ROBOCLOSURE-GATE: Getting Down to the Nitty Gritty

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Skepticism surrounding the major mortgage banks has been obvious lately. That skepticism intensified this morning after Bank of America reported a net Q3 loss of $7.3 billion after incurring a self-imposed $10.4 billion good will impairment charge.

BoA decided to charge themselves $10.4 billion in anticipation of a future decline in consumer banking revenues. Before this charge BoA earned $0.27 a share which works out to a $3.1 billion profit. Accountants and analysts call it a "non cash goodwill impairment charge" and it doesn't impact regulatory capital ratios. The plain and simple version is BoA expects to lose a certain amount of income in the future so they preemptively reduced their assets now while the funds are avaiable. The future loss of income centers around **new laws reforming the fees banks can charge consumers** to use their debit cards. That doesn't paint the whole picture on what BoA might be on the hook for down the road though...

Around 2pm, this negative news popped up on my screen:

> **14:10 19Oct10 RTRS**-PIMCO, BLACKROCK, NY FED SEEKING TO FORCE BANK OF AMERICA TO BUY BACK $47 BLN OF MORTGAGE BONDS-BLOOMBERG
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> **14:11 19Oct10 RTRS**-BONDHOLDERS, NY FED CITE FAILURES BY B OF A'S COUNTRYWIDE UNIT TO SERVICE LOANS PROPERLY-BLOOMBERG

The highlighted section says it all. Bank of America just set aside $10.4 billion for future losses. Now maybe BoA is on the hook for $47 billion more? Maybe. BoA doesn't agree with the claim.

Al Yoon and Elinor Complay write for Reuters: **BoA to Fight Mortgage Bond Investors**

> * BofA says no basis for charge it sold bad mortgages
> * Investors' notice gives bank 60 days to fix issues
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> A group of large investors has accused Bank of America Corp of mishandling mortgages packaged into bonds, but the bank said on Tuesday it would fight being held responsible for investors' losses that could reach the billions.
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> The investors said that some mortgages that the bank packaged into bonds should never have been sold to investors in the first place. The group controls about $16.5 billion of bonds, and a person familiar with the matter said the Federal Reserve Bank is among the investors. Bloomberg reported that the group also includes asset managers Pimco and BlackRock Inc.
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> A foreclosure crisis erupted in recent weeks because of bad paperwork on repossessed homes, but it has highlighted other risks to banks in the mortgage market. One such risk is mortgage investors forcing banks to buy back billions of dollars of bad home loans at their face value.
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> **On a conference call with analysts, Bank of America said that there are many investors who have no basis for claiming that the bank sold them bad mortgages.**
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> "If you think about people who come back and say, 'I bought a Chevy Vega, but I want it to be a Mercedes with a 12-cylinder,' we're not putting up with that," Bank of America Chief Executive Brian Moynihan said on the call.
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> But the bank also said it does not know how big its total potential mortgage losses are, which spooked investors, sending Bank of America's shares down 3.32 percent to $11.93.
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> As the mortgage market sustains its fourth year of weakness, which saw nearly 3 million home foreclosures since January 2007, investors are working hard to minimize their losses.

Fannie Mae and Freddie Mac, which guarantee mortgages and were nationalized by the U.S. government, have been forcing banks to buy back billions of dollars of loans.

Bank of America, the largest U.S. bank, said it believes it its reserves are sufficient for claims from Fannie Mae and Freddie Mac, but it is not certain how much it may face in claims from other kinds of investors.

The group of investors has issued a "notice of nonperformance" to Countrywide Home Loan Servicing, now part of Bank of America. The unit works on behalf of mortgage bond holders to collect payments on mortgages and work out bad loans.

The notice gives the Bank of America unit 60 days to fix the issues in question. After a cure period, the investors can sue the bank. Spokesmen for PIMCO, BlackRock and the New York Fed declined to comment.

Dan Frahm, spokesman for Bank of America Home Loans told Reuters, "We believe we've complied with our obligations." He declined to comment further.

Plain and Simple: The claim being made against Bank of America is that they misrepresented the quality of non-agency loans they (Countrywide really) sold to investors sometime in the past. These "misrepresentations" would've been made by the banks to investors about the quality of credit, income, and assets of the borrowers who back the loans they've made.

Buyback are not new to the mortgage industry. You might recall dealing with a "loan buyback" or two in the past? Ha! Note sarcasm. The industry already has extensive experience in dealing with "Loan Buyback Requests" or "Repurchase Requests" from Fannie Mae, Freddie Mac, and Ginnie Mae?

(If you are not familiar with loan buybacks or just want a refresher: **THIS IS WHAT WE CAN OFFER...TAKE YOUR PICK**)

Banks have been expecting this to happen though, they've been storing reserves for this day. Well they're gonna need 'em because we're really getting down to the nitty gritty of the issue...

During the subprime/alt-a/low doc/low credit/no credit/no doc/everybody gets a loan era, mortgages were bought and sold, packaged, repackaged, stripped down, ripped apart, and then repackaged again. In the end, investors had no clue where all the pieces of paper ended up. It was like we took all the loans and put them in one big blender with extra helpings of booze. Everybody then proceeded to get hammered off that concoction. Wall Street, Main Street, Congress, the list goes on and on... most folks benefitted from the housing boom in one way or another. What's funny is now that the house of cards has come crashing down, no one is willing to take responsibility. Instead, fingers are being pointed every which way but in the mirror.

In the end, it all ties together The foreclosure affidavit fiasco. Title ownership issues. MERS. Robo-signings. All products of extreme sloppiness, from start to finish, in the origination to securitization process during the subprime/alt-a/low doc/low credit/no credit/no doc/everybody gets a loan era.

I don't know how it's going to end. We're all waiting for the dust to settle, it just never seems to dissipate. Hopefully America doesn't turn into Gotham City. In the here and now, all ROBOCLOSURE-GATE does is add more uncertainty to the timing of a sustained economic recovery. Not just in housing. The entire economy.

All parties involved must take some form of responsibility and willingly participate in producing a solution. Or maybe we just to need to set up a Resolution Authority to bail everybody out all at once, including the GSEs. One and done. It's pie in the sky for now but something we'll eventually be begging for if this mess doesn't get sorted out soon.

From Reuters...

U.S. federal regulators will meet on Wednesday to discuss the foreclosure crisis amid concerns it could affect the housing market and broader economy, White House spokesman Robert Gibbs said. The Obama administration wants to ensure that banks' foreclosure practices were lawful, Gibbs said. Attendees at the meeting will include Treasury Secretary Timothy Geithner, Housing and Urban Development Secretary Shaun Donovan and a top Justice Department official, Associate Attorney-General Thomas Perrelli, Gibbs said. Banks would face federal fines and possible legal action from homeowners if investigators find irregularities in the banks's practices, he said. Foreclosed home sales are key to spurring a recovery in the fragile housing market, he said, and the White House was concerned about the dangers of "halting" the entire housing marketing and the knock-on effect on the broader economy.

6/7/2010: **Countrywide Will Pay $108 Million for Overcharging Struggling Homeowners; Loan Servicer Inflated Fees, Mishandled Loans of Borrowers in Bankruptcy**

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