With White House backing, banks resume foreclosure evictions

Tom Eley
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On Monday, Bank of America (BOA), the nation's largest lender, and GMAC of Ally Financial announced they are resuming foreclosure evictions and sales in states where they had temporarily suspended them, claiming that they found no impropriety in their foreclosure documentation.

BOA's decision means foreclosure proceedings against more than 100,000 homeowners will restart. It is expected that JP Morgan Chase and PNC Financial, which had also implemented temporary moratoriums on aspects of the foreclosure process, will follow suit.

Banks had implemented the partial moratoriums in recent weeks after it became public that they and their contractors had falsified legal documents relating to hundreds of thousands of foreclosures. Other banks and their subsidiaries implicated in the scandal, such as Citigroup, Wells Fargo, and Goldman Sachs, never instituted a moratorium.

All the major banks used "robo-signers," employees who, in lieu of proper documentation, submitted affidavits falsely attesting they had knowledge of foreclosure cases. They also falsified notary stamps and signatures. Some banks simply threw out paperwork, while others hired low-paid "Burger King kids," as one Goldman Sachs executive put it, to process large quantities of foreclosure documents.

The move by BOA affects its foreclosures in the 23 states that require judicial review prior to eviction and sale. New affidavits will be submitted to courts on Monday.

"We did a thorough review of the process, and we found the facts underlying the decision to foreclose have been accurate," said Barbara J. Desoer of BOA's Home Loans unit.

"This is an important first step in debunking speculation that the mortgage market is severely flawed," BOA spokesman James Mahoney declared.

The bank's claim that it found no evidence of false attestations in its foreclosure documents after only 10 days of review is simply not credible.

"This wasn't just a simple little mistake of forgetting to dot the 'i,'" Florida lawyer Peter Ticktin told the *New York Times*. "There was a whole system put in place to make false affidavits. How are they going to erect a new system to do 102,000 affidavits unless they are going to use the same old law firms to make a second generation of bad affidavits?"

"These are lawyers. These are banks going to court and committing fraud," said Ira Rheingold of the National Association of Consumer Advocates. "For them to say this is a minor technical problem is mind-boggling."

"The companies are overstating the ease of withdrawing these affidavits and then resubmitting them," Judge Lynn Tepper of Florida's 6th Circuit Court told the *Washington Post*.

BOA's move came much sooner than expected and was likely provoked by mounting pressure from powerful financial concerns. Shares of major US banks have been pummeled by investors fearful that the revelations throw into question the validity of securities based on mortgage loans. Before yesterday's announcement, BOA's stock had fallen by nearly 10 percent over the previous week.

On Tuesday, an alliance of leading financial concerns—Pimco, the world's largest bond fund; BlackRock, the world's largest money manager; MetLife, the world's biggest insurer; and the Federal Reserve Bank of New York—will sue to seek BOA buybacks of as much as $47 billion in mortgage-based securities issued through its Countrywide unit.

In addition to accusing BOA of improper

documentation, the investors are accusing the bank "of taking too long with foreclosures," *Bloomberg* reported Tuesday.

BOA has already sustained major losses related to mortgage bond buybacks. In the third quarter, it had to pay $400 million for buyers' claims related to mortgage representations and warranties. According to the *Wall Street Journal*, these "refer to complaints from buyers of mortgages—especially government agencies Fannie Mae and Freddie Mac—that Bank of America and other big banks issued mortgages with faulty underwriting or documentation, and now must compensate them when the loans fail."

In total, BOA has had to pay out $3.3 billion for such claims. It admitted in a Tuesday earnings report that it anticipates the losses will continue.

Similar demands will likely follow at other banks. A moratorium on foreclosures would very likely sharpen the conflict between the big banks, on the one side, and bond funds and money management firms on the other.

It is to avert such a scenario and the risk of reigniting the global financial crisis that the Obama administration has gone on record in support of the continuation of foreclosures, disregarding evidence of the banks' rampant lawbreaking.

The latest administration official to intervene in the crisis on the side of the banks is Shaun Donovan, secretary for Housing and Urban Development, who penned a column for the *Huffington Post* warning of the supposed dangers should foreclosures be slowed.

"A national, blanket moratorium on all foreclosure sales would do far more harm than good," Donovan writes. "[H]omeowners are at risk, too—and the best hope they have is for the 'Foreclosed' signs in front of the vacant, abandoned properties on their block to come down, so that the value of their homes can start rising again."

This is an extreme free-market position. Donovan is arguing that speeding up foreclosures eventually benefits other homeowners by driving down the market to the point it can deteriorate no more, after which it should, in theory, begin to improve. The alternative—keeping people in their homes in the first place—is clearly not up for consideration in the White House.

Donovan assures readers that "a comprehensive review" is underway—not an investigation—involving a number of US regulatory agencies. Any changes will be put in place by the banks themselves.

"The message [we] are sending is the same: banks must follow the law—and those that haven't should immediately fix what is wrong," Donovan writes.

It should be noted that this same promotion of self-regulation set the stage for the financial collapse of 2008.

Indeed, the mortgage document scandal is a manifestation of an even larger fraud—the US housing bubble that exploded in 2008. Banks relentlessly promoted home buying and refinancing to cash-strapped American families with "teaser rate" loans, subprime loans, and other adjustable rate mortgages. Massive loan volume was the goal, and the resulting securities—counted in the trillions of dollars—were bundled, sold, and spread out across the global financial system. In this process, underlying legal claims to property title were of only secondary interest.

On these rotten foundations enormous personal fortunes were built up. Then, when the entire Ponzi scheme collapsed, the Bush and Obama administrations bailed out the banks to the tune of trillions of dollars, while saddling the population with the worst housing crisis in US history.

Obama's "housing rescue" of 2009, (Home Affordable Modification Program, or HAMP) simply encouraged banks to change interest rates and payment plans, but it did not require them to lower principals, the grossly overvalued outstanding debt on loans issued during the housing bubble. The program has been a dismal failure, with only a handful of households gaining permanent refinancing.

The housing market, meanwhile, has continued to implode. In the third quarter, nearly one million US homes received a foreclosure filing.