



Fitch: Foreclosure Probe to Weigh on U.S. RMBS Loss Severities; Servicer Ratings Vulnerable

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Fitch Ratings-New York-29 September 2010: Alleged procedural defects in the judicial foreclosure process implemented by U.S. mortgage servicers may stall the foreclosure process in some states and ultimately lead to increased RMBS loss severities, according to Fitch Ratings.

High loss severities already projected on defaulted loans in these states will limit the initial magnitude of any negative rating actions for outstanding Fitch-rated RMBS with heavy exposure to affected states. However, these probes may highlight weaknesses in the processes, controls and procedures of certain RMBS servicers and may lead to servicer rating downgrades by Fitch.

While most of the coverage on this issue has focused on GMAC Mortgage Services to date, 'Any servicer with a significant portion of their portfolio in judicial foreclosure states will be either directly or indirectly impacted by the attention focused on this problem,' said Diane Pendley, Managing Director and Head of U.S. RMBS Operational Risk for Fitch.

The key risk identified has been foreclosure affidavit data accuracy concerns due to improper controls maintained by servicers in verifying the information in the affidavit. While servicers have historically maintained quality control processes to ensure that affidavit data presented is cross-checked and accurate, these processes have proven to be deficient in some cases. This is either due to operational constraints caused by the heavy foreclosure volume that is being processed, oversight or training limitations, or other factors.

Fitch is currently contacting its rated servicers regarding their specific internal processes used to review and execute foreclosure affidavits to determine if any newly implemented or planned changes are underway as a result of these recently disclosed concerns. 'If Fitch's review determines that a servicer's processes are not adequate and remedial actions are not sufficiently robust, Fitch will take rating actions on the respective servicer's ratings,' said Pendley. Key factors that will affect ratings are:

- The materiality of operational deficiencies identified;
- Its impact on the servicer's portfolio including existing foreclosed inventory; and
- The risk of broader foreclosure moratoriums and class action suits that could weigh on the institutions overall financial condition.

Servicers that determine they have filed deficient foreclosure affidavits would be expected to file amended affidavits with the various courts involved, or take other actions as their legal staff finds appropriate, in the most expeditious manner possible. This process could be a simple substitution of affidavits for active foreclosures. But for completed foreclosure actions within the judicial states (even with no inaccuracies in the affidavit), the level of required action will materially depend on the opinion of the courts. Therefore, it remains to be seen if any completed foreclosures could actually be overturned.

Depending on the required actions to remedy deficiencies, 'materially lengthened liquidation timelines and increased legal costs may lead to higher loss severities for affected RMBS transactions,' said Rui Pereira, Managing Director and head of U.S. RMBS for Fitch.

Going forward, Fitch will continue to receive information from affected servicers on their actions to correct any deficiencies and anticipated timeframes as well as cost. Fitch will also continue to monitor the extent of any material additional losses in rated transactions and will take appropriate rating actions as needed.

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