Advancing State Laws for Networked Supervision

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NETWORKED SUPERVISION CHAMPION

Mark Hastie

Director of Non-Depository Financial Institutions,
Minnesota Department of Commerce

The CSBS Networked Supervision Champions program recognizes state agency staff who are going above and beyond to empower the multistate network for better financial supervision and industry compliance. Congratulations Mark Hastie!

State financial regulators are focused on implementing consistent standards and practices across the state system to streamline the regulation of nonbank financial companies operating in multiple states. Minnesota is the first state to adopt all three model laws recently established through the Conference of State Bank Supervisors (CSBS): the Money Transmitter Modernization Act, Prudential Standards for Nonbank

Mortgage Servicers, and the Nonbank Model Data Security Law.

“Non-depository financial institutions have experienced tremendous growth in the last 10 to 15 years,” said Mark Hastie, director of non-depository financial institutions at the Minnesota Department of Commerce. “Especially since the financial crisis, an increasing number of nonbank companies that we regulate operate across several states, many operating in all fifty states.”

He describes Minnesota’s adoption of model state laws as modernization to keep pace with the rapid changes impacting nonbank mortgage lending, money transmitter services, and digital currencies.

“We support state laws that have modernized standards across the board and provide better consumer protection in all areas of service offered by nonbank industries,” Hastie said.

Helping states modify the regulatory landscape to address this transformation is one of the major goals of Networked Supervision, the approach developed by state regulators to produce a more collaborative regulatory framework and stronger consumer protections. The enactment of model legislation that modernizes and standardizes requirements makes collaboration across states easier.

“With states having primary regulatory responsibility for so many of these companies, the ability for us to coordinate our supervision is critical to protect our consumers,” Hastie said. “And from the industry side, model laws enacted across multiple states make it more likely that the companies we regulate will be consistently compliant.”

CSBS Focus on Model Legislation

State regulators, through CSBS, have crafted and promoted model legislation to foster the multistate collaboration that is the foundation of Networked Supervision, incorporating the expertise of supervisors like Hastie across the country.

Hastie’s background is ideally suited for someone leading the charge to update state regulations. Prior to joining the Minnesota Department of Commerce in 2014, his experience included some time working as a non-partisan staff attorney helping to draft new laws for the Minnesota state legislature. He then spent several years in the Minnesota Commerce Department’s enforcement division, overseeing investigations of complaints around consumer finance and money transmitter businesses, before he joined the financial institutions division. He currently leads a 25-member team supervising non-depository institutions, including nonbank mortgage lenders, money services businesses, and consumer finance companies.

When CSBS formed working groups to develop model legislation, Hastie was a natural choice and eager to help. The working groups crafted three model state laws, each of which address areas of nonbank financial services that have transformed dramatically in recent years.

Money Transmitter Modernization Act

Money transmitter companies that are most frequently used, such as PayPal and its subsidiary Venmo, didn’t exist 25 years ago, when most state financial statutes were written. Back then, money transmitter services such as Western Union, were primarily conducted in-person at retail stores.

“The old system was based on how many locations or physical offices a company had,” says Hastie. “Today, in-person money transmission locations handle far fewer transactions than big online money transmitters. Venmo and PayPal don’t even have offices or locations in our state. The new law focuses on the volume of money that is transmitted by a company.

The Money Transmitter Modernization Act (MTMA) establishes a consistent set of nationwide standards, including capital, liquidity, and surety bond requirements, to modernize the supervision and regulation of money transmitters. Under the model legislation, money transmitters are required by states to safeguard customer funds by holding a mandatory 1-for-1 liquidity reserve. For example, if a money transmitter has $1 million of customer funds, the firm must have $1 million in liquidity in the form of permissible investments.

All money transmitters covered by MTMA also must maintain tangible net worth that scales with a company’s growth. The more assets a company holds, the higher the capital requirement. This capital cushion must be maintained in concert with the 1-for-1 liquidity reserve.

“The new model legislation provides protections for consumers to make them whole if something were to happen to the transmitter company,” explained Hastie.

Prudential Standards for Nonbank Mortgage Servicers

Another financial sector that has recently undergone significant change is mortgage servicing.

“Some people are surprised to hear that nonbank mortgage companies now service the majority of mortgages in the country,” Hastie said.

The CSBS Prudential Standards for Nonbank Mortgage Servicers harmonizes requirements around capital, liquidity, and corporate governance, including audit, risk management, and board oversight. The financial condition provisions align with the Federal Housing Finance Agency's minimum financial eligibility requirements for mortgage seller/servicers, providing state supervision and enforcement of these common requirements.

“Our model legislation requires nonbank mortgage servicers to plan ahead and assess risks to minimize the potential for consumer harm,” Hastie said.

Nonbank Model Data Security

Protecting online consumer data is an area of increasing concern for both regulators and the companies they supervise. The Nonbank Model Security Law is a state version of a Federal Trade Commission’s Safeguards Rule that requires financial services companies to take proactive measures to protect consumer data, notify consumers when their data has been breached, and apply additional safeguards when consumer data has been compromised.

“It’s advantageous to have a state law that grants specific authority for supervision and enforcement of those standards,” said Hastie. “The model law is designed to make sure these institutions are assessing the risk of a data breach and that they are prepared to respond.”

The law specifically requires the institutions to notify state regulators when there is a cybersecurity event affecting a certain number of consumers.

“It allows us to go in and conduct an assessment of their response and assist consumers if their information is compromised,” Hastie said.

The Advantages of Model Legislation

Hastie found an unexpected benefit as he advocated for the model legislation with Minnesota lawmakers. “As we demonstrate how the nonbank industry has grown, we’ve made policymakers more aware of the advanced technologies the industry uses” reported Hastie. “What’s more, legislators are aware that effective regulation requires the allocation of resources to appropriately address this new reality.”

Most importantly, Hastie says the model legislation is a key ingredient to leveraging multistate resources for successful Networked Supervision.

“I think one of the most critical elements incorporated into all of the model laws are the provisions around information sharing and data sharing, giving states the ability to share what they know with other states,” said Hastie.

“Rather than having a team of just 25 people in our state, we have a much larger team across all the states. And that allows us to have a stronger regulatory environment across the country.”

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