

Judge opens ‘big spigot’, approves Countrywide RMBS payments – UPDATE

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A New York court on Thursday cleared the way for payments on all but 18 of the 530 trusts covered by the USD 8.5bn Countrywide RMBS settlement.

"Turn on a big spigot," said John Moon, a partner at Miller & Wrubel. "Eight billion dollars is about to start flowing."

New York Supreme Court Judge Saliann Scarpulla approved a partial final judgment that addresses a technicality in the order of payments that could have compensated holders of subordinate bonds ahead of senior certificateholders. She signed the order about an hour after a brief hearing was adjourned.

Payments are likely to be included in the June remittance period for each trust, exactly five years after the benchmark settlement was forged between 22 investors, Countrywide and Bank of America, two lawyers said.

Investors including BlackRock, Pimco and Fannie Mae proposed the trustee not measure overcollateralization between the initial payments on OC trusts and the ultimate write up of certificate principal balances. An "illusory" satisfaction of OC when measured in the middle of the process could have sent billions of dollars to subordinate holders as reimbursement for previously allocated losses, the Bank of New York Mellon said in its February petition.

BoNY indicated that investors had competing views on how to handle the OC issue. The controversy has delayed payments, frustrating bondholders who received notice of final allocation amounts on 12 January.

It is understood that hedge funds Prosiris Capital Management and Tilden Park Capital Management had no issues with the order of payment on OC trusts but argued that there were cases in which cash should flow to subordinate holders ahead of senior holders. The funds are invested in some of the 18 trusts not covered by the partial final judgment.

Kathy Patrick, a partner with Gibbs & Bruns, indicated that other investors in one or more of the disputed trusts – including Pimco and BlackRock – were working to negotiate agreements on the waterfalls by month's end.

by Al Yoon

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