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Ocwen Said to Have Stalled Home Sales by Underwater Borrowers

By Carter Dougherty - Dec 18, 2014

[Ocwen Financial Corp. \(OCN\)](#) is being examined over whether it improperly stalled short sales by borrowers who owe more than their homes are worth, according to two people briefed on the case, as troubles deepen for the mortgage servicer whose stock has slumped 60 percent this year.

The [New York](#) Department of Financial Services and the U.S. Consumer Financial Protection Bureau are investigating whether Ocwen is thwarting a new rule that mortgage servicers must approve or deny a short sale within 30 days of an application. They're examining whether Ocwen is delaying such sales to collect more fees, according to the people, who asked not to be identified because the probes are confidential.

In short sales, the lender gets the proceeds of the sale and relinquishes the balance of the mortgage. Borrowers get out from under a loan they can't repay, and housing inventory is freed up. Consultants specializing in the practice in states suffering the most in the mortgage crisis say Ocwen is known for demanding more paperwork before the deadline, forcing the process to restart.

"Ocwen has it all figured out," Deborah Priebe, a senior vice president at Short Sale Success in Henderson, [Nevada](#), said in an interview. "They are notorious for asking for one more piece of paper on the 29th day."

Margaret Popper, a spokeswoman for Ocwen, said the company "has no desire to delay short sales" and their costs increase when the process is prolonged.

'Maximize Proceeds'

"We also seek to maximize proceeds from the sale of the property," Popper said. "Sometimes maximizing proceeds for borrowers and investors requires additional time and processes."

Sam Gilford, a CFPB spokesman, and [Matthew Anderson](#), a spokesman for the New York bank regulator, declined to comment on Ocwen.

Ocwen [shares](#) closed at \$21.19 yesterday, down from an October 2013 high of \$60.18 as government efforts to clean up the mortgage-servicing business weigh on the Atlanta-based company. Two months ago, [Benjamin Lawsky](#), superintendent of the New York bank regulator, and three state attorneys general said they're looking into the firm after finding it had backdated letters to homeowners, forcing them to miss deadlines for applications to modify loans.

[Last year](#), Ocwen agreed to pay \$2.1 billion to settle with the CFPB, whose director, [Richard Cordray](#), said the firm "took advantage of borrowers at every stage of the process."

Monitor Reviews

Lawsky has been scrutinizing Ocwen for years. In 2011, he curbed its ability to foreclose on homeowners as a condition to getting approval to buy another company, then installed a monitor there after a surprise audit in 2012 found Ocwen hadn't complied with the terms.

[Joseph Smith](#), a monitor overseeing compliance with another settlement over flawed foreclosures, said this week he's hired an independent auditor to scrutinize Ocwen's loan servicing.

"I'm not saying everybody there did wrong," Smith said in a telephone interview. "The best you could say about it was it was sloppy. It could be more."

Homeowners are also unhappy. [Beyond the Arc](#), a Berkeley, California-based analytics firm, studied CFPB data and found much higher rates of complaints against Ocwen than the banks such as Wells Fargo & Co. and [Bank of America Corp.](#) that dominate the mortgage servicing business.

Though Ocwen, the largest nonbank servicer, has a smaller slice of the market than those banks, it's been the most aggressive in acquiring rights to existing home loans. It collects fees for processing payments, foreclosures and short sales, and services about 2.6 million mortgages, worth about \$426 billion, according to [Fitch Ratings](#).

'Something Systemic'

In the first half of 2014, Ocwen customers were more than twice as likely as Bank of America's to complain to the consumer bureau about the service they'd received. Wells Fargo drew one-sixth as many complaints as Ocwen, suggesting "there is something systemic," said Brandon Purcell, who directs Beyond the Arc's data science team. The CFPB data didn't enable them to break out what the complaints were about.

Popper disputed Beyond the Arc's premise, and pointed to a report by Compass Point Research & Trading LLC that shows Ocwen's complaint rate, as a percentage of delinquent loans, is lower than banks'.

That report relied on company data and still shows Ocwen's complaint rate exceeds [NationStar Mortgage Holdings Inc. \(NSM\)](#), the second-largest nonbank servicer.

Smith, in his report on Ocwen this week, found that the department devoted to reporting data on its performance was "dysfunctional and chaotic." There were "serious problems and flaws" in how it tested its own compliance, he said.

'Fairy Dust'

In a successful short sale, the borrower lines up a buyer and submits the documents to the mortgage servicer. As of Jan. 21, under the new CFPB rule, the person should get a decision from the servicer within 30 days. Consultants in Nevada, [Florida](#), and [Utah](#) -- the states hurt most by the crisis -- say it's made little difference.

"That rule is written in fairy dust," said Paul Antonelli, a real estate agent in [Orlando](#), Florida, who also handles short sales. "It never happens."

Still, Ocwen's cases stand out, the consultants said.

"Ocwen is one of the harder ones to work with," said Provo, Utah real-estate consultant Greg deMik.

Krimm's Home

Scott Krimm, a 46-year-old disabled Army veteran, has been waiting to sell his home near [Las Vegas](#) since October 2012. With a buyer lined up, he said in an interview last month that he sees no hurdles to a sale but one: Ocwen.

With the home worth less than the \$257,630.12 he still owed on a mortgage from a 2005 refinancing, Krimm has been angling for a short sale. Even with the new rule, Krimm said he couldn't get a decision from Ocwen on whether he can sell.

"They have known from day one, for two years, about this short sale," he said. "Ocwen won't let it go through."

Priebe, who says she's handled over 1,000 short sales in the past 18 months including Krimm's, says Ocwen uses a loophole requiring the decision be based on a "completed application." When

Ocwen says more paperwork is needed, that means the application isn't complete and it all starts over.

Deliberate or Disorganized?

Similar to what Smith -- the monitor in place at Ocwen -- said he's assessing, investigators are trying to sort whether the short-sale delays, and the letters tied to the loan-restructuring issues, are deliberate or due to disorganization, one of the people briefed on the probes said. Ocwen's internal tracking systems sometimes indicate they've received a completed application even as the company says it needs more documents, according to the person.

Mortgage services make money collecting and tracking payments, meaning troublesome ones bring in more fees, said Roelof Slump, Fitch managing director for residential mortgage-backed securities.

Ocwen requires homeowners, even if they have buyers lined up, to also list it on an auction website, Hubzu -- a relationship Lawsky is also probing. In Krimm's case, the website didn't turn up any bids that beat the \$188,000 offer he had, Priebe said.

On Dec. 9, Ocwen said it wouldn't take anything less than \$195,000, Priebe said. His short-sale application was rejected.

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