



MULTISTATE MORTGAGE COMMITTEE  
REPORT TO STATE REGULATORS  
AUGUST 2010

## INTRODUCTION

By early 2009, 49 states plus the District of Columbia and Puerto Rico had signed the Nationwide Cooperative Protocol and Agreement for Mortgage Supervision (the Agreement)<sup>1</sup> outlining a basic framework for the coordination and supervision of multistate mortgage entities. The initiative established the Multistate Mortgage Committee (MMC) comprised of ten state regulatory officials appointed by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) as the oversight body charged with implementing and directing processes under the Agreement.

The MMC is responsible for the selection of examination targets and coordinating multistate examinations. In addition, the MMC is responsible for the development of uniform examination processes and the modernization of traditional examination approaches for achieving more effective supervision. The MMC has embraced these responsibilities enthusiastically and thanks the agreed states for their cooperative support and availability of examination resources.

This MMC Report to State Regulators is made under Article 3, Section 3.5(k) of the Agreement. It is the second annual report for the MMC and covers the reporting period of August 2009 to August 2010. Detailed herein is a significant amount of work by the MMC and agreed states promoting, coordinating and supporting uniformity and standardization across state lines. The report itself, while addressed to state regulators, is considered a public document available for broad dissemination and reference by the agreed states or others.

## 2009/2010 GOALS AND ACHIEVEMENTS

In its 2009 Report to State Regulators, the MMC challenged itself with an assignment of Uniformity, Modernization and Effectiveness in mortgage supervisory processes. A global state initiative as broad as achieving uniformity, modernization and effectiveness not only across multiple jurisdictions, but across a varied landscape of regulated participants required significant planning, coordination, implementation and testing. The approach has been to identify and complete a series of pragmatic short term goals achievable in near term horizons, and the MMC believes that it is well on track to fulfilling the states' mission set in motion by CSBS and AARMR in 2007.

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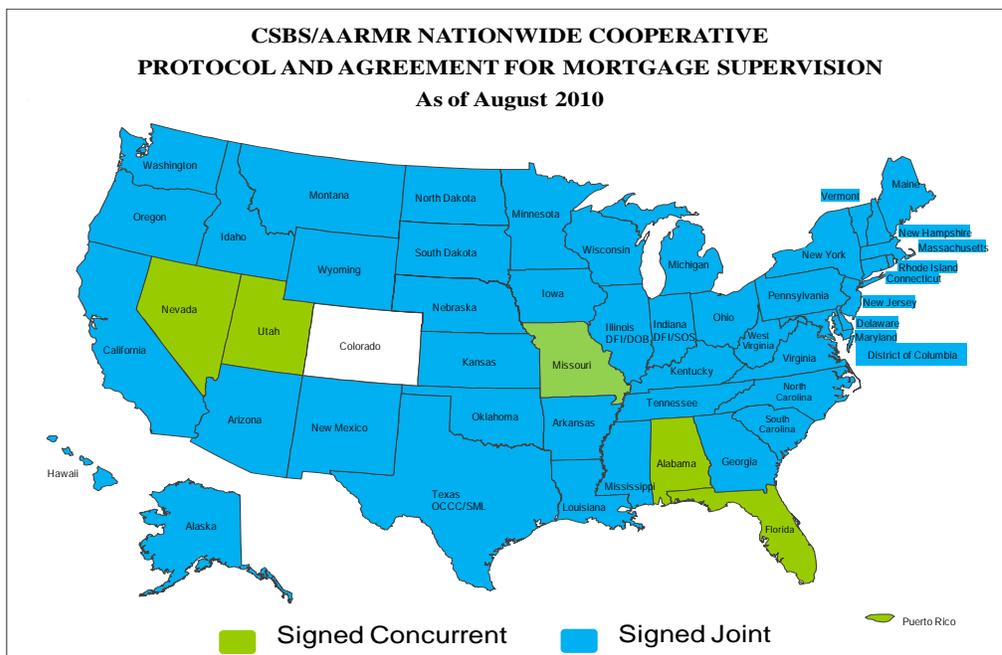
<sup>1</sup> <http://www.csbs.org/regulatory/Cooperative-Agreements/Pages/Agreements.aspx>

The following sections highlight the major achievements of the MMC since August 2009. There are a number of action items and processes not discussed in this report that were necessary for the achievements listed herein. These action items and processes, while integral to the MMC’s mission and success, are part of the MMC’s ordinary course of business and therefore are not accorded individual mention in this report.

### State Cooperative Efforts and Coordination Agreements

The cornerstone of the examination initiative is the Agreement establishing the states’ mission to restructure the mortgage examination process. Working in tandem with the Nationwide Mortgage Licensing System (NMLS)<sup>2</sup>, these dual duties of examination<sup>3</sup> and licensing remain the core responsibilities of mortgage supervision.

The Agreement was amended in May 2009 and the MMC obtained State ratification signatures throughout the succeeding year. Ratification required participating states to identify themselves as either Joint Examination States or Concurrent Examination States. Joint Examination States are those states with the ability to protect confidential supervisory information received from other states and therefore can participate to the fullest extent in multistate examinations and enforcement actions. Concurrent Examination States, while not able to provide the same information protections due to public disclosure law, may participate on a limited basis in examinations and enforcement actions.



<sup>2</sup> [www.stateregulatoryregistry.org](http://www.stateregulatoryregistry.org)

<sup>3</sup> The examination function encompasses investigation and enforcement functions.

The MMC was established under the Agreement as the oversight body for the following agreed goals: (a) protect consumers; (b) ensure the safety and soundness of MMEs<sup>4</sup>; (c) identify and prevent mortgage fraud; (d) supervise and examine in a seamless, flexible and risk-focused manner; (e) minimize regulatory burden and expense; and (f) foster consistency, coordination and communication among the State Regulators. The members of the ten state representative body comprising the 2009/2010 MMC were appointed by CSBS and AARMR to represent all states' mortgage supervision interests under the Agreement. Members serve two year staggered terms and are reappointed or replaced by the CSBS and AARMR boards at the end of each calendar year.

The MMC meets at least monthly and members serve on a variety of work groups focused on institution risk assessment, examination scheduling, and uniformity and standardization of mortgage supervisory processes. In late 2009, due to agency restructuring, Arizona Department of Financial Institutions Assistant Superintendent Tom Giallanza resigned his position with the MMC. This position was filled by AARMR with the appointment of Mark Kaufman, Deputy Commissioner of the State of Maryland.

2009/2010 Multi-State Mortgage Committee

Massachusetts	—	John Prendergast, Chair
Iowa	—	Rod Reed
Kansas	—	Kevin Glendening
Louisiana	—	Darin Domingue
Mississippi	—	Traci McCain
New York	—	Helen Hodge
North Carolina	—	Charlie Fields
Pennsylvania	—	Donald Debastiani
Wyoming	—	Joe Mulberry
Maryland	—	Mark Kaufman (appointed mid-year)

<sup>4</sup> Multistate Mortgage Entity (MME) means any multistate, non-depository mortgage business with operations in two or more states identified by the MMC as a MME for purposes of the Agreement. At the discretion of the MMC, MME may also include multi-jurisdictional entities under the supervisory authority of more than one regulatory body. For example: the MMC may determine for the purposes of multi-jurisdiction coordination under the Agreement to identify an institution operating under the authorities of both a State Regulator and the Office of Housing and Urban Development, the Veterans Administration, the Federal Trade Commission, or other agency with supervisory or law enforcement authority as a MME.

## MMC Examination Initiatives

The MMC examination initiatives are divided into two broad categories: 1) the development and implementation of examination processes, and 2) conducting examinations. The first category is discussed below in detail and includes a uniform examination manual, standardized information requests, onsite and offsite examination procedures, risk profiling procedures, compliance examination software, and a composite report of exam.

Conducting examinations is the core of the MMC's responsibilities. The start of this reporting period roughly coincided with the onsite portion of the MMC's first multistate examination in September 2009. Conducted as an initial pilot for multistate cooperation and as a test of the newly developed processes, the examination included only 8 states led by Pennsylvania as the Examiner in Charge (EIC) state and a single report of exam.

Multistate examinations are structured to be under the field direction of a single EIC. The EIC is responsible for coordinating the various states into onsite and offsite examination teams, drafting and delivering information requests to the institution, assigning responsibilities and overseeing the administrative functions of the examination, acting as the pivotal communication point for the examination, and drafting the examination team findings into a report of examination. The EIC is assisted by a supervisory level examiner known as the MMC Liaison. The Liaison provides MMC oversight and mentoring for the EIC. Together, the EIC and Liaison determine, recommend and report courses of action to the MMC.

The coordination of the second examination began in November 2009 with the actual start of the examination in February 2010. This examination included 30 states participating in both onsite and offsite capacities, confirming for the MMC that collaboration and resource sharing are more important than physical presence. Led by Michigan as the EIC state, 9 states conducted the onsite, or physical portion of the examination, while 21 states operated from remote locations reviewing electronic documents and imaged loan files. As with the first examination, the EIC drafted a composite report based on the participating states' written analysis.

Apparent in the first two multistate examinations is that the comprehensive procedures and multiple regulator process requires more time from start to finish than a single state examination. However, when compared to separate state examinations, each requiring a month or more<sup>5</sup> of pre-exam, examination and post-exam time allocation, the more measured and protracted approach to these early multistate examinations appears to save significant time over the traditional process.

As this report is being published the MMC has examiner teams arriving onsite in the next three multistate examinations. Teams of 26, 19 and 26 states divided into onsite and offsite presence and led by the States of Kansas, Ohio and Washington are already well ahead of the projected exam times in the first two multistate examinations. The MMC improves and refines its processes for effectiveness and efficiency with each examination.

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<sup>5</sup> Single state examinations of large institutions typically require several weeks if not months to complete. Even calculating a period of one month results in an aggregate exam time of significant length.

The MMC recently announced to the states that 8 more examinations are scheduled to begin in the coming weeks, bringing the total number of multistate examinations to 13.

### Collaborative Enforcement

Pursuant to the Agreement, the MMC has the responsibility to “coordinate joint enforcement or supervisory action when necessary.” Although not a new concept, the current approach to coordinated enforcement actions was first used in the 2009 settlement with Taylor, Bean, & Whitaker Mortgage Corporation (TBW). The agreement between TBW and 14 state mortgage regulators followed a coordinated multistate examination of TBW to specifically determine compliance with laws and regulations pertaining to the origination of nontraditional mortgage loans in 2006.

The examination alleged exceptions relating to TBW’s underwriting standards, compliance and risk management practices, and internal control procedures with regard to these loans. Alleged practices included the multiple submissions of loan applications by third-party originators through automated underwriting programs resulting in altered income and asset information for prospective borrowers in order to qualify applicants for mortgage loans. The coordinated settlement resulted in an agreed change in business practices, the adoption of the federal loan modification program to assist struggling homeowners, and the payment of \$9 million to assist the states in their oversight of mortgage origination practices.

In March 2010, CSBS and AARMR announced a second multistate action coordinated under the MMC processes. The 35 state negotiated settlement with CitiFinancial resulted in substantial modifications to the institution’s internal control procedures and a \$1.25 million penalty paid to the joining states.

The agreement was executed following an examination conducted by the Massachusetts Division of Banks to determine compliance with state and federal consumer protection laws. The settlement demonstrated the ability of state regulators to effectively work together to address systemic compliance concerns with a large national lender.

### Continued Modernization through Enhanced Processes

As Stated in the 2009 report, the MMC believes that successful regulation of the mortgage industry lies in the modernization of a century old approach to examinations and supervision. Modernization includes standardized processes tailored to a supervisory program that matches the inherent risk within each institution. While onsite reviews will remain an integral part of the states’ examination program, the way in which these examinations are planned and conducted must be more effective and efficient and incorporate elements of safety and soundness and risk review with compliance testing and consumer protection. The MMC believes that institution

reporting and offsite monitoring will aid the states in understanding and preparing for each institution's risk profile.<sup>6</sup> The simultaneous employment of self regulation and accountability concepts verified through technology and traditional examination methods is the key to a modernized program of supervision.

The MMC has developed the following processes:

- Institution risk assessment procedures to identify examination targets and needs as well as assist in scheduling examinations.
- State notification and "sign on" as a participating state in a scheduled examination.
- An institution history profile form to be used to communicate prior exam information, complaints or enforcement actions to other regulators.
- Uniform exam administration procedures and event timeline.
- Standardized institution information requests, instructions and management questionnaires.
- Loan portfolio log templates.
- Examination guidance, worksheets and checklists.
- Uniform Report of Examination.

The MMC believes that employment of modernized processes and uniform approaches to supervision will foster an environment of effective supervision while minimizing regulatory burden and expense for both the states and the industry. One of the main efforts the MMC has pursued over the last two plus years is the use of sophisticated analysis software to assist in the examination process.

Today's technology presents an opportunity for continued improvement in the mortgage examination process by assisting examiners in reviewing transaction and computation data. An automated compliance review system allows for computational and transactional review of 100% of the loan portfolio. Such review includes an analysis of virtually every loan originated or funded by the institution. An automated system provides the ability to pre-screen the portfolio for a more targeted file review selection and assists in determining the optimum resource needs and scope of the examination. Technology also assists offsite examination functions and should make greater-depth-monitoring possible.

The MMC recommends utilizing an automated compliance system to review the computation and transaction data of 100% of the loan portfolio whenever possible and practical, as is further discussed in the following section.

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<sup>6</sup> Risk Profile means an outline or representation of an institution's risk to the public and itself, based upon an analysis of certain standardized characteristics.

## Supervision Technology

In September 2009, CSBS and AARMR amended and renewed their contract with software vendor ComplianceEase for state use of the ComplianceAnalyzer<sup>®</sup> and HMDA Analyzer /CRA Manager<sup>®</sup> automated compliance systems. The MMC has adopted these tools for use in multistate examinations and makes them available to state regulators at no charge through CSBS and AARMR. To foster uniformity, standardization, effectiveness and efficiency, the MMC encourages states to use these tools in single state examinations as well.

The MMC recommends that lenders also employ some form of automated loan portfolio review to ensure that 100% of the portfolio has been tested for compliance with state and federal law and regulation; however, neither the MMC nor CSBS/AARMR endorse or recommend specific software services to the industry. There are numerous effective programs offered by a variety of vendors and the MMC is working hard to integrate each of these programs with its examination tools.

In practice, the EIC instructs the institution to upload file data before the onsite examination is scheduled to begin. The electronic upload is facilitated through the web portal [www.RegulatorConnect.org](http://www.RegulatorConnect.org). Institutions self register through the portal and obtain instructions and templates for data export and upload. The EIC then extracts the data file and runs it through ComplianceAnalyzer<sup>®</sup>, which reviews the data for violations of federal and state law or regulation. A report is generated from which the EIC can determine the files to be reviewed during the onsite or offsite examination using traditional examination methods.

One of the main challenges faced by the MMC and state regulators has been the inability of lender systems to feed data directly to the regulator in a form that is readable by the ComplianceAnalyzer<sup>®</sup> program. Currently, industry loan origination data is maintained in a multitude of electronic origination and closing systems, some as varied and independent as the lenders themselves. This lack of industry uniformity complicates attempts to conduct standardized uploads of data.

In late 2009, the MMC began conducting an outreach program with both the mortgage industry and its software vendors to establish “walk-over” programs from lender data sources to the necessary file format. In early 2010, the MMC identified certain large origination and closing system vendors serving a significant portion of the industry and began encouraging these companies to voluntarily create data “walk-overs” that can provide the required export to [www.RegulatorConnect.org](http://www.RegulatorConnect.org).

In order to make this possible, a vendor-specific website called [www.RCCertify.org](http://www.RCCertify.org) was developed and launched in February 2010. The website facilitates origination and documentation system integration as well as third party compliance software system integration. The website contains detailed instructions and free access to the Licensee Examination Format (LEF) necessary for data uploads to the state regulator. At this time, vendors comprising as much as two-thirds of the industry have reported that integration with the required file format will be achieved by late 2010 or early 2011.

The States of Pennsylvania and Washington have taken the lead in data integration by notifying lenders and their associated vendors that data extraction capabilities will be necessary by 2011. Additionally, other states such as Michigan, North Carolina and Connecticut have joined Pennsylvania and Washington in a lender by lender and examination by examination effort to achieve full integration. While these efforts have been complicated and problematic at times, there have also been successes that encourage the MMC to continue striving towards uniform integration as a major part of its modernized processes.

### MMC Uniform Examination Manual

One of the MMC's main goals has been to develop a comprehensive examination manual covering all aspects of mortgage supervision. The MMC Uniform Examination Manual is intended to establish uniform standards for examination in all multistate mortgage examinations. However, each state will be strongly encouraged to use the manual as an intra-state standard in order to create uniformity inside and outside state borders. In addition to examiner use, the manual will be published for use by mortgage institutions, compliance auditing and consulting firms, consumer protection and advocacy groups and any party interested in ascertaining and fulfilling regulatory compliance.

The manual working group is comprised of state regulators with expertise in the covered subject matter. The initial draft of the manual, scheduled for release in mid-August will be approved by the MMC before submission to the states for comment. The comprehensive document is over 200 pages in length. It will be published in PDF form with links to referenced regulations, guidance and imbedded examination tools and worksheets. Individual states will be able to modify the manual with state specific sections and reference links to state laws and regulation.

A phased in release beginning with the Core section of the manual and culminating with sections on Report Writing and Communication, Reverse Mortgage Lending, Technology, Fraud, Investigation/Enforcement, and Fair Lending will take approximately six months. The Core section of the manual includes the following chapters:

- General
- Examination Planning and Administration

- MMC Institution Rating System
- Financial Condition, including Liquidity, Asset Quality, Earnings, Capital, and Market Risk
- Management Review, including Operational, Risk, Financial, and Compliance
- Compliance
- Consumer Protection
- Report of Examination
- Conducting the Multi-State Exam
- Examination Tools

## IN THE COMING YEAR

There are a number of MMC action items and goals that are either under development or nearing implementation. All of the items discussed here were conceived or initiated in 2009 and carry forward as works in progress beyond this reporting period.

### Risk Based Supervision

The MMC's Risk Profiling Group (RPG) is responsible for:

- Identification of Multistate Mortgage Entities (MMEs);
- Establishing the MME Risk Profile standards and criteria; and
- Assigning the MME Risk Rating Valuation based on the Risk Profile of each MME.

The MME Risk Rating Valuation will be used by the MMC to set the MME Examination Schedule for all multistate examinations conducted under the Agreement. Risk Profile standards and criteria are expected to be applied to all MMEs operating in 10 or more states and reported to the MMC no less than once per calendar year. The tools for establishing MME Risk Profiles will include a variety of reports including Call Reports as required under the S.A.F.E. Act.

Risk assessment criteria will be applied to individual institutions resulting in a total Risk Valuation that is measured against the institution's peer group. The purpose of the Risk Rating Valuation is to assign a numerical value of risk to an MME in relation to other MMEs, with a higher Risk Rating Valuation accorded greater examination urgency and focus. The MMC will use the periodic results of these Risk Profiles to determine the coming cycle's multistate examination schedule.

### Multistate Examination Schedule

The MMC formally began 5 multistate examinations during the 2009/2010 reporting period. Eight more examinations are scheduled to begin in the last quarter of this calendar year. While it is premature to predict the actual number of multistate examinations that will begin in the first half of 2011, another 8 examinations for a total of 16 multistate exams are likely for the next reporting period.

Many factors must be considered in projecting a future examination schedule. Among these are the ability to leverage state resources already tapped for single state exams<sup>7</sup>, the complexity and length of ongoing multistate exams, and unanticipated changes in state mandates.

### Advanced Offsite Reviews and Limited Scope Visits

Onsite or physical presence examinations will remain a centerpiece of the MMC's supervisory approach. However, improvements in technology such as ComplianceAnalyzer<sup>®</sup> software, the ability to image and electronically transport actual loan files, and communication mediums such as web meetings allowing examiners to meet "face to face" and collaborate in a virtual onsite manner, greatly enhance the ability to conduct advanced offsite or remote institution reviews.

Further, by pre-screening loan portfolios through ComplianceAnalyzer<sup>®</sup> the examination teams can choose to conduct limited scope visits for institutions exhibiting little to no risk to consumers. Both offsite reviews and limited scope visits offer exciting opportunities for regulators and lower-risk-institutions to realize comprehensive supervision without the cost of travel and examiner hours associated with onsite examinations.

## COMPANION INITIATIVES

### Nationwide Mortgage Licensing System (NMLS) and S.A.F.E. Act Call Reports

The 2008 S.A.F.E. Act requires mortgage licensees to submit to the NMLS reports of condition. The NMLS Mortgage Call Report is intended to fulfill S.A.F.E. Act<sup>8</sup> requirements as well as build on state regulator efforts to create uniform financial and activity reporting requirements across state lines<sup>9</sup>.

The proposed NMLS Mortgage Call Report is comprised of two parts: financial information about the licensee and information about the licensee's mortgage loan activity. The development of the NMLS Mortgage Call Report draws from the Call Reports required of depository institutions and seeks to replace and standardize individual financial and activity reports currently required by state regulators.

The purpose of the NMLS Mortgage Call Report is to provide timely, comprehensive and uniform information concerning the financial condition of licensed mortgage companies, their mortgage loan activities and the production information of their mortgage loan originators.

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<sup>7</sup> Over 14,000 single state mortgage examinations were conducted in 2008.

<sup>8</sup> The SAFE Act is Public Law 110-289 (PL 110-289) and information can be found at: <http://mortgage.nationwidelicencingsystem.org/safe>

<sup>9</sup> State regulators began the process of creating uniform reporting requirements in 2008 when they issued for public comment the "Proposed questions and definitions to be used in Uniform Annual Report functionality."

The objectives of the NMLS Call Reports are as follows:

1. Provide state regulators with the information necessary to replace the unique annual reports currently required by approximately 38 states and to standardize the financial statement information required in over 42 states.
2. Provide state regulators with sufficient information to effectively supervise licensees, such as determining examination schedules, monitoring compliance with state law and requirements of the S.A.F.E. Act (such as holding a surety bond that is reflective of total production volume), and accurately calculate assessments, where applicable.
3. Provide state regulators with the ability to develop statewide reports on mortgage activity with the ability to compare across state lines.
4. Provide licensees with the ability to automate the provision and retention of financial condition and activity data to one or more state regulators in a single, uniform manner.

The MMC will use the Call Report information as part of its Risk Profiling procedures necessary for examination scheduling in a risk based supervision approach.

#### Agency Accreditation and Examiner Training

CSBS and AARMR continue their campaign of accrediting state mortgage regulatory divisions and professional development through certification of mortgage examiners. The bulk of accreditation and certification is focused on the examination function of each state agency. CSBS and AARMR conducted state certification reviews for 4 states through 2009 with an additional 5 reviews scheduled in 2010.

The accreditation process includes review for examination policies and procedures, the ability to rate mortgage providers, recognize problems and initiate effective corrective procedures, and the coverage, frequency and quality of the actual examination function. CSBS and AARMR have established a successful series of mortgage examiner training programs dating back to 1994. While these programs are vital for individual professional development and continuing education, combined they serve as the backbone of an emerging program on examiner certification and a skilled uniform examination force.

## SUMMARY

This 2009/2010 reporting period has seen not only improvements in the MMC's processes for conducting multistate examinations, but significant advances in state uniformity, modernization and effectiveness as well. While the MMC is encouraged by the states' joint examination activity to date, the committee acknowledges that enhancements in numbers and timeliness of examinations are necessary in order to fulfill the larger CSBS/AARMR mission of effective mortgage supervision.

Looking forward, the MMC sees undivided state cooperation and uniformity in state examiner skill levels as the biggest challenges facing a unified state supervision front. Beyond state unification is the need for multi-jurisdictional cooperation and resource sharing in the supervision of an industry that is licensed locally, but competing globally.

Less than a month before the drafting of this report President Obama signed into law sweeping regulatory reforms under the Dodd-Frank Wall Street Reform and Consumer Protection Act. This law presents new regulatory challenges to the MMC and the states and offers an opportunity for resource and information sharing beyond the confines of the Nationwide Cooperative Protocol and Agreement for Mortgage Supervision.

CSBS and AARMR leadership have already been in consultation with the Department of Treasury on opportunities to develop a robust partnership between the new Bureau of Consumer Financial Protection and the states in the supervision of non-bank mortgage companies. The MMC looks forward to working with the new Bureau to develop effective examination standards and uniform supervision of all mortgage institutions.

To access the CSBS/AARMR MMC uniform processes, methods and tools, visit [www.csbs.org](http://www.csbs.org) or [www.aarmr.org](http://www.aarmr.org).

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