

# Protecting the American Dream through Effective Mortgage Supervision

>or a discussion on the Role of  
State Mortgage Regulators

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# Role Since SAFE July 30, 2008

- Uniform License Application Process
  - ... now 57 of 59 State agencies adopted UST
  - hundreds of checklist and outside NMLS needs
- Enforcement of Federal Laws & Regulations
- Overlays or Interpretations of Law's & Reg's
- Coordination with States and the CFPB
- Transitional Authority or .... Future?
- Role of AARMR – Policy of State Regulators



To promote the exchange of information and education of licensing, supervision and regulation of the residential mortgage industry, ensure the ability to provide effective supervision for a safe and sound industry meeting the needs of the local financial markets and protect the rights of consumers.

# The Need for Clarity and Consistency in Mortgage Supervision and Enforcement

Kevin Pezzani, CMB

Vice President – Risk Management and Mitigation

Vice Chairman – MBA State Legislative and Regulatory Compliance Committee

Union Home Mortgage

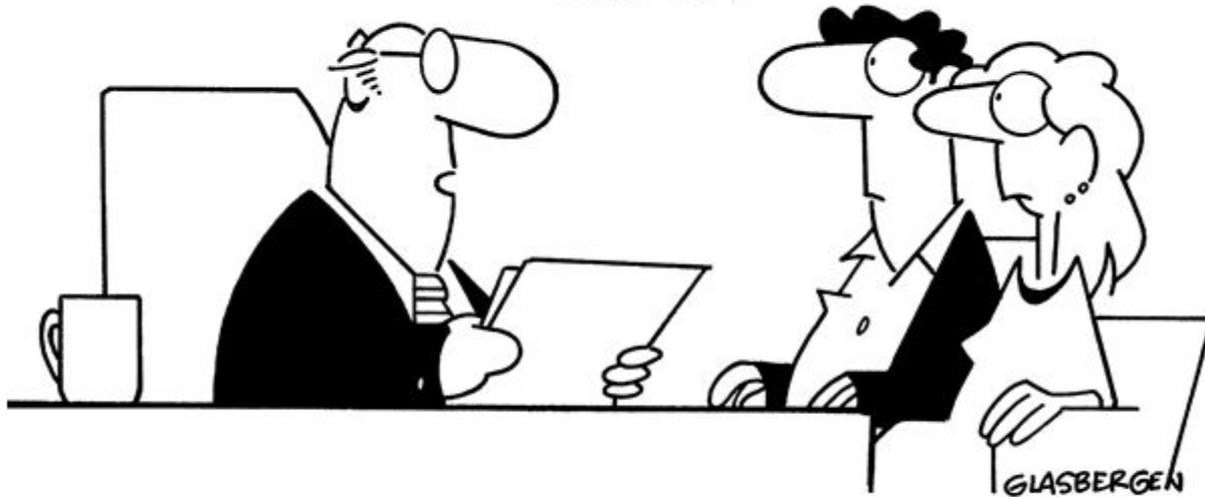
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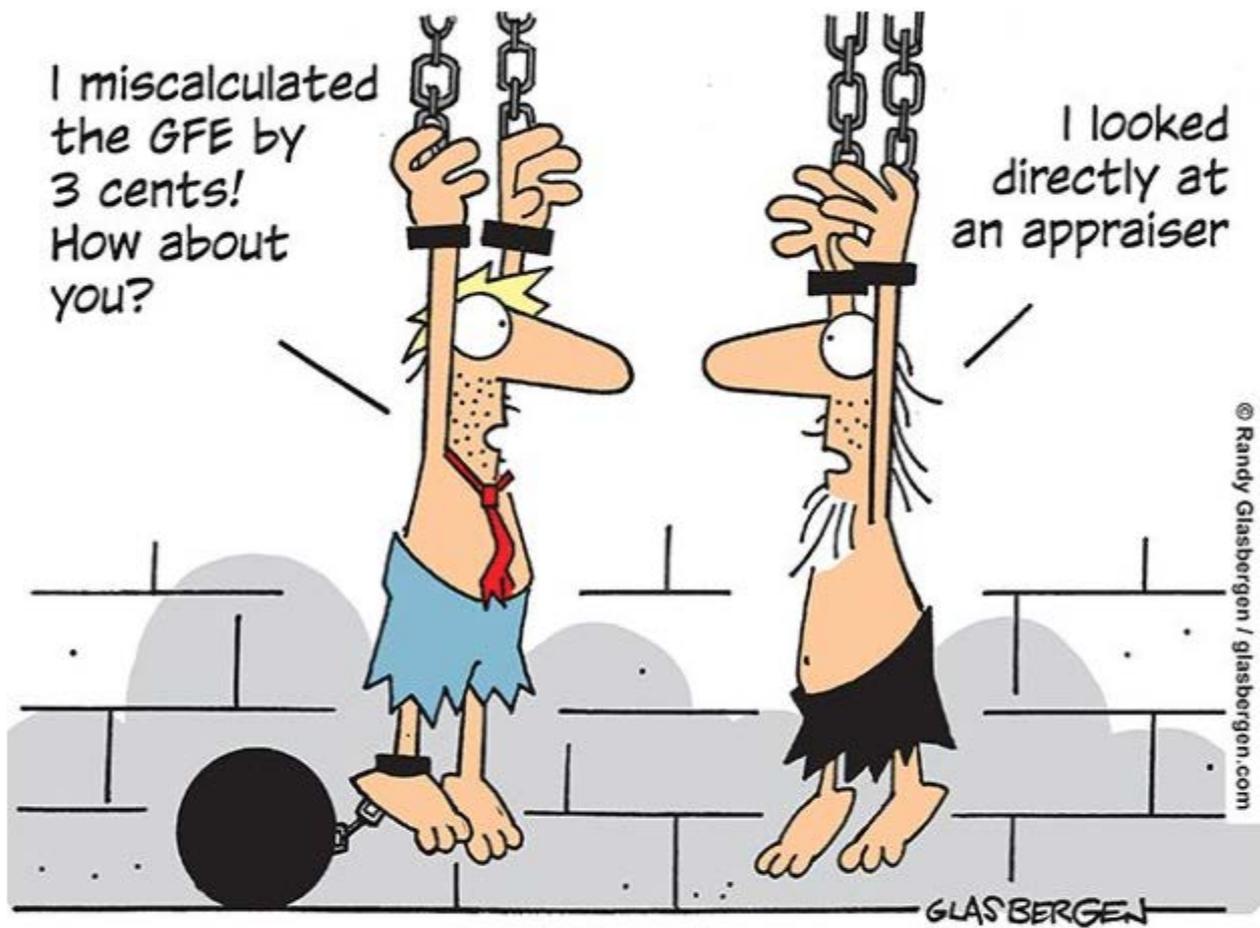
# Challenges

- In some cases, lack of consistency has allowed lenders (and other market participants) to find creative approaches to gain market share.
- There is a feeling shared by many lenders that the current regulatory environment can be characterized as “supervision by enforcement”
- Sometimes state specific needs not consistent with other states
- Statutory requirements or constraints
- Many lenders are negatively impacted by the use of “creative approaches” by a few lenders and the resulting “extreme enforcement” in the market

**MORTGAGE  
DEPT.**



**“Your children are quite young and likely to wet the bed.  
Technically, that puts you in a flood zone so your  
interest rate would be higher.”**



**Mortgage Origination Crimes**



# Opportunities for Clarity and Consistency

- Licensing
- Advertising
- Reporting and Disclosures
- “Desk drawer” policies

# Licensing

- Third-party processing and underwriting
- MLO supervision requirements
- Proximity to branch office
- Pre-license background check requirements
- Credit standards
- Sponsorship approval timing
- Control person(s) - defined

# Advertising

- “Fine print” disclosures
- Section 8
- Social media monitoring expectations

# Reporting and Disclosures

- MCR vs. Quarterly/Annual Reports
- Reviewing MCRs of other states
- State specific disclosure requirements

# “Desk Drawer” Policies

- More transparency
- Helpful when no written or formal rules
- Publishing opinion letters
- NMLS checklists vs. actual practice

# CYBERSECURITY

State, Federal and Industry Collaboration

Deborah M. Robertson  
General Counsel & Chief Compliance Officer  
LandHome Financial Services, Inc.

# WHY DO WE NEED CYBERSECURITY, ANYWAY?



# CYBERSECURITY V DATA SECURITY

- **Cybersecurity** is the body of technologies, processes and practices designed to protect networks, computers, programs and data from attack, damage or unauthorized access.
- **Data security** refers to protective digital privacy measures that are applied to prevent unauthorized access to computers, databases and websites. **Data security** also protects **data** from corruption.

## Data Security



# Cybersecurity



# CYBERSECURITY STANDARDS TODAY

- States:
  - New York's new rules
  - Massachusetts existing data security regs
  - 47 data breach notification laws across the US
  - Additional such laws in U.S. territories, and myriad of other industry-specific regulations creating a complex set of standards
- Federal
  - Various privacy laws, e.g., GLBA and FCRA
  - Proposed Joint Rules (OCC, FR, FDIC) – *Enhanced Cyber Risk Management Standards*
- National Institute of Standards and Technology (NIST)

# 47 different data breach notification requirements



"NEXT..."

WHAT WE NEED NOW IS

# CONSOLIDATION AND SIMPLICITY

“Cybersecurity is a top threat, to America and worldwide. We have made progress in developing practical standards, best practices and systems for information sharing and coordinating threat response. There also is a panoply of technological solutions available to detect, prevent and respond to cyber threats. Yet it is still not enough. More needs to be done. The approach must be ***practical, flexible and resilient***. Otherwise, we threaten to undermine our security posture by distracting organizations with uncoordinated, ineffective “check the box” security protocols that divert resources from more potent security operations and emphasize compliance over security. We, as a nation, cannot take that risk.”

*Judith H. Germano, Senior Fellow at the New York University Center for Cybersecurity and an Adjunct Professor at NYU School of Law*

# NO ONE WANTS TO BE UNPREPARED



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# REGULATORS ARE OBLIGATED TO TAKE ACTION

Many regulators and government officials have felt compelled to take a stand on cybersecurity. It seems counterintuitive to set out to protect constituents by inaction.

But the wrong type of action, including through inflexible and far-reaching state required mandates, only adds to the growing clamor of distractions about how companies should best secure their systems.

# NEW YORK – HIGH LEVEL OVERVIEW

- Cybersecurity Program
- Information Systems
- Risk Assessment
- Technical Requirements (based on RA)
- Administrative Requirements
- Notices and Filings

# NEW YORK STANDARDS, MIXED REVIEWS

- Excellent standard for cybersecurity best practices
- Removes the discretion companies need to prioritize their risk and allocate resources to ensure the greatest security
- Sets minimum regulatory standards for cybersecurity while not being overly prescriptive
- Industry burden
  - Estimated cost for NY alone to implement – 6 figures

# ONE SIZE DOES NOT FIT ALL

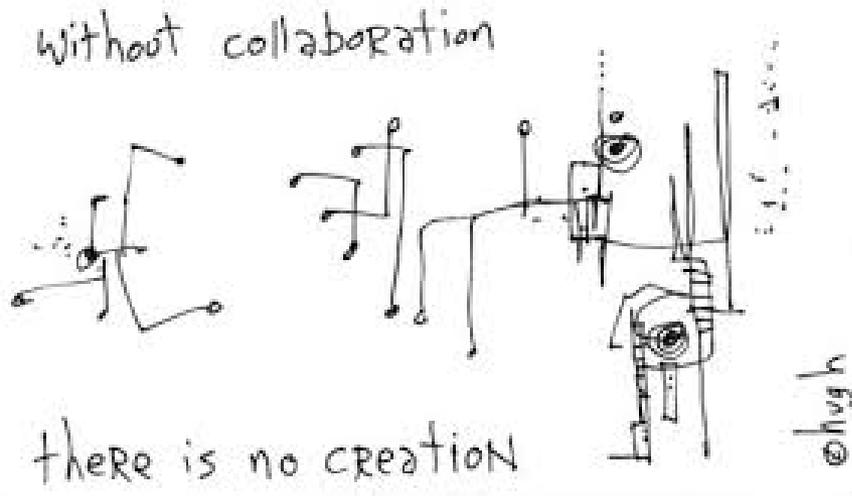
Take into consideration the size of the entities and available resources

(community banks, to smaller non-depositories, credit unions)

- Cost
- Resources
- Deadlines
- Business model

Too Big to Fail; Too Small to Comply

## LET'S COORDINATE AND COLLABORATE



Increased regulatory fragmentation unduly diverts focus and resources, and ultimately threatens to make us more vulnerable to cyber attacks. Instead of a fractured approach by state, we need a coordinated national strategy for regulating cybersecurity.

# WORKING TOGETHER ....

Work needs to be done, not on a state-by-state and industry-by-industry basis, but through a cohesive, national cybersecurity dialogue and plan.

We collectively must strike the right balance between mandating reasonable and flexible policies and programs, and allowing entities and industries to develop an individualized and effective risk-based approach to preventing, detecting and responding to cyber threats.

- **MODEL-UNIFORM CYBERSECURITY RULES**  
Let's Create a Task Force
  - Need representatives from a variety of lending institutions
    - Perspectives will vary depending on products, size, entity type, etc.
  - Need representatives from states and feds
  - We've done this before:
    - SAFE Act
    - NMLS – Licensing & Testing Uniformity
    - Multi-state Mortgage Committee Examinations
    - Uniform Exam Questionnaire

