

ESCROW ADVISORY COMMITTEE MEETING

July 29, 2024

10:00 AM – 12:00 PM

300 S. Spring St., 15th floor conference room, Los Angeles, CA 90013

Or via. Microsoft Teams

Department of Financial Protection and Innovation Represented by:

Greg Young, Senior Deputy Commissioner
Sheila Oliver, Deputy Commissioner
Paul Liang, Assistant Deputy Commissioner
Milad Farag, Special Administrator – Regulatory
Sultanna Wan, Special Administrator - Licensing
Affi Eghbaldari, Senior Counsel

Committee Members:

Barry Sender, Granite Escrow & Settlement Services / Other Business Ownership
Heidi Cassel, Solaris Escrow, Inc. / Medium Sized Escrow Company
Juliana Tu, Viva Escrow! Inc. / Business Specialization
Larry Black via phone, Diamond Country Escrow, Inc. / Small Business
Matthew Davis, Esq., Davis & Davis Law Group, APC
Nancy Silberberg, Altus Escrow, Inc./Past Chairperson EIC*
Patricia J. (P.J.) Garcia, Beach Pacific Escrow, Inc./Chairperson EIC *
Patrick Felde, Certified Public Accountant

* Escrow Institute of California

** Escrow Agents' Fidelity Corporation

1. Welcome and Opening Remarks

Paul Liang welcomed advisory committee members attending the meeting either in person or virtually. Liang conducted a roll call, confirming that a quorum was present, allowing the meeting to proceed. Liang clarified the meeting would continue the discussion from the June 18 meeting.

2. Review and Approval of Minutes for 6/18/24 meeting

Advisory members received the minutes of the previous meeting in advance. Matthew Davis noted the minutes did not capture his request for additional information regarding surrender requests. Nancy Silberberg corrected a question she had asked, which had been noted as a comment. Liang stated the minutes would be revised and reposted on the DFPI's website. Silberberg made a motion to approve the minutes, and Barry Sender seconded the motion. The minutes were then approved.

3. NMLS

Sheila mentioned several advisory members brought up NMLS during the previous meeting. She proposed providing an overview of the system and seeking feedback on whether the escrow industry could benefit from its use. NMLS is the Nationwide Multistate Licensing System, a system of record for depository institutions, their subsidiaries, mortgage loan originators, mortgage bankers, and other financial service providers for licensing or registration purposes. It is utilized by 47 state agencies, including the District of Columbia and Puerto Rico, for tasks such as license renewals, applications, and surrenders. However, NMLS does not grant or deny licenses; that authority remains with each participating state. The system allows users to view licensing records, submit paperwork and payments electronically, track application progress, and receive notifications about deficiencies, approvals, or regulatory actions.

Silberberg shared that her office uses NMLS to verify that loan officers or lenders are licensed and to check their addresses. She questioned whether licensees' confidential information, such as fingerprint background checks, would be visible to the public. Oliver responded that the system could be customized to control the visibility of certain information. Garcia asked if there were any impediment to adopting this system, noting that NMLS has been discussed in prior meetings. Liang explained that adopting NMLS would require legislative changes to amend the current statute, which would enable the industry to transition to this system. He highlighted that the system would facilitate paperless submission of various applications, reports, and requests. Davis expressed concerns about consistency in review procedures among licensing examiners. Oliver acknowledged these concerns, noting that the system promotes transparency and accountability.

Greg Young described the migration to NMLS as a move toward greater efficiency, mentioning that other DFPI programs have already transitioned to NMLS. He emphasized that there would be ample opportunities to address industry concerns before implementation, should the statute be amended. Young encouraged the industry to focus on how NMLS could be customized to meet its needs. Davis suggested that discussions about moving to NMLS should include an evaluation of DFPI's current processes. Garcia requested more information on NMLS's efficiency and asked Davis to provide a list of his concerns regarding DFPI's processes. Garcia reiterated that the goal is to create efficiencies. Liang acknowledged the members' concerns and reiterated that the system could be customized to ensure consistency, transparency, and accountability. Barry Sender suggested that the industry could collaborate with DFPI during the development process to design various forms and reports. Liang mentioned that some review processes could be automated, allowing the system to verify data accuracy and send notifications. He also noted that NMLS includes an electronic surety bond feature, which has been used by other DFPI programs. Larry Black expressed his support for transitioning to NMLS, noting that the system could eventually support individual licenses. Heidi Cassel emphasized the importance of keeping licensees' records segregated, ensuring that each company's information remains private. She supported the idea of starting with an overview of DFPI's plans and collaborating to customize the system. Advisory members discussed the implementation costs, maintenance costs, and other expenses associated with using NMLS. Davis asked if data from other DFPI programs that

have transitioned to NMLS could be provided to demonstrate the system's efficiency and cost savings. Liang offered to arrange a presentation from a DFPI program that uses NMLS to share its experiences.

4. Referral fee violations

Advisory members expressed concerns about referral fee practices in the industry. Liang noted that referral fee cases are being evaluated on a case-by-case basis. When a DFPI examiner finds sufficient evidence of kickbacks or referral fees, the matter is referred to DFPI Enforcement for appropriate action. Most advisory members felt that the current referral fee provision in the escrow law does not need amendment for clarification on prohibited compensations. They requested DFPI to issue a guidance memorandum on referral fee practices and to remind licensees of the consequences of violating this provision. Liang stated that DFPI would consider this request.

5. Remote Work

Liang provided a summary of the remote work issue since the COVID-19 pandemic. On March 22, 2020, DFPI issued a COVID-19 remote work guidance memo stating that it would not take enforcement action against escrow licensees operating at unlicensed locations during the state of emergency. On February 25, 2022, the Governor declared the end of the state of emergency, prompting DFPI to resume enforcement actions against escrow licensees operating at unlicensed locations. In 2022, the EIC sponsored a remote work bill, SB 484. Since the last advisory meeting, DFPI was informed that the bill would not move forward.

Liang stated that if an escrow licensee allows employees to process escrow from an unlicensed location, DFPI examiners will take exception and may refer the matter to enforcement. DFPI will issue written guidance on this issue, and escrow companies should evaluate their practices to ensure compliance.

Garcia, speaking on behalf of EIC, disagreed with DFPI's interpretation of escrow law regarding remote work. She stated that the statute pertains to maintaining books and records at a licensed location and that remote access to these records does not constitute a violation. Davis agreed, stating that DFPI's interpretation is unsupported by the statute, which focuses on physical records. Liang responded that licensees could submit written feedback when the guidance memo is issued, and they could also request a legal interpretative opinion from DFPI's legal division if they believe the interpretation is incorrect. Several advisory members suggested revisiting the remote work bill and working with DFPI to address the issue.

6. Escrow License

The advisory committee agreed to postpone the discussion on escrow licenses until the next meeting due to time constraints.

7. Public Comments

There were no public comments.

8. Closing Remarks

Liang thanked everyone for their attendance and participation. The next meeting is tentatively scheduled for September 10, 2024, from 9:00 a.m. to noon at the DFPI Los Angeles office. The meeting adjourned at 12:10 p.m.