

Option One Buyer Offers Feedback

Attempts by the government to encourage restructuring of mortgages in the hope of keeping families in their homes while simultaneously minimizing the negative impact on investors have been well-received and highly publicized in some circles.

But for Wilbur L. Ross, Jr., chairman and CEO of W.L. Ross & Co. LLC, such workout programs are severely lacking.

Ross - who became the U.S.' second-largest servicer of subprime loans following his acquisition of servicing rights from Option One Mortgage Corp. earlier this year - identifies the government's highly publicized proposals as needing better incentives in place for servicers if compliance is to be expected.

Teleconferencing from London and speaking as a keynote speaker for the Coalition for Mortgage Industry Solution's recent Executive Leadership Summit in Washington, D.C., Ross detailed a shared-appreciation alternative to foreclosure that he suggests may quell housing market instability.

Moreover, Ross says his remedy provides the necessary motivation for servicers to rework loans while safeguarding them from the risk of becoming irresponsible fiduciaries for investors.

"The government programs and proposals seem to lack, among other things, an understanding of the needs and obligations of the servicers," he said. "Some of the proposals call for

acceptance of the discount even from the markdown present value of the property. I don't see how a servicer can discharge [its] responsibilities to the securitization holders by accepting such a discount."

While segments of the industry continue to debate who is to blame for current market maladies - with fingers pointing toward both predatory lending practices and shoddy underwriting, as well as overreaching borrowers - Ross added that the government seems "too obsessed" with focusing on borrowers' needs and avoiding accusations of enabling bailouts.

"I also have a conceptual issue with the idea that the mortgage should be compromised - and yet the borrower's equity is not only left intact, but is actually bolstered by the fact that there's now less debt ahead of them," he vented. "There seems to be almost a punitive attitude toward lenders."

Ross' shared-appreciation model calls for reducing loan principal - a concept that revealed itself to be a recurring theme of the summit. Under his proposal, the Federal Housing Administration (FHA), as insurer, would be authorized to guarantee the like amount of the remaining mortgage by which it's discounted. This would allow the borrower to retain 50% of the subsequent appreciation of the property's value, and the lender and insurer (FHA) would share the lesser of 25% of the gain or the amount

forgiven. To help create liquidity, the lender would be able to resell the guaranteed portion of its principal interest.

In addition to creating an incentive for servicers, Ross claims his solution might deter borrowers from willingly going delinquent and abandoning their homes, which is becoming a more apparent trend in some areas of the country.

"It could be motivation for the homeowner to continue making payments, because they'd at least get half the upside," he said. "And it would give the lender opportunity potential to claw back some or all of the amount by which the loan is compromised."

And in a climate where an ever-increasing number of homeowners are simply walking away from properties, providing such motivation to borrowers may become a necessity. As part of his outline, Ross said that borrowers, in order to qualify for such workouts, would have to provide verifiable financials that suggest their ability to pay the reduced amount. Additionally, the total loan amount would be 100% of a newly established appraised value.

"What this is an effort to do is to launch through the system, in a hopefully relatively economical way, the loans that were made in too large of an amount - either too large relative to the property value or too large relative to the ability of the borrower to pay," he said. - *John Clapp*

CREDIT COUNSELING

ASF Issues Expenses Guidelines

The American Securitization Forum (ASF) has issued operational guidelines to assist mortgage loan servicers and counseling organizations in implementing procedures for reimbursing expenses associated with the provision of borrower counseling services.

The guidelines follow the ASF's October 2007 guidance that borrower counseling fees may be reimbursable from securitization cashflows in situations where the servicer concludes that the counseling service has mitigated or is likely to mitigate losses and maximize recovery on particular loans that are in default or where default is reasonably foreseeable.

"Servicers are legally obligated to mitigate losses and maximize recoveries on each mortgage loan, acting in the best interests of the investors in a securitization trust comprising these loans," says Tom Deutsch, deputy executive director of the ASF. "Borrower credit counseling is one of several tools servicers can use to preserve homeownership and prevent foreclosure, which is the best solution for borrowers and investors alike."

The guidance is intended principally for securitized residential mortgage loans and recommends that servicers may reimburse up to \$150 out of securitization trust proceeds for any approved counseling session, ASF says.

Other specific recommendations given to servicers under the guidance include contracting with quality and trusted counseling organizations that will help borrowers connect with servicers, collect information relevant to loss mitigation evaluations, recommend appropriate loss mitigation alternatives to servicers and/or assist borrowers in restructuring the full range of their debt obligations to help them better meet their mortgage obligations.

FORECLOSURE

California AG Catches Scammers

The office of California Attorney General Edmund G. Brown says it has shut down a team of scam artists that acquired deeds to hundreds of homes in foreclosure by convinc-

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