The Market Oracle

Search

Google Custom Search

Best of the Week

Most Popular

1.USD Index Trend Forecast Into Mid 2011, U.S. Dollar Collapse (Again)? - Nadeem_Walayat
2.America's Bright Future After U.S. Treasury Debt Default - Gary_North
3.$2 Trillion False Flag Event at the U.S. Treasury, The Fed's Furtive Filching - Barry_M_Ferguson
4.Banks Laundering Counterfeit Mortgages, The Largest Financial Fraud in World History! - Washingtons_Blog
5.The Fed Has Gone Insane, So I'll Just Pick Up Some More Gold and Silver - Richard_Daughty
6.The Middle Class Caught in a Pincer Movement - James_Quinn
7.QE2 Won, But Won't Un-Block America's Economic Stagnation, Now Keynes' Nuclear BubbleOmics - Andrew_Butter
8.The U.S. Fed Wants an Inflation Boom- Greg Weldon
9.U.S. Treasury's Drive to Devalue the Dollar, Fed Takes Aim at Chinese Yuan - Gary_Dorsch
10. Bank of England Prepares to Print Money Despite High Inflation at CPI 3.1% - Nadeem_Walayat

Last 5 Days Analysis

Crude Oil at a Crossroad of Inventory and Fed's QE2 - 18th Oct 10
Silver Is On The Move - 18th Oct 10
Stocks Stealth Bull Market Dow Trend Forecast into Jan 2011 - 18th Oct 10
Wall Street and White House Blame Homeowners For Foreclosure Crisis - 17th Oct 10
Gold Enough Vigor to Delay the Inevitable? - 17th Oct 10
Forget China, The Real Catastrophe To Hit U.S.A. Is Hydrocarbon Imports - 17th Oct 10
Look at the U.S. Dollar USD Index - 17th Oct 10
Report from the Epicentre of Foreclosures Fraud - 17th Oct 10
Quantitative Easing, Inflation, Hyperinflation and Global Deflationary Depression - 17th Oct 10
Gold Price About to Plunge? - 17th Oct 10
Are ALL Mortgage Backed Securities a Scam? - 17th Oct 10
An Easy Way to Boost America's Energy Independence - 17th Oct 10
Winning The Currency War By Unleasing Financial Nuclear War - 17th Oct 10
The Nobel Prize for Capitalism Awarded to Chinese Dissident Liu Xiaobo - 17th Oct 10
Foreclosure Mess, Subprime Debacle Act2, Where is the U.S. Housing Market Recovery? - 17th Oct 10
Quantitative Easing 2 is a Bad Idea, Market Manipulators Pushing Stocks Higher - 17th Oct 10
Currency Wars, The Cycle of Deflation and Misguided U.S. Economic Policy - 17th Oct 10
U.S. Natural Gas Glut, When Will The United States Begin Exporting It? - 16th Oct 10
Foreclosuregate: Time to Break Up the Too-Big-to-Fail Banks? - 16th Oct 10
U.S. Debt Pie, A Nation of 300 Million Suckers - 16th Oct 10
U.S. Plans To Seize Pakistan's Nuclear Arsenal War Rumour - 16th Oct 10
Is the Fed Boosting the Stock Markets? The Numbers Don't Lie... - 16th Oct 10
Stocks Bull Market Rolls Along, Long-term Elliott Wave Analysis - 16th Oct 10
Silver Major Price Breakout and Manipulation Timeline - 16th Oct 10
End The FED and Get The Gold - 16th Oct 10
U.S. Dollar USD Index ZERO Bound - 16th Oct 10
Fed Chairman Bernanke Presents a Case for QE2, CPI Remains Subdued - 16th Oct 10
Stock Market Bubble and Gold Stalls at New High - 16th Oct 10
Unsustainable Policies and Practices with Deficits, Is America On A Burning Platform? - 15th Oct 10
Hyperinflation Multi-Trillionaires and Commodity Bubbles - 15th Oct 10
Gold and Silver Best Protection Against the $100 Trillion Bailout - 15th Oct 10
U.S. Dollar Makes New Lows, Inflation Unplugged - 15th Oct 10
Trading Markets Using High Probability Technical Chart Patterns - 15th Oct 10
Gold Junior Miners GDXJ ETF Analysis - 15th Oct 10
U.S. Banks Mortgage Fraud, Take Action- Demand To see Your Mortgage Note - 15th Oct 10
Bernanke Ponders The "Nuclear Option" - 15th Oct 10
Financial Markets Tensions Rise as Global Policymakers Part Ways - 15th Oct 10
Stock Markets Waiting On Helicopter Ben - 15th Oct 10
How to Hedge Yourself from the Coming Fed Inflation Disaster - 15th Oct 10
Fort Knox Gold and What Your Should Do - 15th Oct 10
Mortgagegate Could Crush the U.S. Banking System - 15th Oct 10
Time to Sell Gold Stocks? - 15th Oct 10 - Jason_Hamlin
The Fed Has Gone Insane, So I'll Just Pick Up Some More Gold and Silver - 15th Oct 10
U.S. Mortgage Fraud, Greenspan Was Right, So Was Jesus - 15th Oct 10
China and the Future of Rare Earth Elements - 15th Oct 10
Widening U.S. Trade Deficit Will Trim Q3 Real GDP Growth - 15th Oct 10
British Pound vs Australian Dollar (GBP/AUD) Trend Forecast into Mid 2011 - 14th Oct 10
Can the U.S. Dollar Drop Fast Enough to Keep the Stock Market Up? - 14th Oct 10
Getting Real about U.S. Real Estate - 14th Oct 10
Nobel Committee in Search of Economists - 14th Oct 10
Rise in Jobless Claims Takes Shine Off of Stocks - 14th Oct 10
How to Diversify Out Of U.S. Dollars With ETFs - 14th Oct 10
Gold Reaches New Record Highs and Silver Reaches Record 30 Year Highs on U.S. Dollar Weakness - 14th Oct 10
A Plunge into a Monetary No Man's Land - 14th Oct 10
Democracy is Destroying the U.S. - 14th Oct 10
America's Bright Future After U.S. Treasury Debt Default - 14th Oct 10
Nothing Like Uncertainty to Boost Gold Prices - 14th Oct 10
China Casts Shadow Over Asia, Flawed Conventional Wisdom on the Chinese Economy - 14th Oct 10
Casey Gold Summit Offers Investment Nuggets - 14th Oct 10

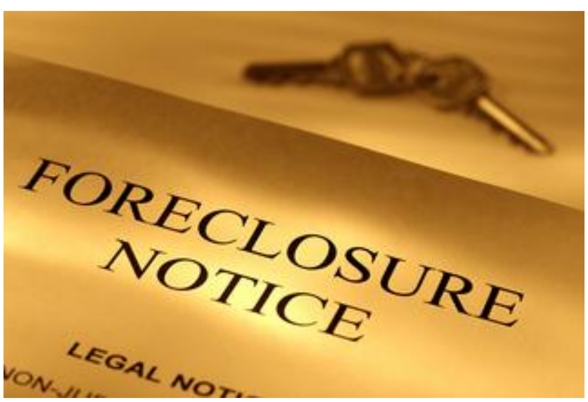
Take Away the Financial Crisis Mentality and Gold Looks Precarious - 14th Oct 10
Petty Socialism Compells Governments to Introduce the "Fat Tax" - 13th Oct 10
Nobel Award in Darwin Economics, Nominee for 2010 - 13th Oct 10
Global Currency Market Chaos Sends Gold Soaring - 13th Oct 10
Banks Laundering Counterfeit Mortgages, The Largest Financial Fraud in World History! - 13th Oct 10
Can the G-20 and the I.M.F. Burst the Gold Bubble? - 13th Oct 10
QE2 and Earnings Boost Stock Market Sentiment - 13th Oct 10
Job Creation and Green Energy Sector - 13th Oct 10
Fed Slashing the U.S. Dollar, The Economic Future is Ugly - 13th Oct 10
Quantitative Easing or Quantitative Looting? - 13th Oct 10
Three Ways to Play the Silver Rally, While Limiting Your Risks with Options - 13th Oct 10
OPEC's Stealth Move on Crude Oil - 13th Oct 10
Gold Bull Market $2,400 Forecast Target Peak By Early 2013 - 13th Oct 10
Gold and Silver Correction, How Low and How Long? - 13th Oct 10
Bank of England Prepares to Print Money Despite High Inflation at CPI 3.1% - 13th Oct 10
How to Make, or Lose, a Fortune in Junior Gold and Silver Exploration Stocks - 12th Oct 10
U.S. Treasury's Drive to Devalue the Dollar, Fed Takes Aim at Chinese Yuan - 12th Oct 10
Unequal Global Trade Competition, Trichet Talks Tough at High Noon - 12th Oct 10
Krugman is a Smart Fellow but Obsessed with Government Spending - 12th Oct 10
Why Do We Give the Police and Courts the Benefit of the Doubt? - 12th Oct 10
The Battle Between Fiat Money Versus Gold and Silver - 12th Oct 10
Investing in Rare Earth Elements As China's Exports Decline - 12th Oct 10
What the Texas State Fair Taught Me About Inflation - 12th Oct 10 -
BCCI Operations. Inside the Global Banking Intelligence Complex - 12th Oct 10
Fed's Bizarre Tactics Target Weaker U.S. Dollar - 12th Oct 10
Markets "Risk Off" Ahead of FOMC Minutes and Intel Corporate Earnings - 12th Oct 10
Will 2011 be Another Stagnant Year for Cost of Living Adjusted Social Security Checks? - 12th Oct 10
Gold Bull Market is Far From Topping, USD Index Explains Why - 12th Oct 10
Junior Gold Mining Stocks Super Nova - 12th Oct 10
China's Plan to Dethrone the U.S. Dollar as Worlds Reserve Currency - 12th Oct 10
How to Profit From the Global Currency War Race to the Bottom - 12th Oct 10
NATO's Lack of a Strategic Concept - 12th Oct 10
The U.S. Fed Wants an Inflation Boom - 12th Oct 10
Paul Krugman "I Told You So" Keynesian Stimulus Economic Nonsense - 12th Oct 10
USD Index Trend Forecast Into Mid 2011, U.S. Dollar Collapse (Again)? - 12th Oct 10

Mortgagegate Could Crush the U.S. Banking System

Housing-Market / US Housing Oct 15, 2010 - 06:18 AM
By: Money_Morning

Shah Gilani writes: What most Americans don't know about " Mortgagegate" is that "robo-signing" of foreclosure documents is the tip of the iceberg.

The breadth and depth of this newest mortgage crisis is so dangerous that the U.S. Federal Reserve last month pre-announced another potential round of quantitative easing (pundits are calling it "QE2") to address "potential negative shocks."



In fact, the fallout potential is so numbing and the actions that birthed it so scandalous that commentators have given the crisis the Watergate-esque title of " Mortgagegate" (or, as some prefer, "Mortgage Gate").

Here's what the news-story headlines aren't telling you.

Foreclosure Follies

The Fed can't admit that the potential shocks it's worried about have already materialized, because that would trigger the very panic the central bankers hope to avoid.

But the odds that a financial tsunami will result from Mortgagegate are building each day. If this storm strikes with its full fury , it could be the kind of credit-crisis aftershock that undermines the tentative handhold that the U.S. recovery is so desperately clinging to.

On the surface, the problem looks like foreclosures have been conducted based on improperly processed paperwork. That is a gross understatement.

Here's what's wrong. When a homeowner buys a property with a mortgage, the property title lists them as the rightful owner and their lender as the mortgage-holder. The named lender possesses an encumbrance on the title. If the homeowner doesn't pay his or her mortgage, the lender can rightfully repossess the property and sell it.

In order to take the home back, the lender must first foreclose on the property. The problem begins with the fact that lenders, in order to make trading mortgages between themselves easier so they can be packaged into mortgage-backed securities (MBS) pools and sold to investors, assign their rights on titles to a "nominee." (How that happens is the part of the story that news outlets aren't talking about and will both shock and sicken you).

the "mortgagegate" crisis

To take homes back, lenders or mortgage services start by filing court documents in "judicial foreclosure states" (most states in the U.S. require foreclosures to be court-processed). Filings against homeowners must include signed affidavits attesting to the relevant facts and demonstrating the lender's legal status to foreclose. Affidavits must be notarized.

But here's what's been uncovered: The people who are signing the necessary documents on behalf of the lenders aren't even reviewing documents - which means there's absolutely no way they followed the pre scribed procedures. It turns out that signers are basically "rubber-stamping" legal documents.

In the case of IndyMac Bank FSB (since purchased by a private equity group and renamed OneWest Bank), The Wall Street Journal reported that Erica P. Johnson-Seck routinely signed as many as 6,000 documents a week. In another instance, employees of GMAC Home Mortgage and the mortgage unit of JPMorgan Chase & Co. (NYSE: JPM) admitted in sworn testimony that they each signed 10,000 documents per month, without properly reviewing and notarizing them.

Similar instances of what's become known as "robo-signing" are now coming to light in relation to hundreds of thousands of other documents. And by the time it's all said and done, it's likely that we'll be talking about millions of documents.

Fraud was clearly rampant in the notarization of documents that were part of the foreclosure process. The fact that document signers weren't reading and reviewing the paperwork, and weren't contacting homeowners - all of which was mandated by lenders - there clearly was no way that the proper due diligence was observed.

Questionable legal notarizations include pervasive findings that documents were notarized even before they were signed and dated. A notary is legally designated to verify the identity of the signer of a document and affix their notary stamp along with their signature that they have witnessed the signer executing the document, and that the signer is who they say they are.

Some notarizations on suspect documents are affixed by notaries that don't live or work anywhere near where documents were signed. Indeed, many of them live across state lines. That makes it highly unlikely that signers were verified or that the documents properly notarized by law.

Congress, in its inimitable way, was made aware of this problem. Legislators tried to solve the problem by ramming through - without debate (highly unusual, but they did it) - legislation that partly addressed some of the notary issues.

In a bill that was supposed to facilitate interstate commerce, our elected representatives made it legal for notarizations to be accepted across state lines. How high up is the knowledge of this crisis? Apparently pretty high. After all, it was none other than U.S. Sen. Patrick Leahy, D-V T, the chairman the Judiciary Committee, who on Sept. 27 rammed through the Interstate Recognition of Notarizations Act, the bill in question.

In case you miss the egregious irony of the timing of the bill, it came up for a vote only a couple of weeks after the initial disclosure in courts around the country that GMAC had robo-signers falsely notarize foreclosure documents. Last Thursday, U.S. President Barack Obama refused to sign the bill.

Circle of Deceit

Here's a key question: If these foreclosures aren't being legally executed, are homeowners being kicked out illegally? And what about the buyers of foreclosed properties: Are they rightful owners if the previous owner still has a legal claim to the home?

Is everyone going to sue everyone? What will a nationwide moratorium on foreclosures do to the inventory and prices of unsold homes? And what e ffect will all this have on homes situated near foreclosed properties?

What will happen to all the mortgage-backed securities that contain all these properties and that banks still hold? What will happen to the economy if these problems take years to work through?

And that's not even the worst of it all.

There's actually a much deeper problem that could lead to troubles far worse than anything you can imagine.

The whole mess begins at Square One. And "Square One" is a circle of fraud and deceit so large that if civil and criminal charges and fines were eventually levied against the perpetrators, there isn't a big bank in this country that wouldn't be insolvent.

Naturally, it's about money.

Frightening Fallout

In order to easily buy and sell mortgages between themselves so that these loans might be repackaged, securitized and then sold to investors as mortgage-backed securities, banks and other lenders needed a quick way to "trade" individual mortgages. They created a company called Mortgage Electronic Registration Systems (MERS). This group includes Bank of America Corp. (NYSE: BAC), GMAC LLC (NYSE: GMA), Wells Fargo & Co. (NYSE: WFC), Washington Mutual (now owned by JPMorgan Chase), the United Guaranty Corp. unit of American International Group Inc. (NYSE: AIG), Fannie Mae (OTC: FNMA), Freddie Mac (OTC: FMCC), mortgage-servicing companies and other similarly interested members.

You may not realize it, but at your home-purchase "closing," you sign a document that appoints MERS as the "nominee" for the lender that granted you a mortgage. That gives the nominee the right to flip your mortgage to any other bank or lender it chooses. That's how banks move mortgages around to package them into different securities.

But that brings us to the crux of the controversy: Every time there's change on the title (a change occurs when the nominee switches the lender on your title out for another), local governments require that a new title be recorded. Of course, those governments - the county or municipality that you live in - also charge a "recording fee." MERS also charges a fee, but it's a lot less than government recording fees.

Here's the problem. In creating MERS, these institutions actually changed the land-title system that this country - for much of its history - has relied upon to determine legal ownership status of land titleholders.

Not only did the lenders sidestep (read that to mean avoid) paying billions of dollars in fees to local governments, they paid themselves from the fees that MERS collected.

MERS is facing class-action lawsuits and civil racketeering suits around the country and their members are being individually named in all these suits. One suit alleges that MERS owes California a potential $60 billion to $120 billion in unpaid land-recording fees.

If suits against MERS and all its members are successful, unpaid recording fees and fines (that can be as much as $10,000 per incident) would make every one of them insolvent.

And you wonder what the Federal Reserve meant when it warned of "potential negative shocks?"

The bottom line for investors is that until all these issues are cleaned up (which might take years, or even decades) - or until there's perhaps some sort of legislative clarity that eases uncertainty - investors face the threat of a severe "correction" in any or all of the markets that have risen on the hope that the long-hoped-for U.S. recovery is finally taking hold.

It makes sense, as it almost always does, to have stop orders in place on all your investments and consider the ramifications of these problems whenever your investments have real-estate (or mortgage) exposure.

Actions to Take: On Wednesday, in an e-mail alert to subscribers of his Capital Wave Forecast advisory service, Gilani detailed his "Mortgagegate" concerns, and concluded by recommending that readers "Immediately place a stop loss on all positions, 10% below [Tuesday's] closing prices."

Gilani's logic made sense. By using stop-losses, investors could stay in the market, and reap any upside - while also protecting themselves against the fallout should this controversy turn into a full-blown crisis. In fact, we liked his analysis so much that we've reproduced it here so that Money Morning readers might benefit.

Writes Gilani: "Banks still own most of their toxic assets. They're just buried (with the consent of the Fed and Treasury) waiting for an economic recovery and low rates to let borrowers re-finance and pay them back. Speculators, assuming low rates will generate economic growth have leveraged themselves up buying everything in sight, including mortgage-backed securities for their high yields.

Because of moratoriums put in place, if homes can't be foreclosed on until this mess is straightened out, inventories will build up, and prices could crash again later when that inventory hits the market. If homeowners who bought foreclosed homes find that the validity of the titles they now hold are challenged, lawsuits will fly . People who were foreclosed could sue to get their homes back. Title insurance companies that protect buyers of their insurance policies from title lawsuits could never make good on their policies, and would go belly-up. Governments could (and will) sue banks for potentially hundreds of billions of dollars of recording fees they were cheated out of. Criminal fines could add hundreds of billions of dollars more to their tabs.

What happens if there's widespread panic that this new round of mortgage-related stress won't be fixed quickly?

Markets could tank as leveraged players see their holdings drop and get margin calls. All the speculative, leveraged momentum trades based on a slow- but- upward recovery (especially hoped for in housing) could get upended as speculators rush for the doors.

Is this going to happen?

I certainly hope not. But it is a real, very real, possibility.

If the U.S. Federal Reserve is worried, I'm worried. And you should be, too.

If I'm wrong, great. Markets should continue their recent uptrends. But my job, first and foremost, is to protect you from devastating capital losses.

Here's hoping that I'm wrong."

[Editor's Note: Shah Gilani, a retired hedge-fund manager and renowned financial-crisis expert, walks the walk. In a recent Money Morning exposé, Gilani warned that high-frequency traders (HFT) were artificially pumping up market-volume numbers, meaning stocks were extremely susceptible to a downdraft.

When that downdraft came, Gilani was ready - and so were subscribers to his new advisory service: The Capital

Wave Forecast. The next morning, because of that market move, investors were up 186% on a short-term euro play, and more than 300% on a call-option play on the VIX volatility index.

Gilani shows investors the monster "capital waves" now forming, and carefully demonstrates how to profit from every one.

But he doesn't stop there. He's also the consummate risk manager. As the article above demonstrates, Gilani also makes sure to highlight the market pitfalls that can ruin years of careful investing and saving.

Take a moment to check out Gilani's capital-wave-investing strategy - and the profit opportunities that he's watching as a result. And take a look at some of his most-recent essays, which are available free of charge. Those essays can be accessed by clicking here.]

Source : http://moneymorning.com/2010/10/15/mortgagegate/

Money Morning/The Money Map Report

Money Morning Archive

Comments

John Smyth 16 Oct 10, 14:12	**Title insurance** Look to the US government to become the US TITLE INSURANCE company. The government will "guarantee" the title of foreclosed sales as no insurance company in it's right mind will write a policy for one now. **Ads by Google** Gold Price Foreclosure Homes Fo

Post Comment (Moderated)

Subject:

Name:

E-mail address (will not be published):

Comment:

Submit Comment

(**Note Commenting Issue:** If after Submitting you are returned to the Main Index Page then due to site caching your comment has not been accepted. **Solution** - Click the Browser Back Button to the article page and **Press PAGE REFRESH** (you should see the message "You are not authorized to carry out this operation") **Now re-enter your comment** (ignoring the notice) - If all's well then you will remain on the article page after submitting, a moderator will check and authorise the comment. **Alternatively EMAIL** to **comments @ marketoracle.co.uk** , quoting the article number.