6th Annual
Mortgage Industry Seminar
September 10, 2018

Texas Department of
Savings and Mortgage Lending

6th Annual

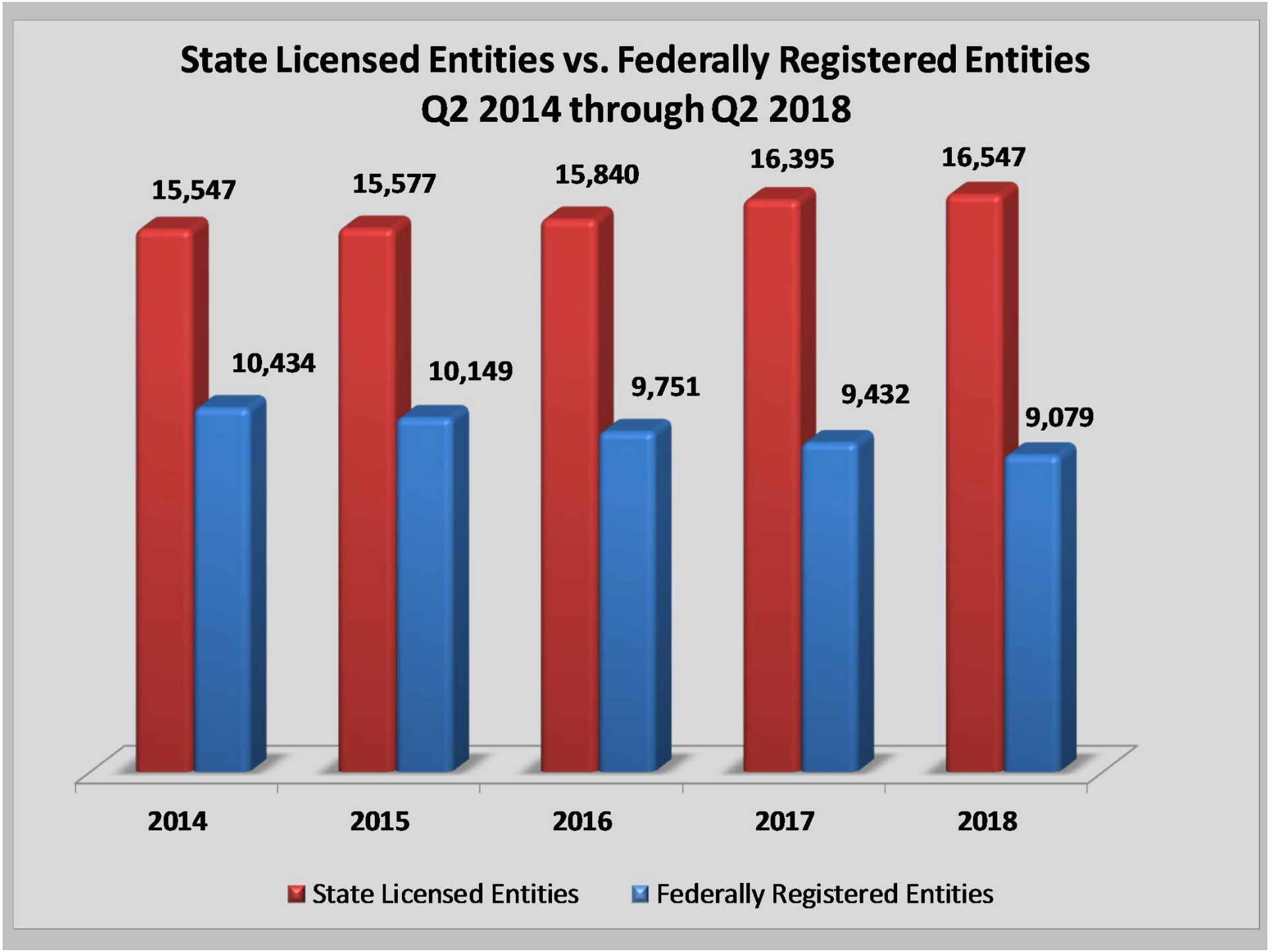
MORTGAGE INDUSTRY SEMINAR

Monday, September 10, 2018

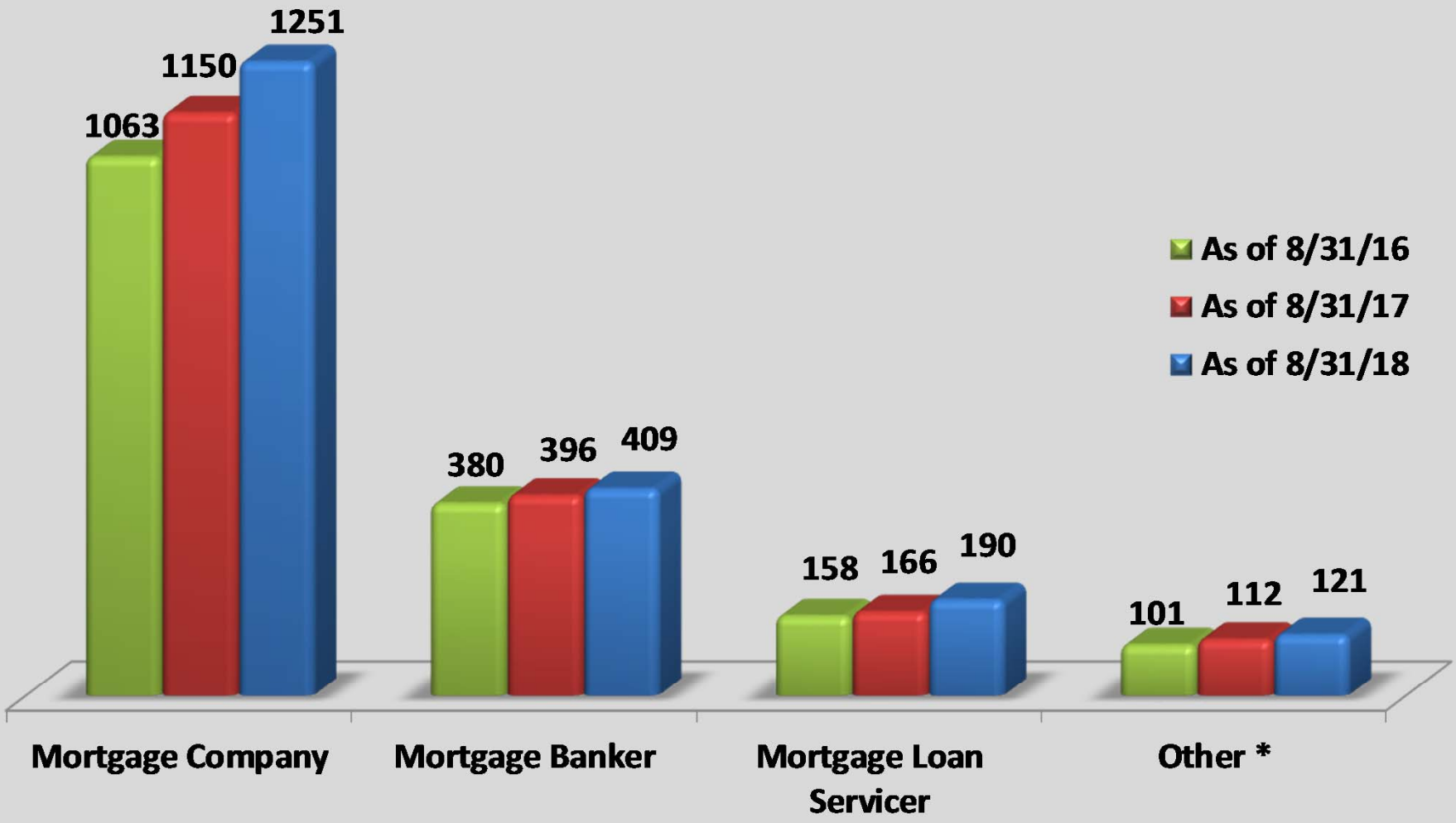
3:00 – 3:05	Welcome Comments *Commissioner Caroline C. Jones*
3:05 – 3:15	NMLS Mortgage Data *Supervisory Compliance Examiner– Justin Accola*
3:15 – 3:30	SML Mortgage Examination Data *Supervisory Compliance Examiner – Bill Poe*
3:30 – 3:45	Social Media *Chief Mortgage Examiner – Ellena Meier*
3:45 – 4:00	Break
4:00 – 4:10	Consumer Complaints *Director of Mortgage Examination - Tony Florence*
4:10 – 4:20	Enforcement Actions *Associate General Counsel –Devyn Wills*
4:20– 4:35	Licensing Update *Director of Licensing - Steven O'Shields*
4:35 – 4:55	Open Forum
5:00	Closing Comments *Commissioner Caroline C. Jones*

NMLS MORTGAGE DATA

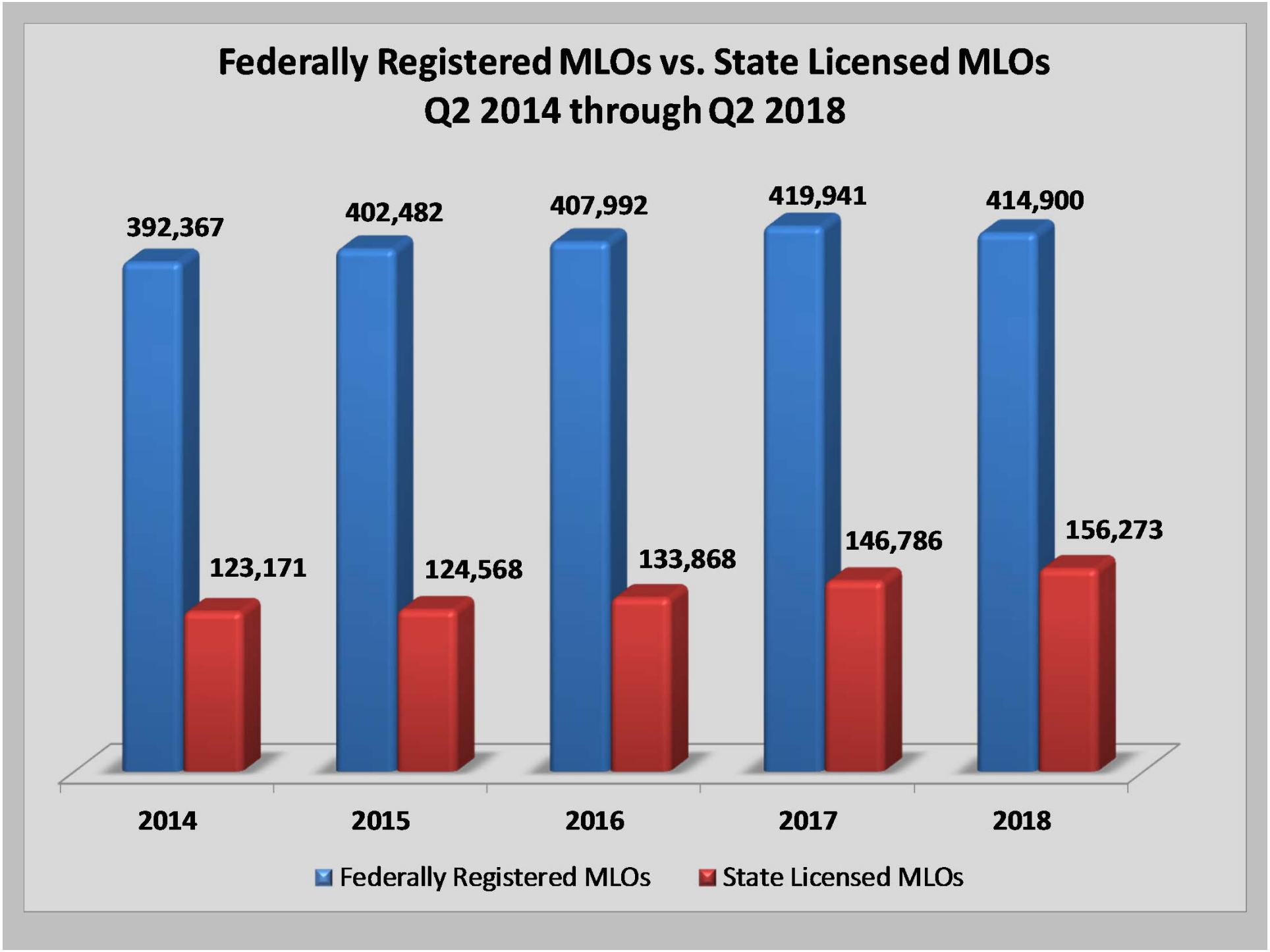
Justin Accola
Supervisory Compliance Examiner

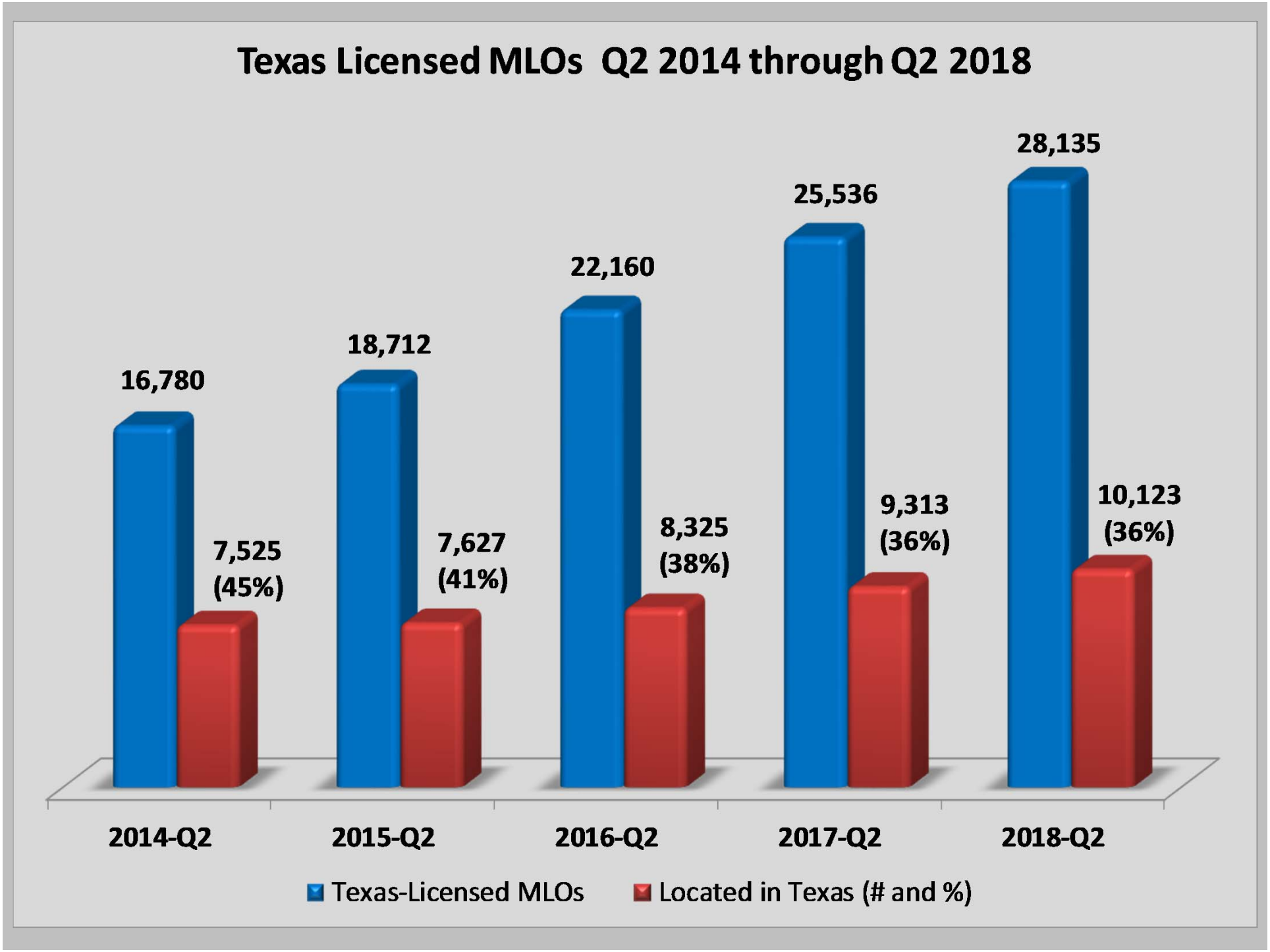

State Licensed Entities vs. Federally Registered Entities
Q2 2014 through Q2 2018
15,547
10,434
15,577
10,149
15,840
9,751
16,395
9,432
16,547
9,079
2014
2015
2016
2017
2018
State Licensed Entities
Federally Registered Entities

Texas Entities by License Type



* The "Other" category includes: Independent Contractor Processor/Underwriter Company, Auxiliary Mortgage Loan Activity Company, Credit Union Subsidiary Organization, and Financial Services Registration


Federally Registered MLOs vs. State Licensed MLOs
Q2 2014 through Q2 2018
392,367
123,171
402,482
124,568
407,992
133,868
419,941
146,786
414,900
156,273
2014
2015
2016
2017
2018
Federally Registered MLOs
State Licensed MLOs


Texas Licensed MLOs Q2 2014 through Q2 2018
16,780
7,525 (45%)
18,712
7,627 (41%)
22,160
8,325 (38%)
25,536
9,313 (36%)
28,135
10,123 (36%)
2014-Q2
2015-Q2
2016-Q2
2017-Q2
2018-Q2
Texas-Licensed MLOs
Located in Texas (# and %)

S.2155 – S.A.F.E. Act Amendment

S. 2155

One Hundred Fifteenth Congress
of the
United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and eighteen

An Act

To promote economic growth, provide tailored regulatory relief, and enhance consumer protections, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Growth, Regulatory Relief, and Consumer Protection Act".

SEC. 106. ELIMINATING BARRIERS TO JOBS FOR LOAN ORIGINATORS.

(a) IN GENERAL.—The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended by adding at the end the following:

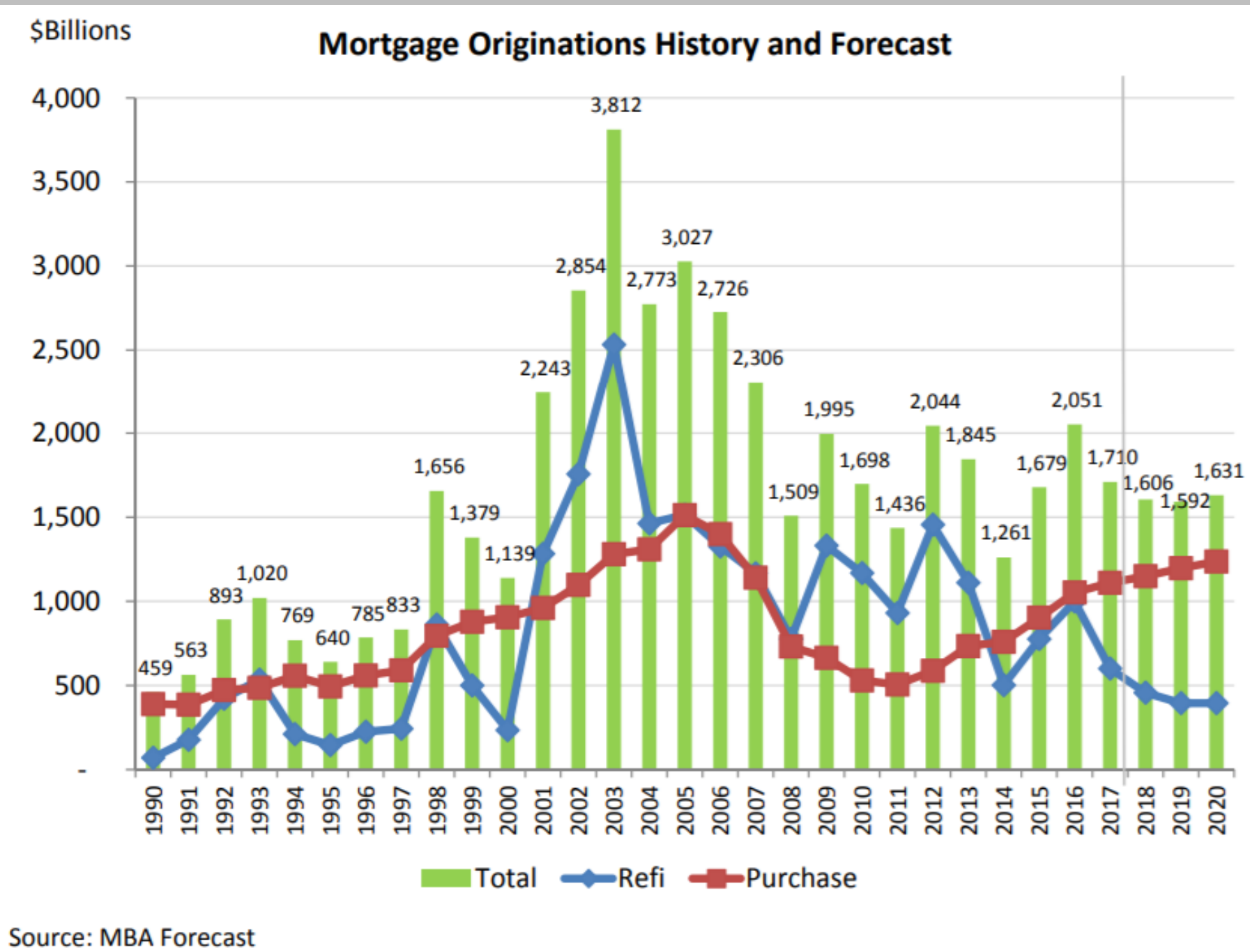
"(b) TEMPORARY AUTHORITY TO ORIGINATE LOANS FOR LOAN ORIGINATORS MOVING FROM A DEPOSITORY INSTITUTION TO A NON-DEPOSITORY INSTITUTION.—

State Adoption of Uniform State Test

State Regulatory Registry LLC, last updated 8/1/2018

MBA Loan Volume Projections-2018

2018 Volume Projection as of 09/2017 (compared to 2017 projected)		2018 Volume Projection as of 08/2018 (compared to 2017 actual)	
Purchase	↑ 8%	Purchase	↑ 3.5%
Refinance	↓ 28%	Refinance	↓ 24%
Total Origination Volume	↓ 4%	Total Origination Volume	↓ 6%

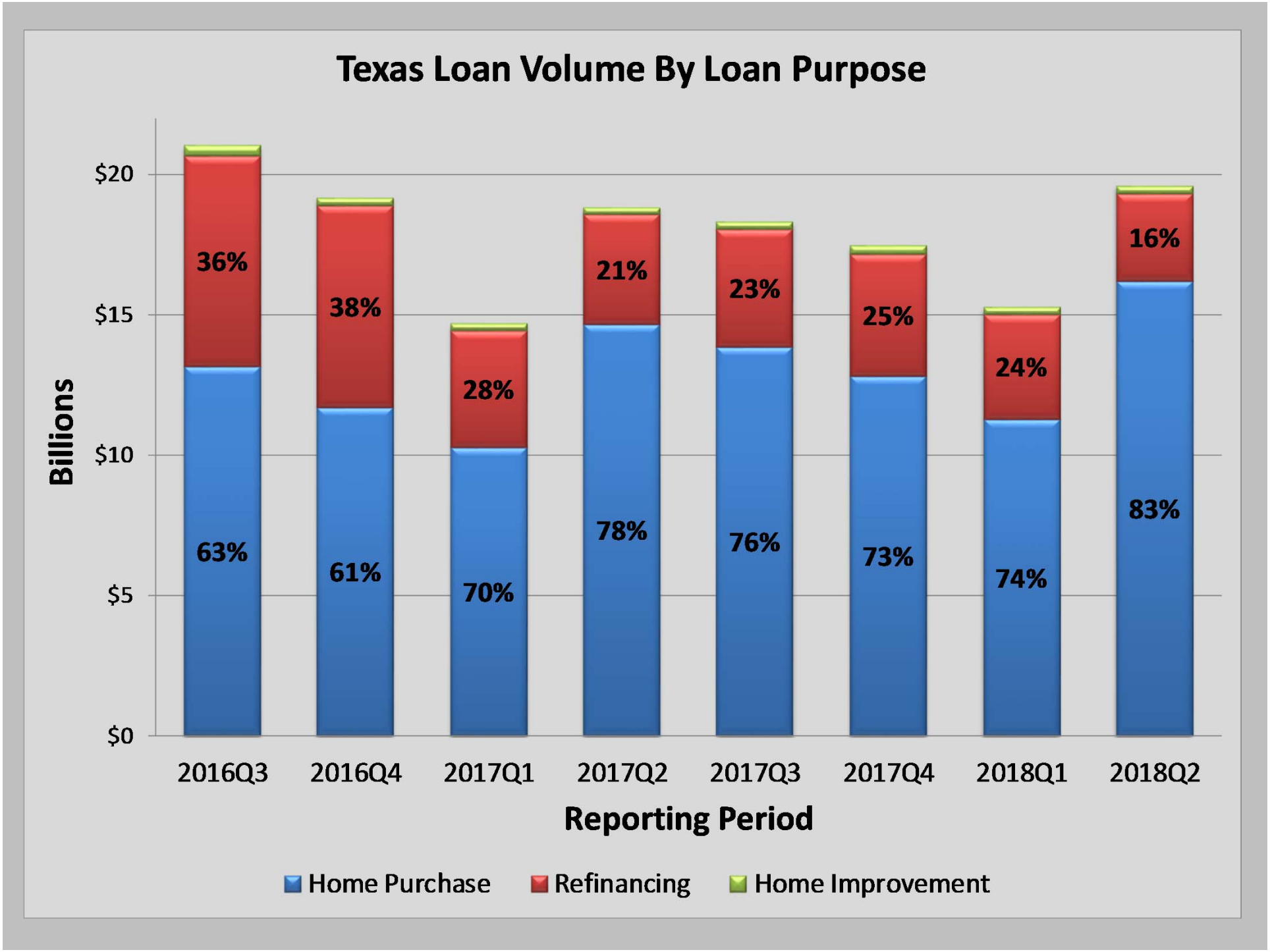


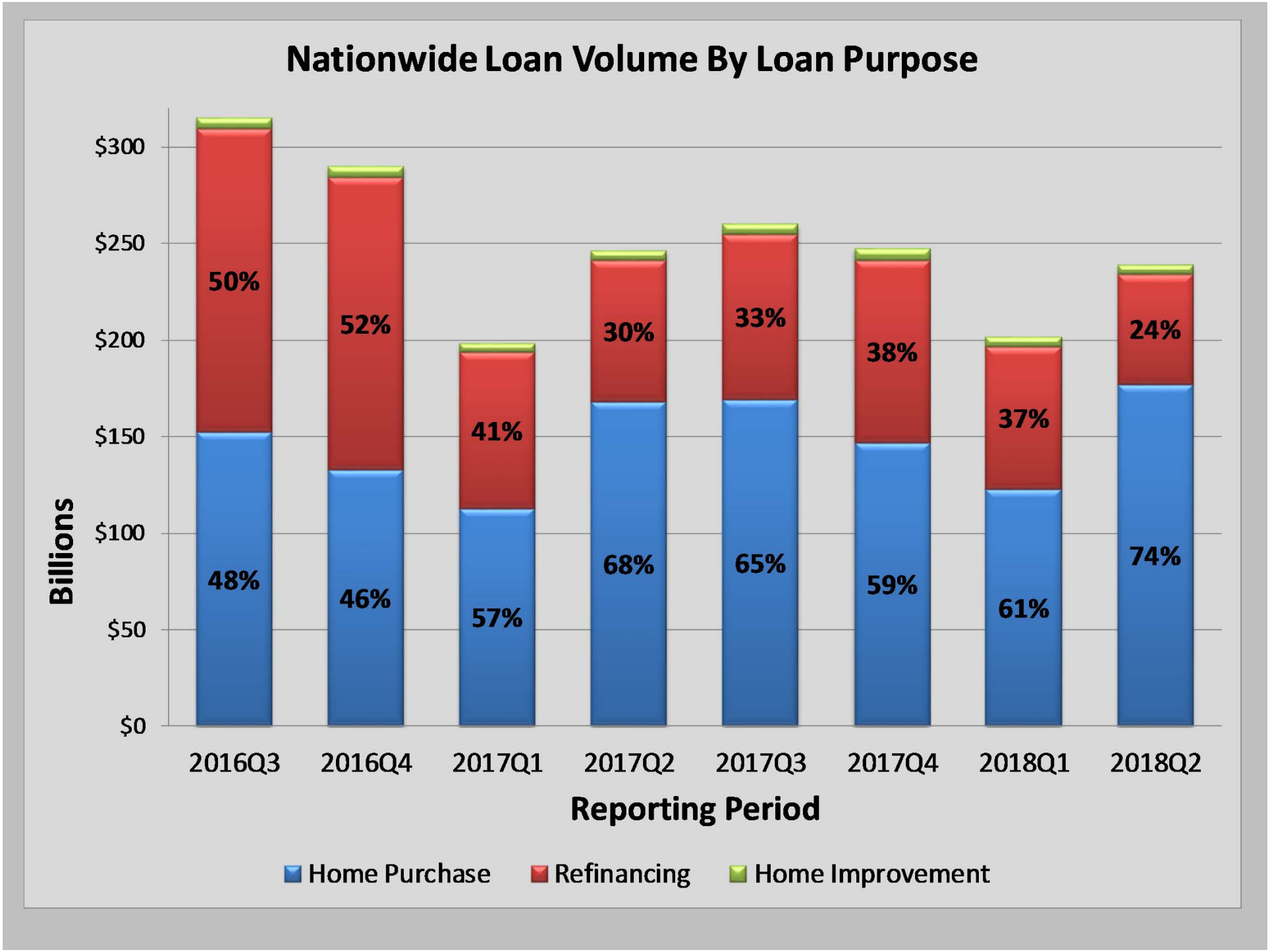
Source: MBA Forecast

MBA Loan Volume Projections-2019

- Increase of 4% in home purchase origination volume
- Decrease of 14% in refinance origination volume
- Overall decrease of 1% in origination volume

Source: MBA Mortgage Finance Forecast and Commentary: August 2018


Texas Loan Volume By Loan Purpose
Billions
$20
$15
$10
$5
$0
36%
38%
28%
21%
23%
25%
24%
16%
63%
61%
70%
78%
76%
73%
74%
83%
2016Q3
2016Q4
2017Q1
2017Q2
2017Q3
2017Q4
2018Q1
2018Q2
Reporting Period
Home Purchase
Refinancing
Home Improvement


Nationwide Loan Volume By Loan Purpose
Billions
$300
$250
$200
$150
$100
$50
$0
50%
48%
52%
46%
41%
57%
30%
68%
33%
65%
38%
59%
37%
61%
24%
74%
2016Q3
2016Q4
2017Q1
2017Q2
2017Q3
2017Q4
2018Q1
2018Q2
Reporting Period
Home Purchase
Refinancing
Home Improvement

Questions?

DSML
Mortgage Examination Program

Bill Poe
Supervisory Compliance Examiner

Examinations Completed

- **Fiscal Year 2018**

Examinations completed	431
Licensees covered by exams	9,924

- **Fiscal Year 2017**

Examinations completed	476
Licensees covered by exams	6,253

Examination Results

	2017	2018
1 Strong-	13%	12%
2 Satisfactory-	45%	49%
3 Less Than Satisfactory-	32%	28%
4 Deficient-	9%	10%
5 Critically Deficient-	1%	1%

Examination Cycle

- Initial examination conducted for new licensees/registrants within 6 months of first reporting Texas loan production

- 1 Rated = 36 months
- 2 Rated = 30 months
- 3 Rated = 24 months
- 4 Rated = 18 months
- 5 Rated = 12 months

Trends

- Continued overall improvement with TRID compliance, but still some problem areas
- Website and social media advertising continue to pose problems
- State-specific disclosures continue to be a challenge for some institutions

Texas Mortgage Banker Disclosure or Texas Mortgage Company Disclosure

TAC 81.200(a)

TAC 80.200(a)

Figure: 7 TAC § 81.200(a)

TEXAS MORTGAGE BANKER DISCLOSURE

Residential Mortgage Loan Originator: _____

NMLS ID: _____

Pursuant to the requirements of Section 157.0021 of the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act, Chapter 157, Texas Finance Code, you are hereby notified of the following:

CONSUMERS WISHING TO FILE A COMPLAINT AGAINST A MORTGAGE BANKER OR A LICENSED MORTGAGE BANKER RESIDENTIAL MORTGAGE LOAN ORIGINATOR SHOULD COMPLETE AND SEND A COMPLAINT FORM TO THE TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING, 2601 NORTH LAMAR, SUITE 201, AUSTIN, TEXAS 78705. COMPLAINT FORMS AND INSTRUCTIONS MAY BE OBTAINED FROM THE DEPARTMENT'S WEBSITE AT WWW.SML.TEXAS.GOV. A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT 1-877-276-5550.

THE DEPARTMENT MAINTAINS A RECOVERY FUND TO MAKE PAYMENTS OF CERTAIN ACTUAL OUT OF POCKET DAMAGES SUSTAINED BY BORROWERS CAUSED BY ACTS OF LICENSED MORTGAGE BANKER RESIDENTIAL MORTGAGE LOAN ORIGINATORS. A WRITTEN APPLICATION FOR REIMBURSEMENT FROM THE RECOVERY FUND MUST BE FILED WITH AND INVESTIGATED BY THE DEPARTMENT PRIOR TO THE PAYMENT OF A CLAIM. FOR MORE INFORMATION ABOUT THE RECOVERY FUND, PLEASE CONSULT THE DEPARTMENT'S WEB SITE AT WWW.SML.TEXAS.GOV.

THIS DISCLOSURE WAS DELIVERED TO THE CONSUMER:

☐ IN PERSON

☐ BY FAX

☐ BY E-MAIL

☐ OTHER_____

DATE DELIVERY INITIATED: _____

Figure: 7 TAC §80.200(a)

TEXAS MORTGAGE COMPANY DISCLOSURE

Residential Mortgage Loan Originator: _____

NMLS ID: _____

We will submit your loan application to a participating lender or we will make your loan ourselves. In connection with this mortgage loan, we are acting as an independent contractor and not as your agent.

We will be compensated in compliance with Section 1026.36(d) of Regulation Z (12 C.F.R.§ 1026.36(d)) (if applicable).

Pursuant to Sections 156.004(b) and 156.102 of the Residential Mortgage Loan Company Licensing and Registration Act, Chapter 156, Texas Finance Code, you are hereby notified of the following:

CONSUMERS WISHING TO FILE A COMPLAINT AGAINST A MORTGAGE COMPANY OR A LICENSED RESIDENTIAL MORTGAGE LOAN ORIGINATOR SHOULD COMPLETE AND SEND A COMPLAINT FORM TO THE TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING, 2601 NORTH LAMAR, SUITE 201, AUSTIN, TEXAS 78705. COMPLAINT FORMS AND INSTRUCTIONS MAY BE OBTAINED FROM THE DEPARTMENT'S WEBSITE AT WWW.SML.TEXAS.GOV. A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT 1-877-276-5550.

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Applicant(s)	Residential Mortgage Loan Originator
Signed: _____	Signed: _____
Name: _____	Name: _____
Date: _____	Date: _____

Signed: _____

Name: _____

Date: _____

Issuance of Incomplete Conditional Qualification or Approval Letters

TAC 81.201 – Mortgage Banker (Form A & B)
(State)
TAC 80.201 – Mortgage Company (Form A & B)

- Issuance of letter that does not contain <u>all</u> the information required from either Form A or Form B

- Issuance of conditional approval letter prior to underwriting and/or verification of creditworthiness

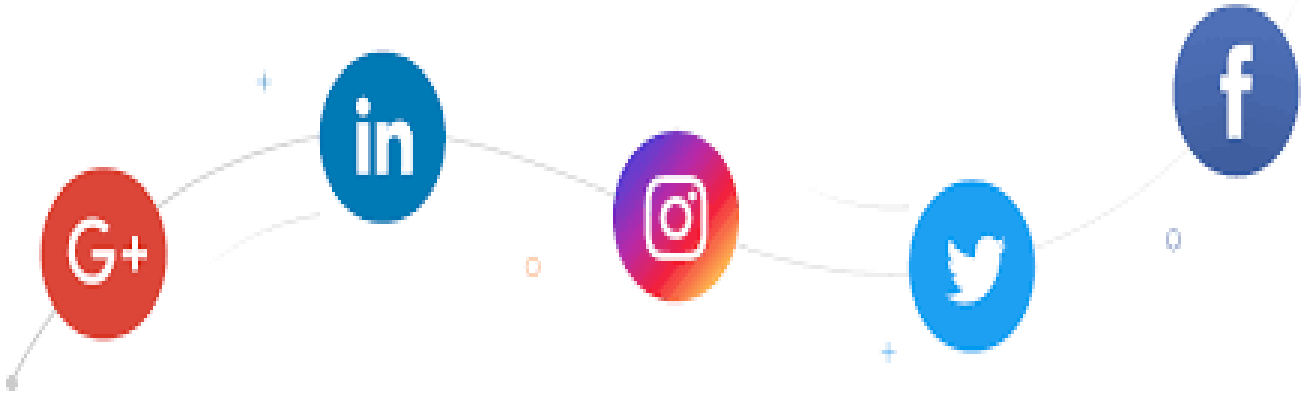
Expectations

- Consistent
- Timely
- Informative

Bill Poe
Supervisory Compliance Examiner
bpoe@sml.texas.gov
512-964-8847

Social Media

How to Comply in a Connected Age



Ellena Meier

Chief Mortgage Examiner

Social Media Statistics

<u>Business usage</u>

- 96% Facebook
- 89% Twitter
- 70% LinkedIn
- 70% YouTube

- 54% of U.S. social media users prefer messaging over email, phone or online chat

According to Pew Research, as of January 2018,

- 69% of U.S. adults use social media
  - 68% on Facebook
    - 82% Millennials
    - 76% Gen X
    - 59% Baby Boomers

Kimcaid
So I looked at your Facebook page ...oh man...there's no way you're getting this job!

Social Media Consumer Compliance Risk Management Guidance

Federal Financial Institutions Examination Council (FFIEC) – 2013

Development considerations:

- Institution's level of social media involvement
- Size and complexity
- Risk assessment

Components:

- Governance structure – provide clear roles and responsibilities
- Policies and procedures
- Risk management – establish controls and ongoing risk assessment
- Employee training
- Monitoring
- Audit and compliance

Risk Management

- Identify, Measure, Monitor, and Control Risk
- Perform a risk assessment
  - Risks include:
    - Consumer Harm
    - Compliance and Legal Risk
    - Reputational Risk
    - Operational Risk
- Determine risk tolerance
- Re-assess as social media strategies change

Social Media Policy

- Mission statement: Identify measurable goals for the use and purpose of social media for your organization

- Cross-functional collaboration
  - Involve all departments in the development of the program to allow for a comprehensive assessment

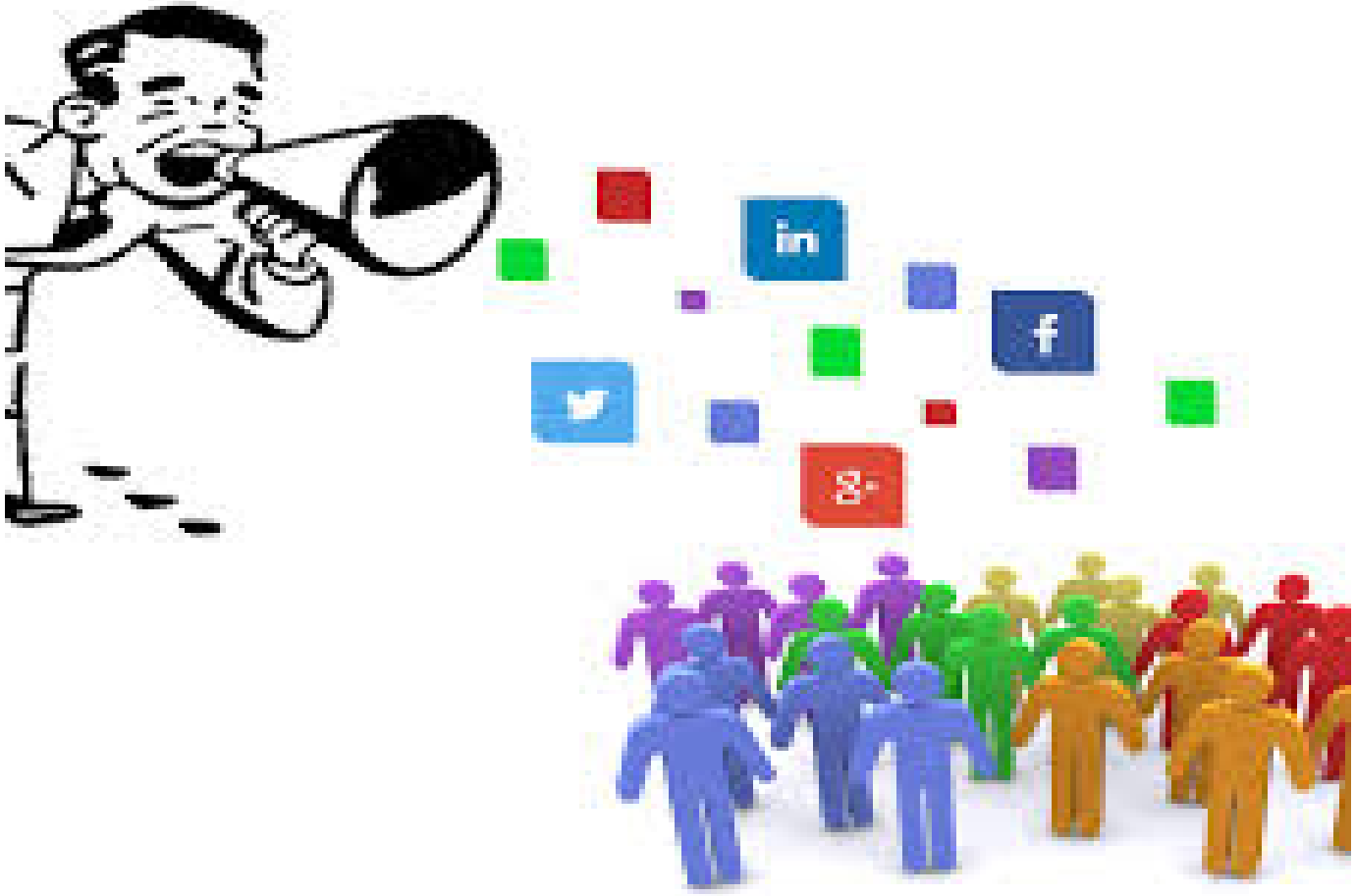
- Integrate with other policies and procedures
  - Complaint process
  - Training
  - HR concerns
  - IT / Cybersecurity
  - Privacy Policy

Best Practices

- Designate a staff person to maintain the program
- Streamline roles and responsibilities to establish accountability
- Define what type of content is acceptable and unacceptable
- Implement an approval process
  - New accounts, content & posting
- Establish repercussions for violating the policies and procedures
- Update regularly

Track and Monitor

- Inventory
  - Track URLs for each platform
  - Document the administrator of the account (branches)
  - Contact email - preferably a corporate email address
  - Identify platforms that originators have “claimed” and provided a summary / profile
- Monitor
  - Regularly search for unauthorized accounts
  - Regularly review authorized accounts for compliance
  - Recommend corporate has access to business-related accounts


in
f
g+

Training

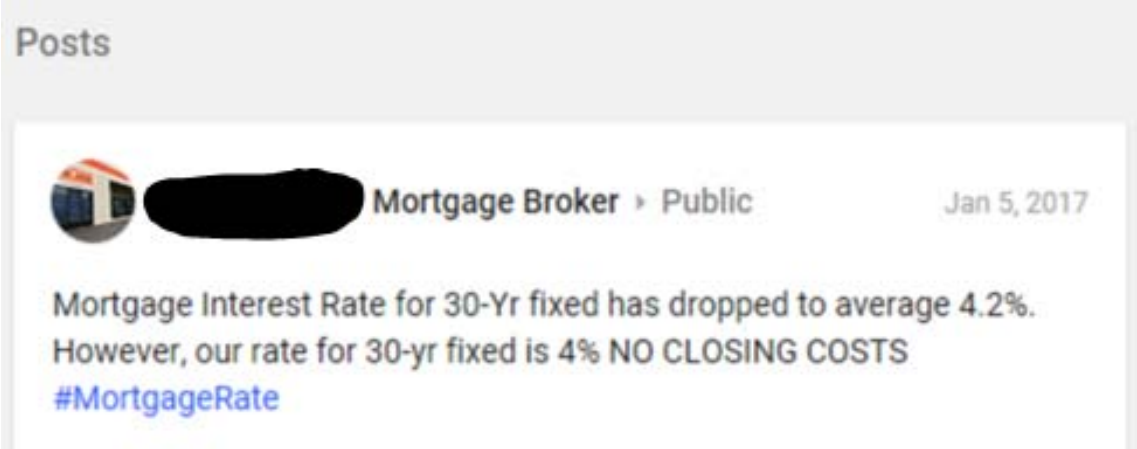
- Explain usage guidelines and content standards
- Discuss regulations and possible violations
- Address how to handle customer posts including comments, reviews & complaints
- Establish effective, compliant social media strategies
- Provide resources and examples to model for profiles and posts
  - Content library of pre-approved messages
  - Templates

Social Media Findings

- Missing full physical address
- LinkedIn – most overlooked platform for monitoring
- Incomplete oversight – only focus on top two platforms (Facebook & Twitter)
- Outdated information
- Personal Facebook pages containing advertising posts – missing requirements
- Former employees accounts - not updated

Social Media Findings continued

- Facebook / Google + Places Pages – anyone can create new pages and leave reviews
- Limited audit procedures / monitoring
- Not implementing social media policy
- Advertising rates – no details



Texas SML Requirements

- Social media accounts need to display:
  - NMLS ID
  - Physical address
  - Web address
  - Originator accounts must include the name of the sponsoring banker

- Comply with state and federal laws and regulations

Applicable Federal Laws and Regulations

- TILA – APR / triggering terms
- RESPA – Section 8
- Unfair, Deceptive or Abusive Acts or Practices (UDAAP)
- Gramm-Leach-Bliley Act – privacy and data security
- Regulation N – Mortgage Acts and Practices – Advertising
- Equal Credit Opportunity Act
- Fair Housing Act
- Fair Credit Reporting Act

Department Resources

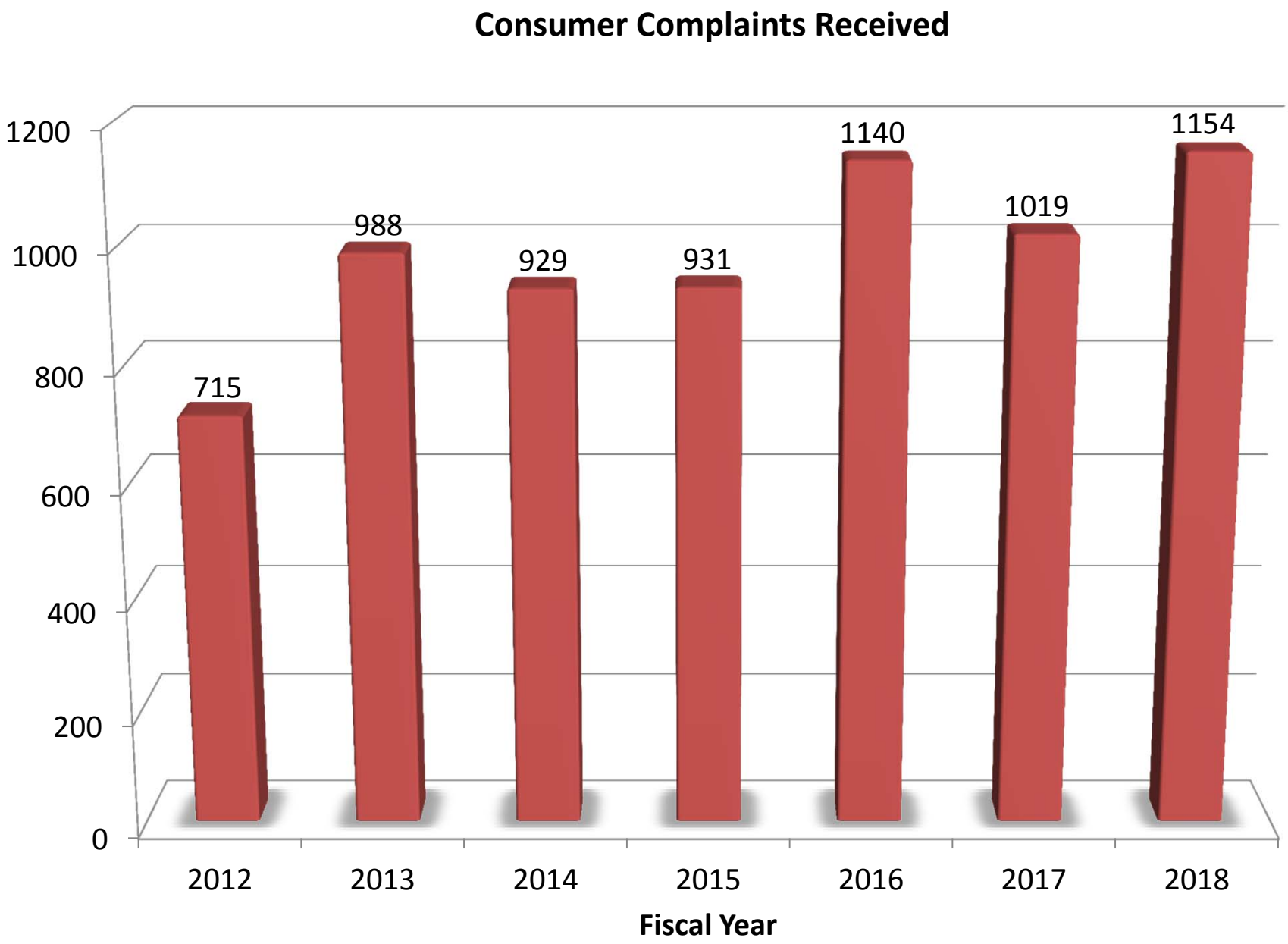
Social Media Best Practices & SML Requirements

- Website: www.sml.texas.gov
  - Residential Mortgage Loan Origination
  - Compliance & Reporting
  - Mortgage Banker Field Examination Resources

Questions?

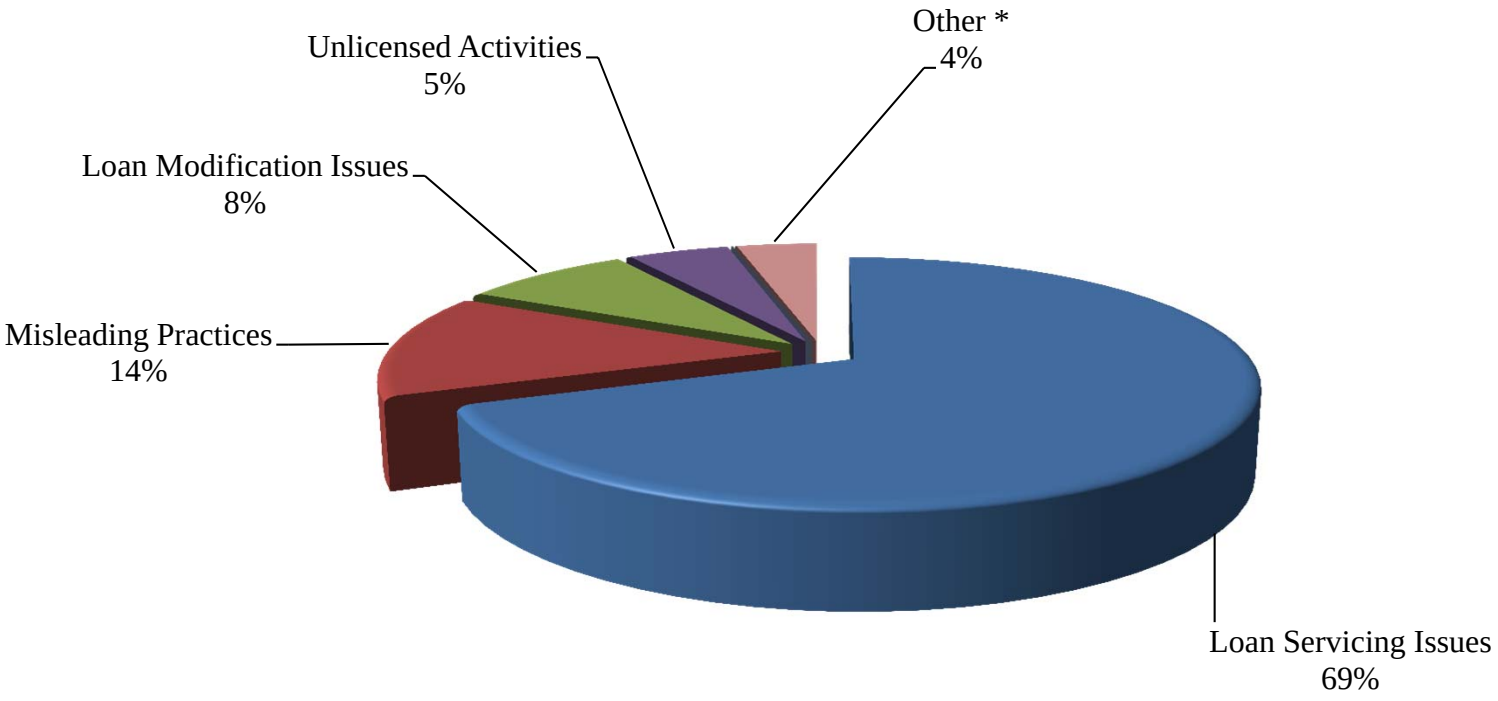
Consumer Complaints & Investigations

TONY FLORENCE
DIRECTOR OF MORTGAGE EXAMINATION


Consumer Complaints Received
1200
1000
800
600
400
200
0
715
988
929
931
1140
1019
1154
2012
2013
2014
2015
2016
2017
2018
Fiscal Year

Nature of Complaints Received - Fiscal Year 2018

(Complaints Received 09-01-2017 to 08-31-2018)

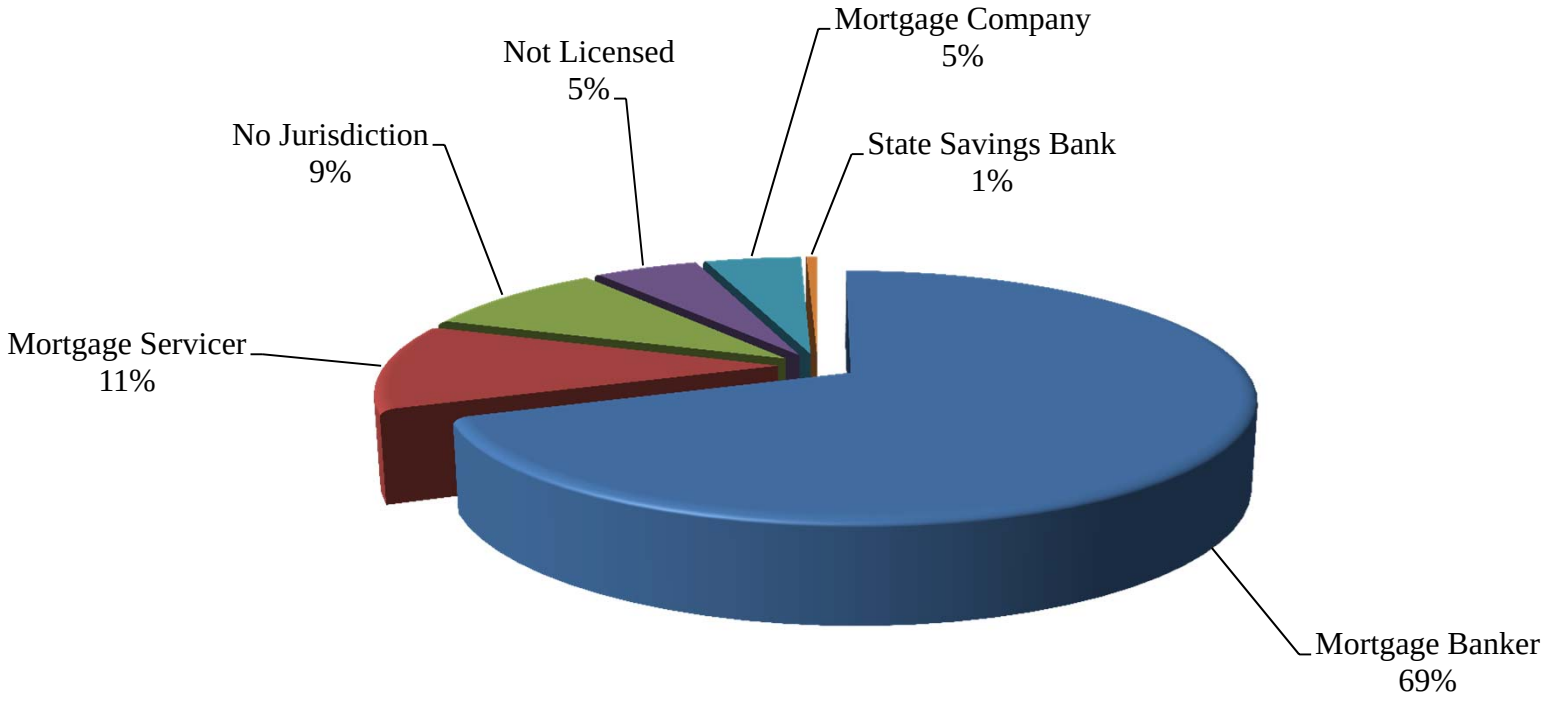


Total Complaints Received in Fiscal Year 2018 = 1,154

* The "Other" Category includes: Refunds and File Transfers, Fraud-Consumer Reported, Fraud-Industry Referral, Failure to Pay Appraisers/Vendors, Identity Theft, Permissible Charges/Fees, Sponsor Issues, improper advertising, inadequate disclosures, SSB complaints and Failure to Respond to Exam Order

Respondent License Types - Complaints Received FY 2018

(Complaints Received 09-01-2017 to 08-31-2018)



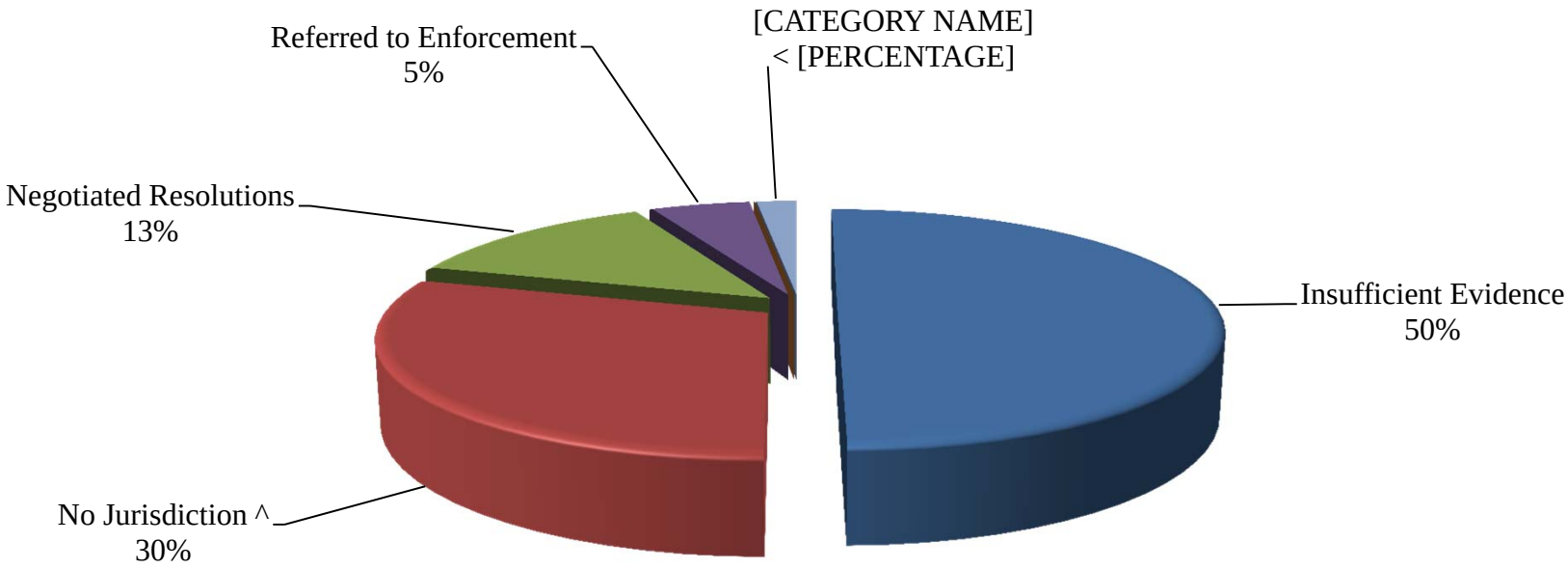
Total Complaints Received in FY 2018 = 1,154

Consumer Complaint Process

- INTAKE
- PROCESSING
- INVESTIGATION
- RESOLUTION

Disposition of Resolved Complaints - Fiscal Year 2018

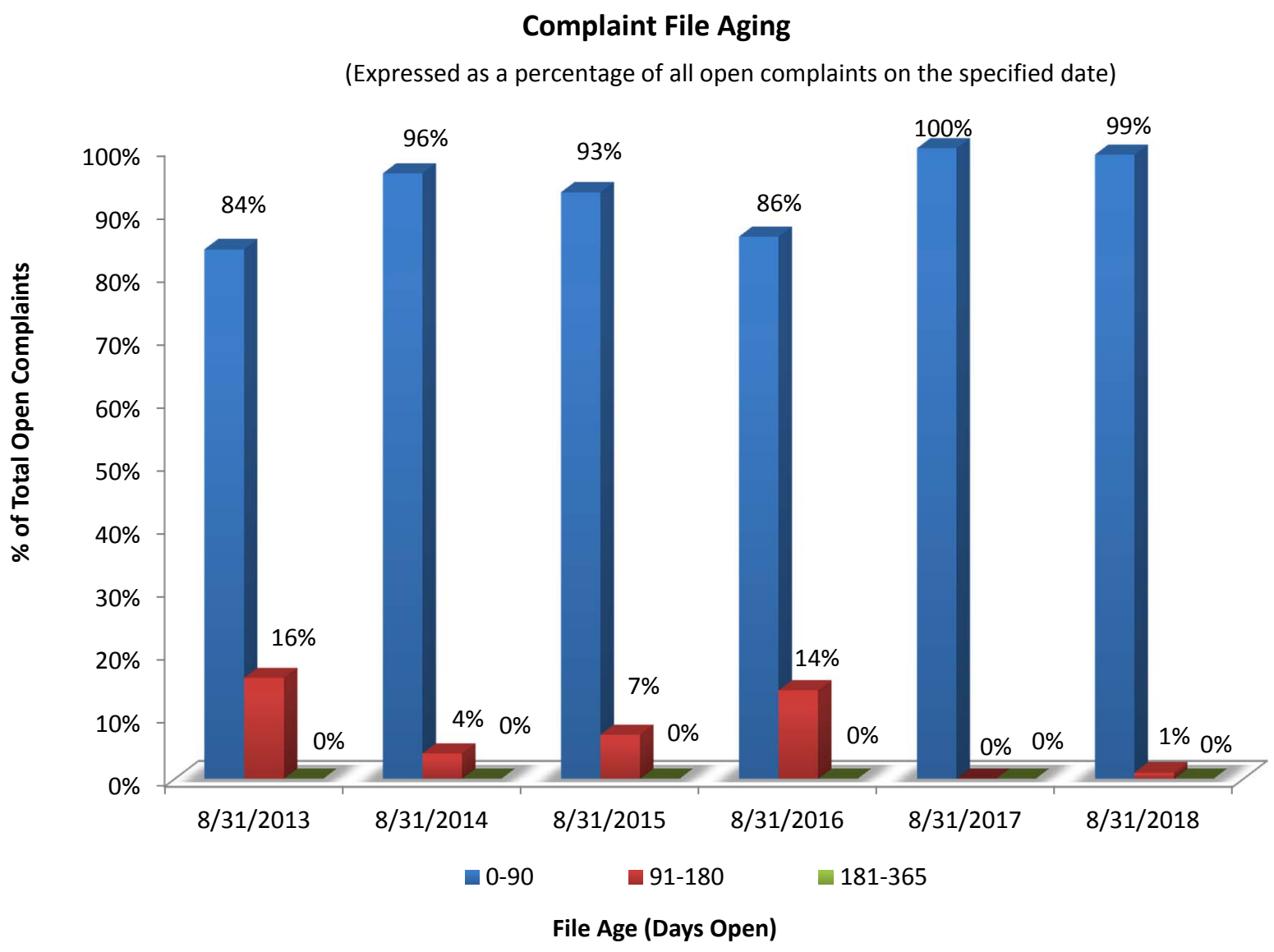
(Complaints Resolved Between 09-01-2017 and 08-31-2018)



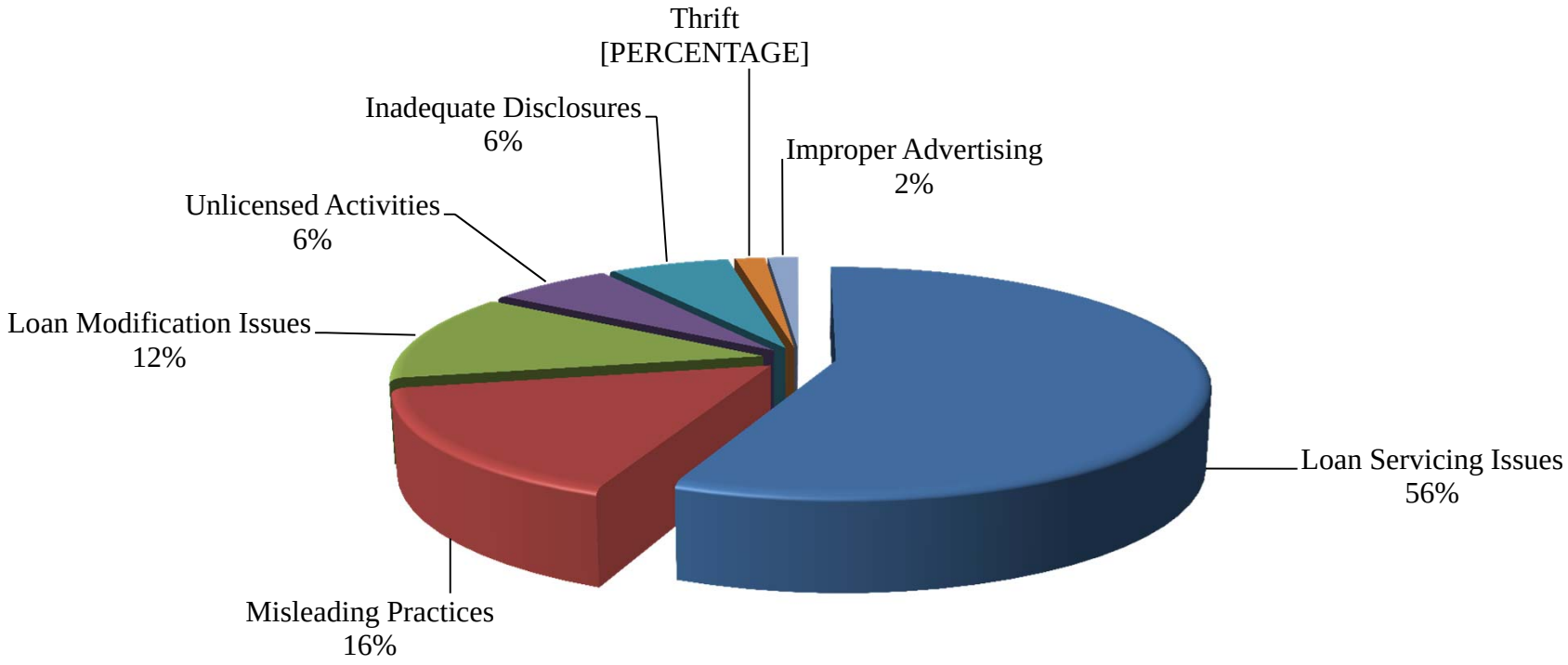
Total complaints resolved in Fiscal Year 2018 = 1,136

^ The "No Jurisdiction" category includes: complaint against exempt entities/individuals (No Jurisdiction-Exempt), complaints regarding issues outside the Department's authority (No Jurisdiction Over Issue), and complaints against entities/individuals with expired licenses (No Jurisdiction-License Expired).

* The "Other" category includes: Consolidated with Another File, Complaint withdrawn, Advisory Letter Opened in Error, and Information Only


Complaint File Aging
(Expressed as a percentage of all open complaints on the specified date)
% of Total Open Complaints
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
84%
16%
0%
96%
4%
0%
93%
7%
0%
86%
14%
0%
100%
0%
0%
99%
1%
0%
8/31/2013
8/31/2014
8/31/2015
8/31/2016
8/31/2017
8/31/2018
0-90
91-180
181-365
File Age (Days Open)

Nature of Open Complaints as of 08-31-2018



Total Open Complaints as of 08-31-2018 = 64

Questions?

DEPARTMENT of
SAVINGS & MORTGAGE LENDING

Caroline C. Jones, Commissioner

Mortgage Industry Day

Cease and Desist Orders:

What they are, what they are not, and other common misconceptions

Devyn F. Wills
Associate General Counsel

September 10, 2018

Devyn F. Wills
Associate General Counsel

<u>Education</u>

JD - Pepperdine School of Law

<u>Professional Experience</u>

Licensed to practice in TX and CA

Former Texas Assistant Attorney General

- Transportation Division
- June 2014 to September 2016
- Under both Generals Abbott and Paxton

Judge Advocate in the Texas State Guard from May 2015 to Present

Sec. 180.203. Cease and Desist Orders.

- A regulatory official may:
- **(1)** order or direct a person subject to regulation under this chapter to ***cease and desist from conducting business***, including issuing an immediate temporary order to cease and desist from conducting business;
- **(2)** order or direct a person subject to regulation under this chapter to ***cease a violation of this chapter or a harmful activity in violation of this chapter***, including issuing an immediate temporary order to cease and desist;
- **(3)** enter immediate temporary orders against a person subject to regulation under this chapter to cease engaging in business under a license if the regulatory official determines that the license was erroneously granted or the license holder is in violation of this chapter; and
- **(4)** order or direct other affirmative action as the regulatory official considers necessary.

Chapter 156 Residential Mortgage Loan Companies (Subchs. A — F)

- **Subchapter D** License Revocation and Suspension and Other *Actions Against License Holder* (§§ 156.301 — 156.400)
  - Sec. 156.303. Disciplinary Action; Cease and Desist Order.

- **Subchapter E** Hearings; Judicial Review; Civil Actions; *Unlicensed Activity* (§§ 156.401 — 156.500)
  - Sec. 156.406. Unlicensed Activity.

C&D – Violations by Licensed Individual or Entity

- **Sec. 157.024. Disciplinary Action; Cease and Desist Order.**
- **(c)** In addition to disciplinary action by the commissioner authorized under Subsections (a) and (b), the commissioner, if the commissioner has reasonable cause to believe that a ***licensed*** residential mortgage loan originator ***has violated or is about to violate this section***, may issue without notice and hearing an order to cease and desist continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter.
- **Sec. 156.303. Disciplinary Action; Cease and Desist Order.**
- **(b)** In addition to disciplinary action by the commissioner authorized under Subsection (a), the commissioner, if the commissioner has reasonable cause to believe that a person ***licensed*** under this chapter has or is about to violate this section, may issue without notice and hearing an order to ***cease and desist from continuing a particular action*** or an order to take affirmative action, or both, to enforce compliance with this chapter.

C&D – Violations by Unlicensed Individual or Entity

- **Sec. 157.031. Unlicensed Activity; Offense.**
- **b)** If the commissioner has reasonable cause to believe that ***a person who is not licensed*** or exempt under this chapter has engaged, or is about to engage, in ***an act or practice for which a license is required*** under this chapter, the commissioner may issue, without notice and hearing, an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter…
- **Sec. 156.406. Unlicensed Activity.**
- **(c)** If the commissioner has reasonable cause to believe that a person who is not licensed or exempt under this chapter has engaged, or is about to engage, in an act or practice for which a license is required under this chapter, the commissioner may issue without notice and hearing an order to ***cease and desist from continuing a particular action*** or an order to take affirmative action, or both, to enforce compliance with this chapter.

Origination

- **Sec. 157.012. License Required for Residential Mortgage Loan Originators**
- **a)** An individual may not ***act or attempt to act in the capacity of a residential mortgage loan originator*** unless the individual is exempt under Section 157.0121 or 180.003(b) or:
  - **(1)** is licensed under this chapter, sponsored by an appropriate entity, and enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and
  - **(2)** complies with other applicable requirements of Chapter 180 and rules adopted by the finance commission under that chapter.
- **Sec. 180.002. Definitions.**
- **(19)** "Residential mortgage loan originator": **(A)** means an individual who for compensation or gain or in the expectation of compensation or gain:
  - **(i)** ***takes a residential mortgage loan application***; or
  - **(ii)** offers or negotiates the terms of a residential mortgage loan

Questions?

Devyn F. Wills
Associate General Counsel
Department of Savings and Mortgage Lending
512-475-0980
dwills@sml.texas.gov