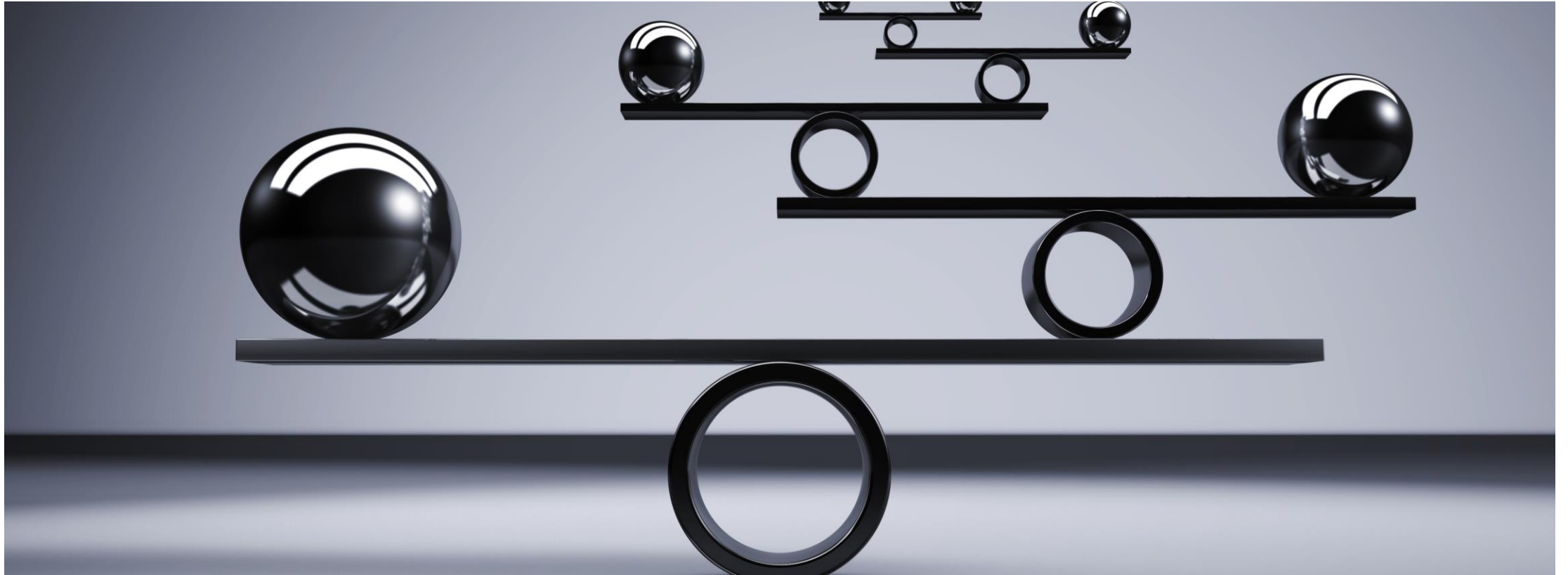


# **In the States: Mortgage Regulatory Issues and Trends**

Chuck Cross  
SVP Nonbank Supervision



# Who is CSBS and What is Nonbank Supervision?



# State Examination Findings

- Failures to provide adverse action letters and timing of denials
- Inappropriate fee charges (advance appraisal fee)
- Application date issues and blanks on signed documents
- Call Report filing issues
- Records retention
- Truth in Lending violations
- Failure to provide HECM handbook

# Model State Regulatory Prudential Standards for Nonbank Mortgage Servicers

Prudential Standards = Financial Condition + Corporate Governance



# Why the Standards and Why Now?

Risks are emerging in the mortgage sector especially for servicers

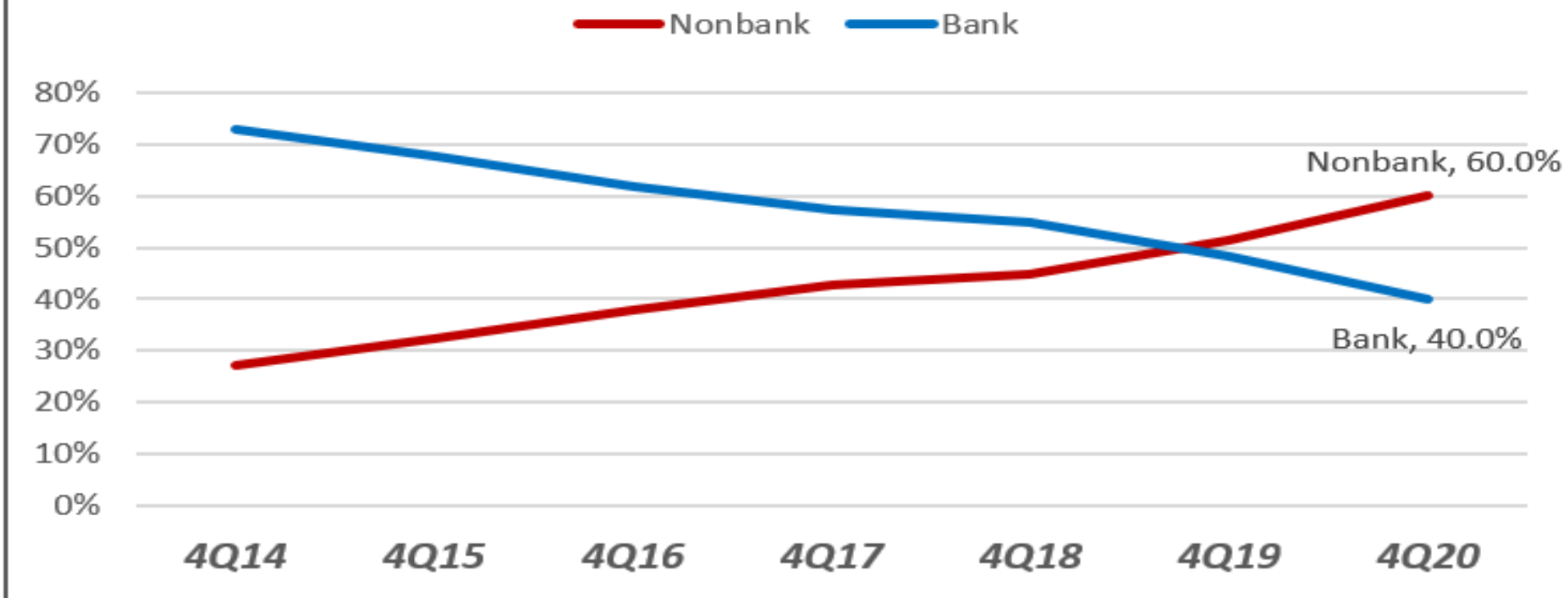
States are responsible for supervision

- **Fannie/Freddie/Ginnie are not regulators;**
- **their collective mission is to make markets and protect investors, not consumers**

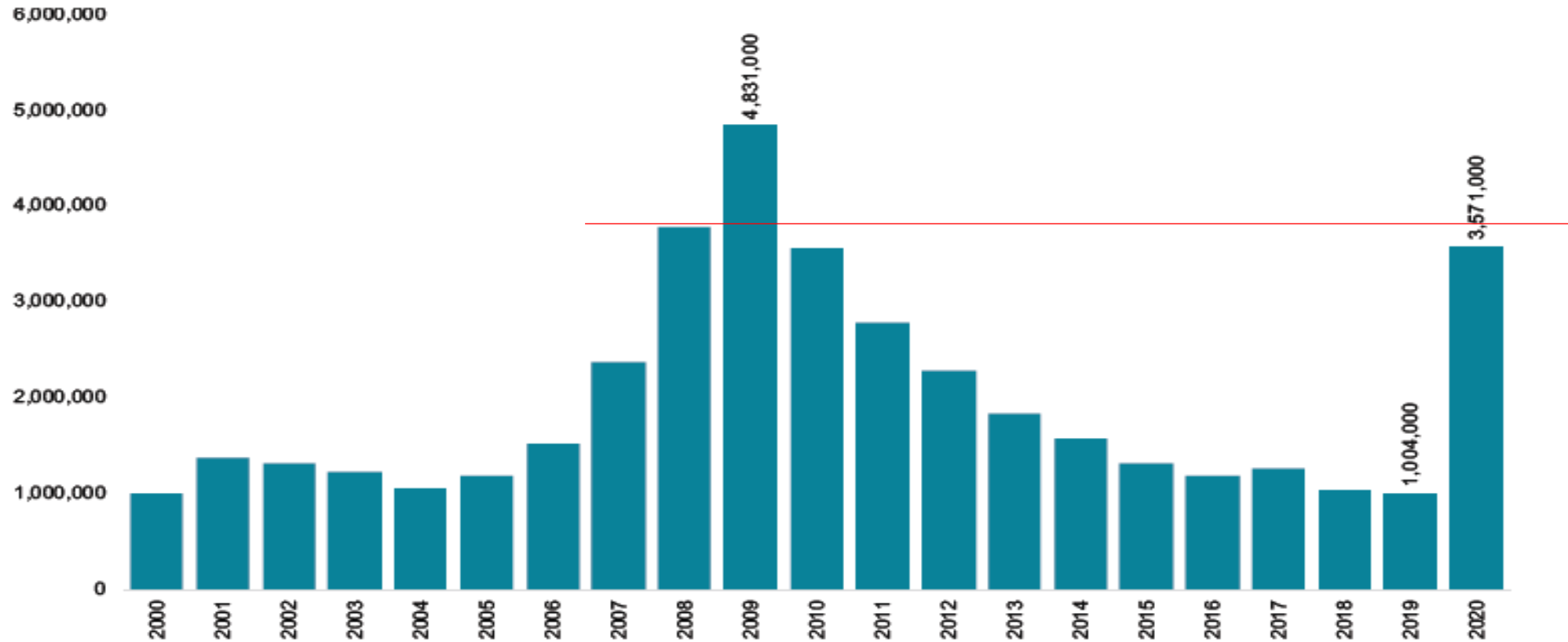
Waiting for a crisis to implement standards is a risky plan

## Agency MBS Servicing Share by Institution Type

(Source: Inside Mortgage Finance)



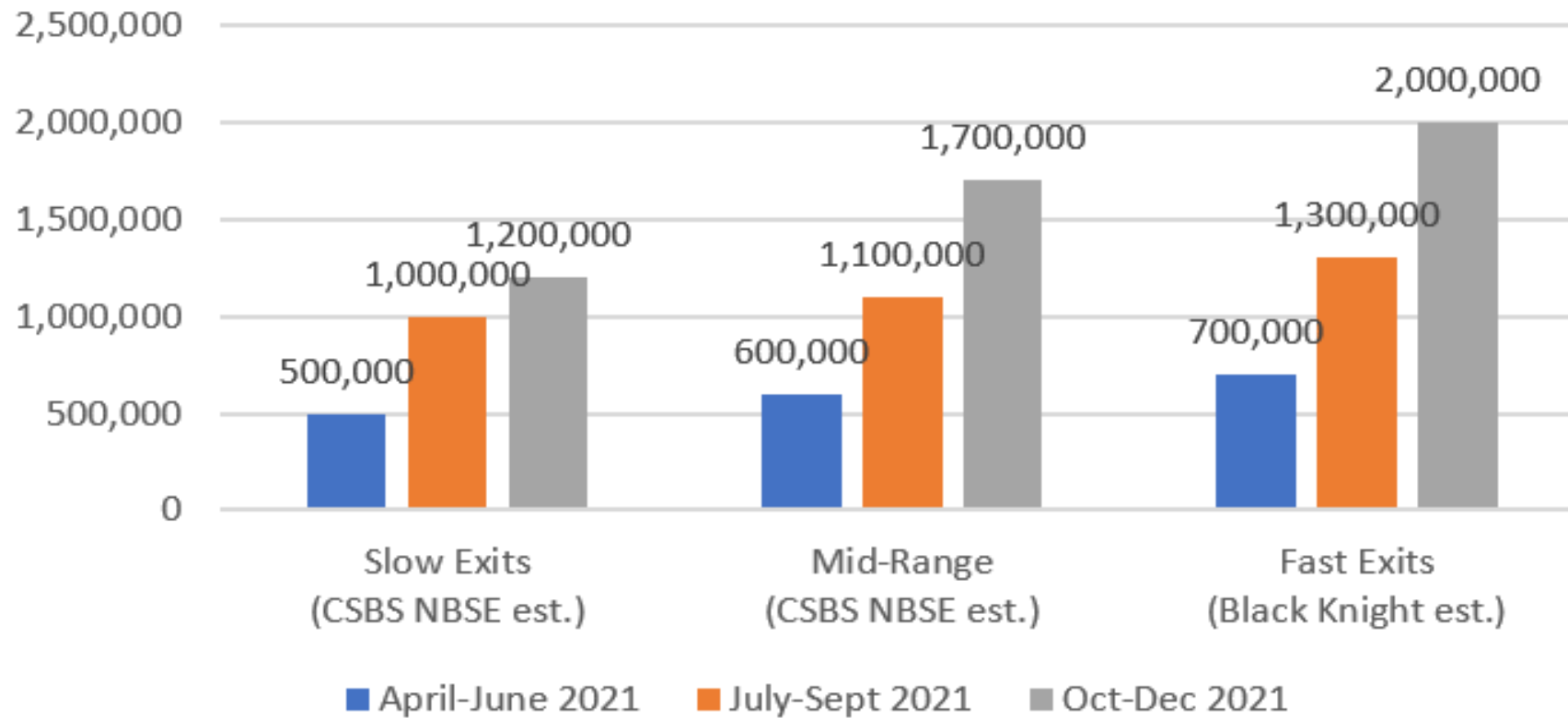
## 90-DAY DEFAULTS BY YEAR



Source: McDash BlackKnight Inc; Dec. 2020

~68% of 2009 seriously delinquent ended up in foreclosure

## Projections of Borrowers Exiting Forbearance 2Q - 4Q 2021





# The Last Six Months - Condensed

- Published the standards for comment Oct. 1
- Received 17 industry written comments and conducted several one-on-one discussions with industry leadership
- NonDepository Supervisory Committee or NDSC is the high-level state committee tasked with leading this initiative. The NDSC reviewed comments and made specific accept/reject/compromise determinations in February.
- The NDSC reviewed an initial final standards draft last week and provided further direction

# Proposed Standards

Focused on Financial Condition and Corporate Governance

- **Capital and Liquidity**
- **Risk Management**
- **Data Standards and Borrower Information**
- **Data Protection, including Cyber Risk**
- **Servicing Transfer Requirements**

Baseline Standards and Enhanced Standards

- **Baseline = bright line requirements**
- **Enhanced = subjective requirements for large, complex servicers**



# Comment Categories

Insufficient Risk Established by CSBS; No established need; Lack of authority

Alignment with Federal Agencies is paramount

Coverage: What is de minimis cutoff?

Financial Condition: primarily concerned with liquidity requirements and use of lines of credit for funding

Corporate Governance and Risk Management Concerns

Implementation Concerns: Uniformity and Timing

# NDSC Direction and Revisions to Final

- Convert format to a more official looking document similar to Federal Register rather than a policy discussion piece
- Make the requirements look more like statutory language
- Reduce the subjectivity in the Enhanced Standards to a commissioner authority to act accordingly based on risk

# Also Being Considered

- Convert Enhanced Standards to Enhanced Guidelines
- Eliminate Complex Servicer definition
- Considering modification of reverse mortgage servicing exemption to include coverage for Corporate Governance

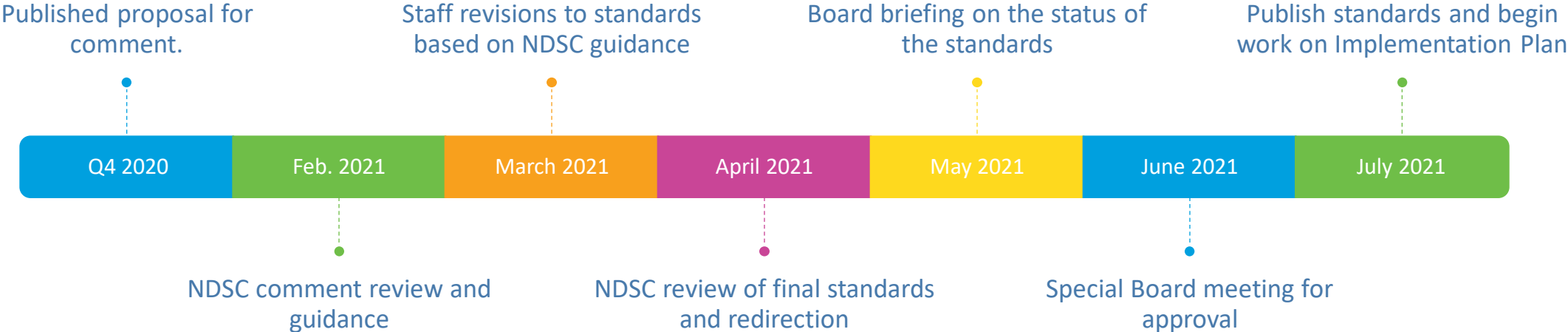
# What Final Model Will Likely Include

- Coverage and Financial Condition
  - **Coverage: 2,000 owned MSR**s and operating in 2 or more states
  - **Capital (aligns w/FHFA):**
    - 6% ratio
    - \$2.5M net worth
    - Add 25bp of UPB for MSR owners
  - **Liquidity (aligns w/FHFA):**
    - 3.5bp of UPB serviced
    - Add 200bp of Nonperforming UPB greater than 6% of total
    - No borrowings allowed
    - Must have plan for maintaining operating liquidity

# What Final Model Will Likely Include

- Corporate Governance:
  - Board of directors
  - Internal audit function
  - External audit
  - Risk management program
  - Data standards
  - Data protection, including Cyber
  - Servicing transfers must follow Reg X

# Current Timeline for Prudential Standards Governance Path





# One Company One Exam

- CSBS Strategic Plan initiative
- Follows successful OCOE for MSBs
- Reduces burden on regulators and industry
- Enhances Networked Supervision and Supervisory Effectiveness

## NWS Priorities: OCOE Mortgage Pilot



All 50+ state mortgage regulators have agreed to participate in the mortgage OCOE pilot.

- Participating
- Leveraging
- Accepting
- Moratorium



The mortgage OCOE includes a full-scope review of the origination, servicing and IT/Cybersecurity activities of the company.



“Finally, these actions must bring **efficiencies for regulators and for industry** while **enhancing consumer protection.**”

2020-2023 CSBS Strategic Plan

# How does OCOE differ from a Multistate Exam?

- All states participate vs most states participate
- Theoretically, no one-off exams ... except for special situations
- Industry should see a reduction in time, duplication and travel cost
- State regulators should see a reduction in duplication and a more effective and efficient examination process

# The State Examination System

One system, supporting exams, investigations, and consumer complaints

## Exams and investigations

- End to end (from scheduling to exam close-out)
- Supports all nonbank industries
- Went live nationwide in March 2020

## Consumer complaints

- Facilitates all consumer complaints interactions between the agency and company
- No consumer-facing functionality at this time
- Used for depository and all nonbank industries
- Went live nationwide in September 2020

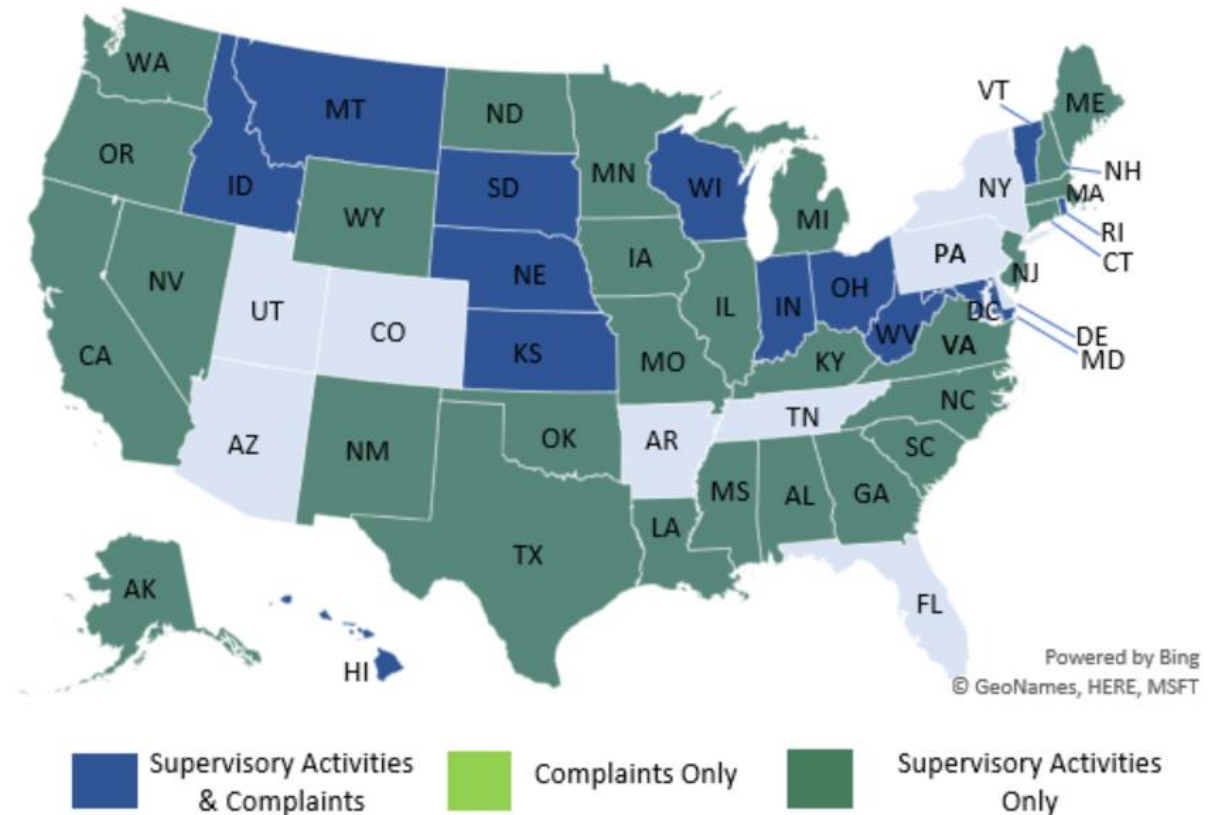
# State of the System

41 agencies onboarded and are using it for exams/investigations

12 agencies are using complaints functionality

- Additional agencies join quarterly
- 750+ exams/investigations
  - Mortgage, MSB, Consumer Finance, Debt
- 650+ (approx.) complaints
  - All industry types (bank and non-bank)
- Over 3,000 company users and approximately 1,000 agency users

## SES Agency Users



# SES benefits to regulators, companies, and the state system ... It's not just for us



## SES benefits for state agencies

- Manage exams, investigations, and complaints in a **single platform**
- State-specific materials, like information requests, can be **flexibly managed** by each agency
- Create tailored and consistent exam scopes, **reducing burden** on companies and regulator teams
- **Leverage** the work of other states to better focus agency resources
- Web based—allows for full **remote work**



## SES benefits for companies

- Easily understand and track **status** of all supervisory activities
- **Securely respond** and upload appropriate documentation
- **Manage** all supervisory activities (exams, investigations, and complaints) in one system
- Independent **control** over the company's users and profile
- New features coming soon to **streamline** common requests



## Benefits for the state system

- Builds a strong, **resilient** state system that increases consumer protection
- Promotes networked supervision by **reducing redundancy** and increasing efficiencies
- Allows agencies to build on **best practices** and **strengths** from agencies nationwide
- Provides a **uniform platform** to implement policy changes consistently nationwide

# Mortgage Call Report – It Matters!

- Mortgage Call Reports are an annual or quarterly requirement, depending on size and complexity of the institution.
- An officer of the institution must make a legal attestation that the information is accurate ... this should not be taken lightly.
- A significant number of institutions frequently report incorrect data.

# MCR Importance continued

- Call report information is important for effective supervision. It is the information used to determine when companies will be examined and what the scope of the exam needs to be.
- For this same reason, the call report information is important for the institution. Bad data can result in incorrectly scheduled examinations or investigations, or areas being investigated not because there was an adverse or significant change, but merely from bad data being reported.



# What should you expect?

- More questions, more state examiner reconciling, and in severe cases or cases of failure to correct bad reports, enforcement actions.
- Red flag or exception reports identify things that don't look right in the filings. Examiners will challenge these filings and offer the company the chance to correct the data or reverify that it is accurate.
- Expect exam teams to follow up on this clean up opportunity to confirm that the institution report is true and accurate.
- Remember, you made a legal attestation of accurate data!

# Work From Home

- We get it ... all of us are working from home too!
- Most states' authority is connected to Governor's orders though. Commissioner flexibility is tied to those orders.
- Without emergency orders, states are left with a relatively rigid law.

# Work From Home

- Certain states have made permanent MLOs working from a remote location.
  - **New law: AR, WA.**
  - **Regulation: MD, MN.**
  - **Texas and Vermont have active bills underway.**
- Some require the remote location to be the MLOs residence.
- Commissioner authority to set rules regarding information security, appropriate supervision, etc.
-

# Work From Home continued

- Most states still have guidance in place, either “effective until rescinded” or with a date later this year.
- A few states, such as SD have not extended.
- No state has expressed specific problems.
- Industry needs to be active if amendment is desired.

# Questions?

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