Office of Inspector General

Executive Summary

The FDIC's Structured Transaction with MountainView Public Private Investment I, LLC

Report No. AUD-13-006
September 2013

Why We Did The Audit

The FDIC, as Receiver, had completed 34 structured transactions through August 21, 2013 involving 42,900 assets with a total unpaid principal balance (UPB) of $26.0 billion. These transactions accounted for 3.8 percent of the $682.4 billion in assets inherited by the FDIC, as Receiver, from failed institutions from January 1, 2008 through August 21, 2013. Given the dollar volume and risks associated with these transactions, the Office of Inspector General (OIG) has previously conducted several audits of structured transactions predominately involving commercial assets.

As part of our continuing coverage of this area, the OIG contracted with BDO USA, LLP (BDO) to conduct a performance audit of the FDIC's structured transaction with MountainView Public Private Investment I, LLC (MountainView) that, unlike the prior transactions we reviewed, consists of single-family residential assets. The objective of this audit was to assess MountainView's compliance with the structured transaction agreements.

Background

Structured transactions involve the liquidation of assets through public/private partnerships that utilize the asset management expertise of the private sector. The FDIC, as Receiver, uses structured transactions to facilitate the sale of many receivership assets that are difficult to market and sell. Such assets consist largely of distressed and non-performing single-family and commercial real estate loans and real estate owned (REO).

In a structured transaction, the FDIC, as Receiver for one or more failed institutions, pools a group of similar assets, such as single-family, commercial real estate, or construction-type loans, from one or more failed-bank receiverships and transfers the assets into a newly created limited liability company (LLC). In exchange for contributing the assets, the FDIC, as Receiver, obtains the entire ownership interest, or equity, in the LLC. Following a competitive bid process, the FDIC, as Receiver, then sells a portion of the equity in the LLC to pre-qualified, private-sector investors. The FDIC, as Receiver, also engages various outside consultants (or advisors) to provide technical assistance with the transactions.

On August 15, 2011, the FDIC, as Receiver for 49 failed institutions, formed SFR Venture 2011-1, LLC (SFR Venture). On September 1, 2011, the FDIC, as Receiver, transferred 1,453 single-family residential loans with an estimated UPB of $282.2 million to SFR Venture. As partial consideration for transferring the assets, SFR Venture executed and delivered to the FDIC, as Receiver, a purchase money note with an initial principal amount of $69.2 million. Following a competitive bid process, the FDIC, as Receiver, sold a 40-percent equity interest in SFR Venture to MountainView for $27.7 million. The FDIC, as Receiver, retained the remaining 60-percent equity interest in SFR Venture. MountainView is the Manager and, as such, is responsible for the day-to-day management of SFR Venture and ultimately responsible for ensuring compliance with the structured transaction agreements. MountainView works closely with its Servicer, Statebridge Company, LLC (Statebridge). Statebridge accepts and processes borrower payments, performs debt collection activities such as contacting borrowers to discuss the payment status of loans, and records loan payments.

Within the FDIC, the Division of Resolutions and Receiverships (DRR) is responsible for marketing structured transactions and monitoring the private-sector investors that enter into the structured transaction agreements. DRR monitors structured transactions through its staff and third-party contractors. On an annual basis, a compliance monitoring contractor engaged by DRR conducts on-site compliance reviews of each LLC's operations, including the LLC's obligation to service loans in compliance with the structured transaction agreements, applicable laws, and the terms of the loan documents.

Audit Results

BDO concluded that, overall, MountainView was in compliance with the structured transaction agreements, based on the testing performed. MountainView dedicated substantial resources to ensure compliance with the structured transaction agreements, its loan files were well organized, and its employees were knowledgeable of the requirements in the structured transaction agreements. Additionally, MountainView had an asset management strategy designed to maximize collections; considered and performed loan modifications in accordance with the terms of the transaction agreements; ensured the timely application of collections to borrowers' accounts; and obtained appropriate approvals for loan workouts, asset sales, foreclosures, loan modifications, and loan modification denials.

Further, BDO did not identify any issues pertaining to regulatory compliance or MountainView's process for responding to customer inquiries. Nonetheless, BDO found that MountainView, through its Servicer, Statebridge, could enhance its controls by:

- Ensuring that lien releases are filed timely;
- Ensuring that REO values are accurately reflected in reporting documents;
- Formalizing its approach to ensuring compliance with key regulatory requirements including those contained in consumer protection laws; and
- Formalizing its process for tracking, recording, and responding to customer inquiries.

The OIG and BDO discussed these matters with DRR, MountainView, and Statebridge during the audit. MountainView and Statebridge issued related written policies and procedures pertaining to these matters, prior to the issuance of this report.

Corporation Comments

The report contains four recommendations intended to strengthen the processes associated with the FDIC's structured transaction with MountainView. The Director, DRR, provided a written response, dated August 27, 2013, to a draft of this report. In its response, DRR concurred with all four of the report's recommendations and described planned corrective actions to address the recommendations. Further, we provided a draft of this report to MountainView for its review and informal comment. In response, MountainView agreed with the report's recommendations and described its planned corrective actions.

Because this report contains sensitive information, we do not intend to make the report available to the public in its entirety. We will, however, post this Executive Summary on our public Web site.