



MORTGAGE & SECURITIZATION IN BRIEF*
UPDATED AS OF JUNE 20, 2014

INDUSTRY HEADLINES

- **BofA must face U.S. suit claiming mortgage-securities fraud: June 20, 2014**
Bank of America Corp. must face the U.S. Justice Department's lawsuit accusing it of misleading investors about the quality of loans tied to \$850 million in residential mortgage-backed securities. U.S. district Judge Max O. Cogburn Jr. in Charlotte, North Carolina, gave the government 30 days to revise the suit after a magistrate judge earlier found its complaint was deficient and recommended it be dismissed. Cogburn said in yesterday's ruling that the government hadn't adequately supported claims that bank documents omitted key facts and included false statements. [Read more.](#)
- **SunTrust to pay nearly \$1 billion to settle mortgage fraud claims: June 17, 2014**
SunTrust Mortgage Inc. agreed to pay \$968 million to settle mortgage origination fraud and foreclosure abuse claims after admitting to the harmful practices, the U.S. DOJ and several other departments said. The SunTrust Banks Inc. subsidiary originated and underwrote FHA insured mortgages that didn't meet FHA requirements between 2006 and 2012, according to a confession obtained by the DOJ. Its practices also pushed families into foreclosure, the DOJ said. [Read more.](#)
- **Merrill must face trusts' RMBS buyback suit, court says: June 17, 2014**
A New York appeals court refused to dismiss claims accusing Merrill Lynch of renegeing on a deal to buy back defective loans Merrill obtained from now-bankrupt ResMae Mortgage Corp. to turn into residential mortgage-backed securities, finding that the contract provision at issue was ambiguous. [Read more.](#)
- **Bof A, Citigroup talks with DOJ fail; lawsuits impending?: June 16, 2014**
Bank of America Corp. and Citigroup Inc. are most likely to be sued by the DOJ as their respective talks to settle investigations for the sale of MBSs have reached an impasse. The negotiations to end probes into the shoddy mortgage practices of the banking giants have been going on for quite some time. However, the discussions hit a deadlock after the DOJ refused the offers made by Citigroup and BofA in order to settle the inquiries. The lawsuits against the banks could be filed very soon. [Read more.](#)
- **Goldman wins dismissal of \$450 million mortgage-bond suit: June 15, 2014**
Goldman Sachs Group Inc. won dismissal of a suit over \$450 million in RMBSs, with a New York judge saying that the firms that bought the bonds should have done more research. [Read more.](#)
- **U.S. said to seek more than \$10b in Citi RMBS probe: June 13, 2014**
DoJ asks Citi for more than \$10 billion to settle a probe into MBS sales in the run up to the 2008 financial crisis. Prosecutors broke off talks on June 9, 2014, and are preparing to sue Citi after it offered less than \$4 billion to resolve the matter. [Read more.](#)
- **Fannie, Freddie exempt from transfer tax, court says: June 13, 2014**
Decision by Washington appeals court rules is latest shielding government-owned mortgage finance companies from attempts to collect local levies on property transfers. [Read more.](#)

*This is not an all-inclusive list of congressional, agency and market participant actions related to these issues. It is a snap-shot of what we believe is of most interest to institutional investors. Some links are to subscriber-only sites.

- **Bank of America Corp. sways judge to rethink tentative opinion: June 12, 2014**
 Bank of America Corp. swayed a judge to rethink his tentative opinion that a SEC lawsuit over the issuance of \$850 million in mortgage-backed securities should go forward. The SEC claims the bank failed to file documents with the agency that it gave potential investors in the securities, which later fell in value, obscuring the fact that buyers got false information. At a hearing June 11, 2014 hearing, lawyers for the bank argues that the SEC rules governing the disclosures were unclear. [Read more.](#)
- **U.S. commercial mortgage debt at record high \$2.56 trillion: June 9, 2014**
 According to the Mortgage Bankers Association (MBA), the level of commercial and multifamily mortgage debt outstanding increased by \$11.1 billion in the first quarter of 2014, as three of the four major investor groups increased their holdings. Total commercial and multifamily debt outstanding stood at \$2.56 trillion in the first quarter. Multifamily mortgage debt outstanding rose to \$9.13 billion, an increase of \$8.7 billion. [Read more.](#)
- **Citigroup Inc.'s \$285 million mortgage-securities pact with the SEC revived: June 6, 2014**
 Citigroup Inc.'s \$285 million mortgage-securities pact with the SEC was revived as an appeals court assailed a judge's demand for more evidence backing up the regulator's claims. The bank challenged U.S. District Judge Jed Rakoff's refusal in 2011 to approve the accord, which would resolve SEC claims the bank misled investors in a \$1 billion financial product linked to risk mortgages, costing investors more than \$600 million. Rakoff said the parties didn't give him "any proven or admitted facts" he could use to gauge the deal's fairness. The court June 4 cited the SEC's purview to tailor settlements as it sees fit, saying Rakoff abused his discretion by requiring it first establish "truth" of the allegations against the bank. [Read more.](#)
- **Icahn bought \$51 million in Fannie, Freddie shares – filing: June 3, 2014**
 Activist investor Carl Icahn acquired about \$51 million in the common shares of mortgage financiers Fannie Mae and Freddie Mac from mutual fund manager Fairholme Funds Inc in March, a court filing showed on Tuesday. Icahn, a billionaire investor known for taking big stakes in companies and pushing for management change, bought 6.8 million common shares of Fannie Mae and 5.7 million common shares of Freddie Mac from Fairholme, according to the filing with the U.S. Court of Federal Claims in Washington. [Read more.](#)
- **RBS to eliminate hundreds of U.S. jobs ahead of Fed rules: May 27, 2014**
 Royal Bank of Scotland Group Plc, Britain's largest state-owned lender, plans to cut hundreds of U.S. jobs while shrinking its mortgage-trading business by two-thirds within the next 12 to 18 months, ahead of stiffer capital rules. The Fed rules will require big foreign banks to hold more capital in U.S. units. The Fed approved the capital standards this year for foreign banks with at least \$50 billion of assets in the U.S. The stricter rules take effect in 2016. [Read more.](#)
- **Eminent Domain Mortgage Seizures Down But Not Out: May 22, 2014**
 The city council of Richmond, California, the first municipality to approve the use of eminent domain to acquire underwater mortgages in an effort to reduce foreclosures, has been unable to muster the supermajority five out of seven votes necessary to actually use eminent domain and will need to partner with another community to form a joint power authority (JPA) and carry out the plan. Richmond's Mayor would like the city council to approve a JPA with the City of Lynwood, California (in Los Angeles County) on Tuesday, June 24, 2014. According to the city attorney, a simple majority of four out of seven votes are needed to enter into a JPA. Mortgage Resolution Partners – a San Francisco-based LLC incorporated in Delaware that bills itself as a "Community Advisory firm" – stands to make \$4,500 per seized loan. MRP maintains the city can use its eminent-domain powers to seize the mortgages at a steep discount to their face value, steep enough to pay MRP its fee and allow the city to at least cover its costs after reducing principal values and repackaging the loans in new securities. [Read more.](#)
- **BlackRock's Fink Warns Housing More "Unsound" Now Than During Last Bubble: May 20, 2014**
 More than half a decade after the collapse, and with some proclaiming the recovery as strong as ever and the Fed remarking on the housing market's foundational pillar to that recovery, Blackrock's CEO Larry Fink has a few words of warning for the exuberant – the U.S. housing market is "structurally more unsound" today than before the last financial crisis. As the data comes in weaker and weaker, despite hopes for a post-weather bounce, the fact that the US housing market is "more dependent on Fannie and Freddie than we were before the crisis," is a problem for the US taxpayer and – unlike Mel Watt's "free credit for everyone" approach to expanding the GSE's role, Fink says with strong underwriting standards, ownership of affordable homes can again become a foundation for American families. [Read more.](#)

- **Santander bond mistake raises ABS worries: May 19, 2014**

A recent error by Banco Santander in distributing \$71 million to investors in a bond deal linked to subprime auto loans points to the potential for more such lapses in the booming market, according to Citigroup Inc. The inaccurate principal payments by the U.S. consumer unit of the Madrid-based bank continued for two months before being discovered and corrected earlier this month, Citigroup said. On June 13, Santander Consumer USA made a \$71 million infusion to the \$1.55 billion asset-backed deal, according to Moody's Investors Service. [Read more.](#)

CONGRESSIONAL ACTION

- **Senate Banking Committee holds confirmation hearing: June 17, 2014**

On Tuesday, June 17, 2014, the Senate Banking Committee held a confirmation hearing to consider Julian Castro's nomination to be secretary of HUD. If confirmed, Castro – the mayor of San Antonio, Texas – will replace current HUD secretary Shaun Donovan, who has been nominated to head the OMB. At the same hearing, the committee will also consider the nomination of Laura Wertheimer to be inspector general of the FHFA. Wertheimer is a lawyer in the securities department at Wilmer Cutler Pickering Hale and Dorr, LLP. [Read more.](#)

- **U.S. housing nominee urges Congress to shut Fannie and Freddie: June 17, 2014**

The President's nominee to lead HUD, Julian Castro, urged lawmakers to move forward with efforts to shutter Fannie Mae and Freddie Mac, saying the current housing finance system is not serving Americans well. Castro told the Senate Banking Committee that if confirmed he would seek to ensure taxpayers are never again on the hook in a housing crisis as they were when the government stepped in to bail out the two mortgage financiers. [Read more.](#)

- **Castro to study cities' use of eminent domain on mortgages: June 17, 2014**

HUD Secretary nominee Julian Castro says at Senate Banking Committee confirmation hearing that Fannie-Freddie reform is preferable to current system. Castro says HUD can have access to credit, taxpayer information. Sen. Elizabeth Warren urges Castro to focus on access to mortgage loans. [Read more.](#)

- **Cordray seeks to assuage concern over national mortgage database: June 10, 2014**

CFPB Director Richard Cordray seeks to assure Senate Banking Committee that national mortgage database won't include information that could personally identify individuals and that there are no plans to include data on borrower's religious affiliations. [Read more.](#)

- **CFPB mortgage rule change OK'd by House; would alter how mortgage points calculated: June 9, 2014**

The House approved a bill supported by banking and real estate interests that would alter how points and fees are calculated under the CFPB's standard-setting qualified mortgage. [Read more.](#)

- **House committee votes to prohibit FHA from financing homes taken using eminent domain: May 21, 2014**

In approving legislation for FY2015 for HUD, the House Appropriations Committee included a general provision that would prohibit the FHA from financing or refinancing a loan that has been seized using eminent domain. [Read more.](#)

AGENCY ACTION

1. AGENCY ANNOUNCEMENTS

MORTGAGE-BACKED SECURITIES

- **FHFA, RBS reach \$99.5 million accord on mortgage securities sold to Freddie Mac: June 19, 2014**

A Royal Bank of Scotland securities unit reached a \$99.5 million settlement with federal housing regulators on claims the unit sold faulty mortgage-backed securities to Freddie Mac. Freddie Mac's conservator, the FHFA, announced the settlement, saying it resolves claims against RBS Securities Inc. in a lawsuit against Ally Financial and other defendants in the U.S. District Court for the Southern District of New York. The settlement has no effect on a separate lawsuit against The Royal Bank of Scotland Group. [Read more.](#)

- **New mortgage rule closer to approval after SEC OK: June 10, 2014**

A loosened mortgage rule aimed at improving mortgage quality advanced after the SEC dropped a key objection. The new rule wouldn't include a down-payment requirement. The compromise approach is designed to assuage some regulators' concerns that the rule may not go far enough to prevent the type of lax underwriting that helped fuel the 2008 financial crisis. [Read more.](#)

EMINENT DOMAIN

- **House Committee bill would prohibit eminent domain financed mortgages: May 6, 2014**

May 6, 2014: U.S. House Appropriations Committee Includes Language in T-HUD FY 2015 Appropriations Bill that would Prohibit FHA, HUD or Ginnie Mae from using Funds to Make, Insure or Guarantee Mortgages Acquired through Eminent Domain.

[Read more.](#)

GSE REFORM

- **GSE price changes may help private mortgage insurers: June 6, 2014**

Future GSE pricing changes under FHFA Director Mel Watt likely will include focus on providing LLPA relief to borrowers in lower credit bands, would probably benefit private mortgage insurers. FHFA request for comment on fees is open until August 4, 2014; likely enough time for fall pricing announcement, with an effective date January 1, 2015. [Read more.](#)

FANNIE/FREDDIE

- **Fannie fees slated for review as Watt re-examines wind-down plan: June 6, 2014**

The FHFA is seeking public input on whether raising fees charged by Fannie Mae and Freddie Mac would adversely affect mortgage lending. The move is part of an effort by FHFA director Melvin L. Watt to re-examine policies that were aimed at shrinking the companies' footprint. The FHFA asked for feedback on whether raising fees would decrease lending overall. [Read more.](#)

2. AGENCY RULEMAKING

- **HUD Final Rule: Removal of Regulations Transferred to the Consumer Financial Protection Bureau (79 FR 34224)**

- **Release Date:** **June 16, 2014**
- **Effective Date:** **July 16, 2014**
- Through this rule, HUD removes its regulations previously authorized under the Real Estate Settlement Procedures Act of 1974 (RESPA), the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act), and the Interstate Land Sales Full Disclosure Act (ILSFDA).
- Responsibility for administration of these statutes, including authority to issue regulations, was transferred to the Consumer Financial Protection Bureau (CFPB) pursuant to title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Accordingly, HUD's regulations for these statutes are no longer operative, and are being removed by this final rule. [Read more.](#)

- **FHFA Seeks Input on Fannie Mae and Freddie Mac Guarantee Fees**

- **Release Date:** **June 5, 2014**
- **Comments Due:** **August 4, 2014**
- The FHFA today is requesting input on the guarantee fees (g-fees) that Fannie Mae and Freddie Mac charge lenders.
- In January 2014, FHFA Director Mel Watt suspended the implementation of g-fee changes announced by the FHFA in December 2013, pending further review.
- FHFA's Request for Input includes questions related to g-fee policy and implementation regarding the optimum level of g-fees required to protect taxpayers and implications for mortgage credit availability.
- Input must be received within 60 days or no later than August 4, 2014 and should be submitted to the Federal Housing Finance Agency, Office of Policy Analysis and Research, 400 7th Street, SW, Ninth Floor, Washington, DC 20024 or via FHFA.gov.
- Fannie Mae and Freddie Mac charge g-fees to cover costs associated with providing a credit guarantee to ensure the timely payment of principal and interest to investors in mortgage-backed securities if the borrower fails to pay. [Read more.](#)

- **Federal Reserve Rule: Identity Theft Red Flags – Regulation V (79 FR 30709)**
 - **Release Date:** **May 29, 2014**
 - **Effective Date:** **June 30, 2014**
 - The Board of Governors of the Federal Reserve System is amending its rule on identity theft red flags (Red Flags rule), which implements section 615(e) of the Fair Credit Reporting Act (FCRA).
 - The Red Flag Program Clarification Act of 2010 (the Clarification Act) added a definition of creditor in FCRA section 615(e) that is specific to section 615(e). Accordingly, the final rule amends the definition of creditor in the Red Flags rule to reflect the definition of that term as added by the Clarification Act.
 - The final rule also updates a cross-reference in the Red Flags rule to reflect a statutory change in rulemaking authority.
 - The FCRA's red flags provisions have been broadly applied to banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. [Read more.](#)

- **Federal Reserve Proposed Rule: Concentration Limits on Large Financial Companies (79 FR 27801)**
 - **Release Date:** **May 15, 2014**
 - **Comments Due:** **July 8, 2014**
 - The Board invites comment on a proposed rule (Regulation XX) that would implement section 622 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 622, which adds a new section 14 to the Bank Holding Company Act of 1956, establishes a financial sector concentration limit that generally prohibits a financial company from merging or consolidating with, or acquiring, another company if the resulting company's liabilities upon consummation would exceed 10 percent of the aggregate liabilities of all financial companies as calculated under that section.
 - In addition, the proposal would establish reporting requirements for certain financial companies that are necessary to implement section 622.
 - Under the Federal banking agencies' regulatory capital rules, bank holding companies and insured depository institutions are required to deduct fully certain assets from regulatory capital, such as goodwill, certain mortgage servicing rights, deferred tax assets, and other intangibles. [Read more.](#)

- **CFPB Proposed Rule: Amendments to the 2013 Mortgage Rules Under the Truth in Lending Act (Regulation Z) (79 FR 25730)**
 - **Release Date:** **May 6, 2014**
 - **Comments Due:** **July 7, 2014**
 - The Bureau of Consumer Financial Protection (Bureau) proposes amendments to certain mortgage rules issued in 2013.
 - The proposed rule would provide an alternative small servicer definition for nonprofit entities that meet certain requirements, amend the existing exemption from the ability-to-repay rule for nonprofit entities that meet certain requirements, and provide a limited cure mechanism for the points and fees limit that applies to qualified mortgages. [Read more.](#)

- **Final Rule: Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and Their Subsidiary Insured Depository Institutions (79 FR 24528)**
 - **Release Date:** **May 1, 2014**
 - **Effective Date:** **January 1, 2018**
 - The OCC, the Fed, and the FDIC are adopting a final rule that strengthens the agencies' supplementary leverage ratio standards for large, interconnected U.S. banking organizations.
 - The final rule applies to any U.S. top-tier bank holding company with more than \$700 billion in total consolidated assets or more than \$10 trillion in assets under custody and any insured depository institution subsidiary of these BHCs.
 - One commenter warned that in the mortgage banking industry, this could constrain warehouse lines of credit needed to finance the production of new mortgages and mortgage-backed securities. [Read more.](#)

- **FPB Final Rule: Integrated Mortgage Disclosure Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z)**
 - **Release Date:** **December 30, 2013**
 - **Effective Date:** **August 1, 2015**
 - Sections 1098 and 1100A of the Dodd-Frank Act direct the Bureau to publish rules and forms that combine certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act and the Real Estate Settlement Procedures Act.
 - Consistent with this requirement, the Bureau is amending Regulation X (Real Estate Settlement Procedures Act) and Regulation Z (Truth in Lending) to establish new disclosure requirements and forms in Regulation Z for most closed-end consumer credit transactions secured by real property.
 - In addition to combining the existing disclosure requirements and implementing new requirements imposed by the Dodd-Frank Act, the final rule provides extensive guidance regarding compliance with those requirements. [Read more.](#)