may use the NMLS as a channeling agent for requesting and distributing information to and from any source so directed by the division, including the federal bureau of investigation, any state or federal department of justice, or any other governmental agency.

**(3) CONFIDENTIAL INFORMATION.** (a) (intro.) If any information or material is considered

confidential or privileged under federal or state law before it is provided or disclosed to the NMLS, it shall continue to be confidential or privileged after it is provided or disclosed to, and while maintained by, the NMLS, except to the extent federal or state law expressly provides otherwise and except as provided in par. (c). Confidential or privileged information or material under this paragraph is not subject to any of the following:

1. Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of federal or state government.

2. Subpoena or discovery, or admission into evidence, in any private civil action or administrative proceeding, unless the person to whom the information or material pertains waives any right or protection of confidentiality or privilege in the information or material.

(b) Confidential or privileged information or material under par. (a) may be shared with any state or federal regulatory agency having supervisory authority over activities governed by ch. 218, subch. I, Stats., without losing any right or protection of confidentiality or privilege under federal or state law.

(c) This subsection does not prohibit the NMLS from providing public access to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, licensees.

(4) **COOPERATIVE ARRANGEMENTS.** The division may enter into cooperative, coordinating, or information-sharing arrangements or agreements with other governmental agencies or with associations representing other governmental agencies, including the Conference of State Bank Supervisors, subject to the requirements of s. 220.06, Stats.

**SECTION 16.** DFI-Bkg 76.15 is created to read:

DFI-Bkg 76.15 **Changes to information.** A licensee shall keep current and accurate all material information on file with the division and the NMLS. If the information changes in any material respect, the licensee shall notify the division and the NMLS of the change within 10 days after the change.

**SECTION 17.** DFI-Bkg 76.16 is created to read:

DFI-Bkg 76.16 **License renewal and reinstatement.** (1) During the renewal period, a licensee may seek to renew a license by submitting all fees owed to the division or the NMLS, along with any additional documentation required by the division or applicable law, through the NMLS or in such other manner as directed by the division.

(2) During the reinstatement period, a licensee may reinstate a license by submitting all the items in sub. (1), plus an additional non-refundable fee of \$100, through the NMLS or in such other manner as directed by the division.

**SECTION 18.** Chapter DFI-Bkg 79 is created to read:

## **Chapter DFI-Bkg 79**

## SELLERS OF CHECKS

DFI-Bkg 79.01. **Definitions.** In this chapter:

- (1) "Applicant" means an applicant for a license under ch. 217, Stats.
- (2) "Division" means the division of banking.
- (3) "Licensee" means a holder of a license issued under ch. 217, Stats.

(4) "Nationwide multistate licensing system and registry" or "NMLS" means the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC or any successor or affiliate entity, for the licensing and registration of persons in financial services industries.

(5) "Reinstatement period" means the period beginning January 1 and ending on the last day of February, or such other period prescribed by the division.

(6) "Renewal period" means the period beginning November 1 and ending December 31, or such other period prescribed by the division.

(7) "Unique identifier" means a number or other identifier assigned by protocols established by the NMLS.

### DFI-Bkg 79.02. **Nationwide Multistate Licensing System and Registry. (1)**

**PARTICIPATION.** (a) The division shall utilize the NMLS with respect to applicants and licensees. The division may establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees. With respect to any form, fee, or other information required to be submitted to the division by an applicant or licensee, the division may require the applicant or licensee to submit such form, fee, or other information directly to the NMLS.

(b) Each applicant and licensee shall register with, and maintain a valid unique identifier issued by, the NMLS.

(c) The division may require an applicant or licensee to provide to the NMLS any information that the division determines to be relevant to the application or to any responsibility administered or conducted through the NMLS that is related to the licensed activity.

(d) The division may require an applicant or licensee, or an individual with the power to direct the management or policies of the applicant or licensee, to submit an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, fingerprints, or any other personal or professional history information deemed necessary by the division. The division may require fingerprints for the purposes of identifying the individual and to determine whether the individual has a record of warrants, arrests, or convictions in any jurisdiction. Fingerprints may be submitted, directly or as provided in sub. (2), to the federal bureau of investigation and any government agency or entity authorized

to receive this information for a state and national criminal history record check.

(e) The division may rely on the NMLS to establish any dates relating to application or reporting deadlines for applicants and licensees, to establish requirements for amending or surrendering licenses, or to establish any other requirements applicable to applicants and licensees to the extent the requirements are a condition of the state's participation in the NMLS.

(f) Applicants and licensees are responsible for any service, access, or other fees charged by the NMLS for use of the system. Whenever the division requires fingerprinting, an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, or any other information in connection with an application or other filing, any associated costs shall be paid by the applicant or the parties to the application.

(2) CHANNELING INFORMATION. To reduce the points of contact that the division may have to maintain, and to facilitate compliance with any requirement that an applicant provide identity information, including social security number or federal employer identification number, fingerprints, credit reports, or other personal history, the division may use the NMLS as a channeling agent for requesting and distributing information to and from any source so directed by the division, including the federal bureau of investigation, any state or federal department of justice, or any other governmental agency.

(3) CONFIDENTIAL INFORMATION. (a) (intro.) If any information or material is considered confidential or privileged under federal or state law before it is provided or disclosed to the NMLS, it shall continue to be confidential or privileged after it is provided or disclosed to, and while maintained by, the NMLS, except to the extent federal or state law expressly provides otherwise and except as provided in par. (c). Confidential or privileged information or material under this paragraph is not subject to any of the following:

1. Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of federal or state government.

2. Subpoena or discovery, or admission into evidence, in any private civil action or administrative proceeding, unless the person to whom the information or material pertains waives any right or protection of confidentiality or privilege in the information or material.

(b) Confidential or privileged information or material under par. (a) may be shared with any state or federal regulatory agency having supervisory authority over activities governed by ch. 217, Stats., without losing any right or protection of confidentiality or privilege under federal or state law.

(c) This subsection does not prohibit the NMLS from providing public access to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, licensees.

(4) COOPERATIVE ARRANGEMENTS. The division may enter into cooperative, coordinating, or information-sharing arrangements or agreements with other governmental agencies or with associations representing other governmental agencies, including the Conference of State Bank

Supervisors, subject to the requirements of s. 220.06, Stats.

DFI-Bkg 79.03 **Changes to information.** A licensee shall keep current and accurate all material information on file with the division and the NMLS. If the information changes in any material respect, the licensee shall notify the division and the NMLS of the change within 10 days after the change.

DFI-Bkg 79.04 **License renewal and reinstatement.** (1) During the renewal period, a licensee may seek to renew a license by submitting all fees owed to the division or the NMLS, along with any additional documentation required by the division or applicable law, through the NMLS or in such other manner as directed by the division.

(2) During the reinstatement period, a licensee may reinstate a license by submitting all the items in sub. (1), plus an additional non-refundable fee of \$100, through the NMLS or in such other manner as directed by the division.

**SECTION 19.** This rule shall take effect on the first day of the fourth month following publication.

Date: February 18, 2022

By: /s/ Kim Swissdorf

Kim Swissdorf  
Acting Administrator  
Division of Banking