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Fund Investors Sue Countrywide Over Loan Modifications

By **VIKAS BAJAJ**

As policy makers push banks to help struggling homeowners, some angry investors are pushing back.

On Monday, a hedge fund sued the Countrywide Financial Corporation, the giant mortgage lender, demanding that Countrywide compensate holders of some securities backed by mortgages if the lender changes the terms of the loans.

The fund, Greenwich Financial Services, said it and other investors stood to lose money if Countrywide, now part of Bank of America, modified loans under a settlement that it reached with 11 state attorneys general in October.

In recent months, some investors who own mortgage securities have begun voicing concern about how loans are modified, but few have filed suit.

The Greenwich Financial case, filed in state court in New York, highlights the complexity associated with modifying loans that have been bundled into securities. It also signals that more aggressive government and private efforts to help borrowers could face stiff resistance from investors.

The lawsuit claims that under contracts governing 374 Countrywide mortgage trusts, the company must purchase at face value any mortgage that it modifies. William Frey, president of Greenwich Financial, said an estimated \$150 billion in mortgages could be covered by the requirement.

“Their intention is to modify them, and they don’t have the right to do that,” Mr. Frey said. Though his firm is the only named plaintiff in the case, Mr. Frey said many other investors were supporting his effort and would benefit if the court granted the case class-action status.

In a statement, Countrywide declined to address the lawsuit’s specific claims but said the

suit “represents an unlawful effort to assert the rights of the trusts.” It also said it took investors’ interests into account when it agreed to the settlement with the states.

“Loan modifications have been occurring for decades without objections or challenges, so we are especially troubled at the timing of this complaint,” Countrywide said in the statement. “We are confident any attempt to stop this program will be legally unsupportable.”

Under the settlement with the states, Countrywide agreed to modify up to 400,000 loans and to provide \$8.4 billion in relief to borrowers to settle predatory lending accusations.

Mr. Frey has been a vocal opponent of loan modifications, arguing that contract law severely restricts what mortgage servicing companies are allowed to do when borrowers default on their debts. His and other investors’ complaints have drawn a strong rebuke from some policy makers.

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