

Housing Update - No Good News & Banks Face Massive Lawsuits

U.S. banks are very strong compared to 2008 and don't have the same derivatives issues. Banks probably have adequate reserves even if they have to eventually settle large lawsuits. But their actions continue to hurt housing, the economic recovery and create more fear on Wall Street.

Most recoveries are led by a rebound in housing. But today we are facing a housing crisis worse than in the Great Depression. Housing prices have fallen 33% from their peak, compared with 31% during the depression. In many states including Arizona, the prices have fallen much further.

Now the banks face mortgage-related lawsuits (including many State Attorneys General lawsuits) which are helping to drive the overall stock market down.

In Arizona vs. Bank of America the AZ Attorney General sued for alleged consumer fraud related to the banks' deceptions regarding their failure to follow HAMP modification directives as well as failure to follow the older Countrywide settlement. A similar suit for alleged deceptive practices was filed by the Nevada Attorney General. Both suits included many examples of consumer fraud or deception allegations.

On 9/2/2011, the FHFA (Conservator for Fannie and Freddie) filed a lawsuit against 17 major banks for alleged misrepresentations and fraud. The misrepresentations are amazing as detailed in the complaint.

The mortgages were sold to investors based on false disclosures. Fannie/Freddie (GSO's - therefore taxpayers) is taking the losses on foreclosures after the banks made huge profits because taxpayers via the GSO's guaranteed the loans.

The suit claims that often the banks inflated borrowers' incomes and credit scores unknown to the borrower. The banks made large origination fees to get the loans approved based on the alleged false information.

The HAMP modification program is outstanding to help those with legitimate hardships avoid

foreclosure provided it is also in the best interest of the mortgage investor. About 70% of first mortgages are taxpayer guaranteed. But the banks are making millions in service fees by foreclosing, not modifying, letting mostly the taxpayer take the huge foreclosure losses.

An investigative report by Shahien Nasiripour reported that HUD found that the nation's five largest mortgage lenders — Bank of America, JPMorgan Chase, Wells Fargo, Citigroup and Ally Financial — had defrauded taxpayers in their handling of foreclosures on homes with government-insured loans.

Again, the banks are making millions in servicing fees while the taxpayer pays for the foreclosure losses and all the banks' fees.

The HUD investigation also found the banks had cheated the public — and broken the law. Specifically, the banks "filed for federal reimbursement on foreclosed homes that sold for less than the outstanding loan balance using defective and faulty documents," Nasiripour wrote. Investigators found that lenders pursuing foreclosures improperly handled 49% of Federal Housing Administration loans!

Unfortunately since HAMP was part of the TARP agreements banks signed and not a law, there is little that Treasury can do to enforce the agreements.

The many lawsuits filed by individual states, many class action suits and individual suits for fraud will be fought by the banks and tied up in courts for many years.

The banks keep getting more aggressive in foreclosing even with a huge backlog of real estate owned not even on the market yet.

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Millions of homeowners who qualified for modification nevertheless are still being foreclosed for the high bank servicing fees.

This continues to drive down everyone's home values and the housing crisis which started the Deep Recession continues with no relief in sight. The banks make large profits on the backs of taxpayers and of all homeowners as the housing crisis continues instead of helping to lead the recovery.

On 8/19/11 the Arizona Attorney General filed an Amicus brief before the AZ Supreme Court on behalf of homeowners related to violations of the AZ Consumer Fraud Act and unlawful practices statute in foreclosures without proper documentation by Deutsche Bank (trustee for Saxon.) This is typical of what banks are doing. The AZ Attorney General is being active in this specific case, but the concepts apply to many bank servicers.

The AZ Homeowners' Assistance Program is on track to fail due to lenders' refusal to participate. In February 2010 Arizona was allocated \$125 million from TARP from the "Hardest Hit Fund" to help qualified homeowners in the 10 states hardest hit by foreclosures. It included a principal reduction program up to \$50,000. However the AZ Dept. of Housing made rules that severely limit who can qualify. As of the latest quarter 6/30/11 only one bank has agreed to participate and only 3 homeowners have been approved!

On 9/5/11 12News Phoenix reported that the Arizona Attorney General's office has given a grant to ASU College of Law to help homeowners facing wrongful foreclosures by the banks. They say their greatest obstacle is making banks abide by the HAMP modification program and enforce the Treasury directives in the courts against the banks.

I recall when Obama dragged the heads of the big banks in for a White House sit-down in 2009 with HAMP one of the prime topics. The heads of the banks did a press conference with the White House in the background on how it was a good meeting; they were gearing up to help homeowners, and they would work with Obama to be a part of solving the housing crisis.

That was followed by four congressional oversight hearings. Democratic Congress folks wanted answers why the banks were not

following HAMP, doing "dual track" foreclosures and upset that required documents were lost many times when sent to the banks from Congressional offices. Staff was wasting time faxing, refaxing and refaxing again the same documents that the banks kept "losing."

The Attorneys General report much the same thing – i.e., banks losing multiple submissions of homeowner documents even from State Attorney Generals.

Then often the banks claim they can't modify loans because the homeowners are not able to complete the required documents.

Unfortunately we need banks and while they may be "too big to fail" they are also acting as if they are too big to follow the law and Treasury directives.

Now they are often leading the stock market declines as fear rises that banks could lead us into another financial crisis.

Unlike parts of Europe, the U.S. has no current debt crisis but a housing and jobs crisis. Treasury debt issued 9/1/11 again had huge excess demand even at almost zero interest. \$128.3 billion was bid for \$27 billion available - a 4.75x coverage ratio. For the last six months almost all U.S. debt auctions had 3 times or more the demand vs. debt available, despite interest rates being at or near historical lows.

Despite the ongoing housing crisis, many believe the slow recovery will continue, despite persistent high structural unemployment.

Discuss Managing Risk in a World of Uncertainty

Invitation - Free Intro Meeting

No cost or obligation sharing of our ideas

**We offer a "Portfolio X-Ray" of
Your Current Holdings, with
Comparisons to our "Benchmarks" in
Respective Sectors**

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