CSBS FIAP Working Group
Exemptions

- Exemption landscape varies from State to State: no one size fits all!
- FinCEN exemption for payment processor does not necessary translate into State level exemptions
- Members of the working group have also experienced different analysis, interpretation and/or application of exemptions from State to State
- Some States are preempted by legislative changes when proposing regulatory exemptions, while others have found an alternative to this requirement by issuing Opinions and effectively expanding upon their statutory exemptions to address risk of loss impact
- Focus should be on consumer protection while balancing the risk of loss
Exemptions

Focusing on the Main Concerns Regulation is Meant to Address - Consumer Protection and Money Laundering

- Differentiate between transactions initiated by an individual vs. initiated by a business

- Remedy the individual would have against the money transmitter vs. contractual claim by the business - who owns the risk of loss?

- Facilitation of payments between businesses - escalation of SARs under MSB registration?

- Payment of government-owed taxes by businesses - identifying the risk

- Supervision and auditing rights by partner banking institutions, with reporting obligations to governmental agencies
Process Inefficiencies for Current Licensees

• Inconsistent adoption and usage of NMLS by States
  • 49 jurisdictions have money transmission license requirements
  • Out of those 49 jurisdictions 8 have not adopted NMLS
  • Out of the remaining 41 that use NMLS only 7 use NMLS fully and don’t require any additional or outside information or filings

Net result is 42 jurisdictions require unique processes outside of NMLS
Process Inefficiencies for Current Licensees

• **Process customization** - Submission of different reports requesting similar data
  
  *State specific reports that seemingly seek the same data points but in different formats, time periods and different levels of detail.*

• **Process Redundancy** - Submission of same document via different delivery mechanisms
  
  *Submissions of the same document via their own State website, email or mail.*

• **Process Duplication** - Duplicate Submissions of the same documents
  
  *Submission of the same documents or package of documents for the same purpose multiple times.*
The Control Landscape (State by State)

- Requirement Differences
  e.g. Definitions (10%, 15%, 20%) leads to the same corporate event having vastly different treatment.

- Process Differences
  e.g. Notification vs. Approval

Opportunity for harmonization to unlock efficiencies for both licensees and regulators
Control Landscape

• FinTech Companies and Venture Capital
  • Fund structure of Venture Capital
  • Funds vs. Management Companies
  • Passive Investments
  
  *Opportunity to identify already approved funds, potentially streamline/customize vetting to accommodate fund/management company due diligence*

• International Persons
  
  *Attracting the best global talent to ensure that the US market remains competitive requires us to be able to efficiently and effectively vet non-US residents for senior positions with licensees. (Control and Directors)*

  *Opportunities to streamline background checks and other requirements, while maintaining the principles of safety, soundness and prudential responsibility*
Regulators and industry share common goals to protect the funds entrusted to licensees by ensuring that they demonstrate, among other things, financial safety and soundness while also enabling the industry to innovate and grow. Harmonizing financial customer protection laws can best further these goals.

Industry has identified the below harmonization opportunities in **order of priority**:

1. **Permissible Investments (PI):** Uniform treatment across states leveraging a common methodology for how PI are:
   - **Defined:** Align on consistent categories, definitions, criteria and limits for what qualifies as permissible investments (e.g. ACH / card receivables, agent receivables, bank letters of credit, surety bonds, money market funds and repurchase agreements)
   - **Calculated:** Leverage U.S. Generally Accepted Accounting Principles to calculate permissible investments
   - **Maintained:** Apply a consistent approach for maintaining the security of permissible investments (e.g. current FDIC account requirements do not meaningfully mitigate financial risks)

2. **Net Worth:** A nationwide net worth requirement for licensees

3. **Surety Bond:** A nationwide surety bond standard for licensees
Supervision

• Multi-State exam schedule coordinated by CSBS provides relief and generates better planning for licensees
  • Early examination schedule notice
  • Early exam request list
  • Offsite planning in advance of the onsite

• Option for reliance of prior exam results

• Wish list
  • Annual examination schedule
  • Common examination request list
  • Communication on examination expectation prior to licensing