

# Asset Securitization



The Premier Guide to Asset and Mortgage-Backed Securitization

report  
www.asreport.com

PUBLISHED BY SOURCEMEDIA

VOL. 5 / NUMBER 32

AUGUST 15, 2005

## WHISPERS

After receiving approval from the State Council, the **China Development Bank** and the **China Construction Bank** formally launched its pilot securitization of credit assets program last week. A coordinating task force, led by the **People's Bank of China**, joined by the **National Development and Reform Commission**, the **Ministry of Finance**, the **Ministry of Labor and Social Security**, the **Ministry of**

- CONTINUED ON PAGE 4 -

## CONTENTS

### Securitization News

Upcoming events ..... 2

### Asset-Backed:

Vicarious liability banned .....	4
Chicago Skyway prices toll ABS .....	5
U.A. Market prices \$14 bln .....	6-7
Avg. secondary ABS spreads .....	7
More cell tower deals planned .....	8
CDS pricing services introduced .....	9
Home equity ABS stable .....	9
Canadian ABS market growing .....	11

### Mortgage-Backed:

May delinquency data strong .....	12
Conventionals in-line, GNMA slower .....	13

### International:

Covered bond limit set .....	14
Rate cuts bolster U.K. housing .....	15
Italy faces further downgrades .....	15
GMAC Financiera taps European demand .....	16
Tribasa comes with 3rd post-crisis deal .....	17
Asian CCABS, CMBS, RMBS hitting .....	19

### Data:

Trade Matrix .....	20-21
ABS .....	22-31
MBS .....	32-33
Ratings Watch .....	34-35
Scorecards .....	36-42

## Cifuentes vs. Wachovia heats up

Former analyst turns over e-mails to OSHA...

Former Wachovia Securities CDO analyst Arturo Cifuentes, allegedly fired for not signing off on an important Sarbanes-Oxley Act disclosure document, presented his case to U.S. Department of Labor's Occupational Safety and Health Administration last week, offering e-mail evidence he contends proves his case. OSHA handles such complaints under SarbOx guidelines.

According to e-mail transcripts contained in Cifuentes' complaint, which was reviewed by [ASR sister publication] *IDD*, Wachovia banker Anthony Sciacco allegedly suggest-

ed to Cifuentes that one of his research pieces contributed to the cancellation of a meeting with CDO issuer PIMCO regarding a new CLO. "The CLO origination business is very competitive," said the February 2005, e-mail Sciacco sent to Cifuentes, which references a research report dated January 31, 2005 pertaining to the performance of CDO managers. "This does not help."

Cifuentes states in his complaint that certain Wachovia salespeople and traders were given access to the CDO group's research reports before - SEE CIFUENTES VS WACHOVIA ON PAGE 10

## European issuer roars in Malaysia

TMW Lion, a subsidiary of German concern TMW Asia Property Fund, plans to become the first European issuer to tap Malaysia's domestic securitization market. TMW will issue M\$190 million (\$50.6 million) of *Sukuk Ijarah* lease-backed notes through the Focal Quality SPV, with OCBC Bank on board as arranger.

TMW, managed by Prudential Real Estate, invests solely in Asian real estate on behalf of German institutional investors. The fund is taking advantage of the relaxation of foreign exchange controls in April this year by Bank Negara. Previously, there were strict rules on foreign companies taking Ringgit

- SEE MALAYSIA ON PAGE 19 -

## Agency MBS poised for growth

Despite the recently declining Agency MBS marketshare, analysts expect the sector to regain ground with expected home-price deceleration combining with a diminishing bid for credit in non-agency MBS. There is also the added effect of GSEs increasing their presence in the ARM sector, an effort bolstered by the flattening yield curve.

"In the event of a slowdown in the housing market, the bid for credit in the non-agency market is likely to abate, making agency execution more competitive," reported Bear Stearns analysts in recent research, explaining that non-traditional agency mortgage product execution has been less attractive than in the non-agency

- SEE MBS ON PAGE 13 -

## CIFUENTES VS WACHOVIA CONTINUED FROM PAGE 1

they were released publicly, and that he repeatedly voiced his concerns about this to his superiors.

A May 26, 2005 e-mail exchange allegedly sent to Cifuentes from his direct supervisor, **Brian Lancaster**, head of structured product research, frowns upon Cifuentes's piece on money-market tranches. The exchange states that complaints came from compliance "and some others in sales" regarding the report, which was published the following day.

**Cifuentes states in his complaint that certain Wachovia salespeople and traders were given access to the CDO group's research.**

The OSHA complaint also maintains the investment banking arm's head of structured products, identified as **Yu-Ming Wang**, intervened when it came to Cifuentes hiring a new research assistant and also contacted him about changing the focus of his reports or pitched angles. One instance cited in the complaint pertained to CDO equity. Cifuentes maintains that when marketing efforts began in February 2004, for the AXA CDO Equity Fund, Wang strongly urged Cifuentes to author a research report on the merits of CDO equity to help product sales.

**Russ Andrews** and **Bo Weatherly**, two Wachovia salesmen responsible for marketing the AXA CDO — dedicated to investing in equity that was not pitched to a wider audience of CDO investors — are identified in the complaint as pushing Cifuentes to produce a research piece on CDO equity similar to one rival **Merrill Lynch** released earlier in the year. Merrill's report demonstrated CDO equity can produce equity-like returns while being uncorrelated with the equity markets — a theory under debate. Cifuentes refused, says the complaint.

A Wachovia spokesman declined to comment about the complaint, while Cifuentes referred all questions

to his attorney, **Jenice Malecki** of **Malecki Law**.

By the end of April 2005, according to the complaint, Cifuentes raised concerns about SarbOx violations again to his superiors and refused to sign off on the Regulation AC statement for the first quarter of 2005. That SarbOx regulation is an attempt to maintain integrity in research by certifying analysts' independence in research and public appearances. Two days before the signed Regulation AC statement was due, Cifuentes' alleges Wachovia fired him.

"Under [Sarbox] there are not only supposed to be intellectual walls but a physical barrier as well," protecting analysts, said Malecki. "Arturo was retaliated against. How can Regulation AC protect the analyst if the firm has the right to terminate you for not signing?" Malecki said a copy of the complaint would also be sent to New York State Attorney General **Eliot Spitzer**. A Securities & Exchange Commission spokesman said the commission does not comment on referrals from OSHA.

"If OSHA finds that the alleged pressure was in fact there and that the complainant was retaliated against, the full measure of remedies is available," said an OSHA spokesperson.

OSHA does not have the authority to issue fines, but it does copy the SEC on all of the complaints it receives. OSHA can order a preliminary reinstatement and other make-whole remedies and enforce them in court, if necessary. By filing with OSHA, Cifuentes is seeking job protection under the SarbOx whistleblower guidelines, while the SEC can investigate the underlying allegations.

The OSHA complaint notes that Cifuentes' bonus for 2004 was far

less than his bonus in 2003, a year in which he had not been employed for full year. It states sales and traders were present during compensation discussions, though guidance from industry groups indicates that practice is not necessarily frowned upon.

E-mails show exchanges between Cifuentes and Wachovia's compliance department allegedly took place between February 15, 2005, and March 2, 2005. One e-mail, dated February 24, 2005, from a compliance officer at Wachovia states that sales and trading should have "no input into research." A month later, on March 2, 2005, another e-mail from the compliance officer notes sales and trading may have input "so long as compensation is not on any specific sale or trading transaction."

Cifuentes states he alerted **Diane Schumaker-Krieg**, Wachovia's global head of research, about the pressure he was receiving. The complaint specifically cites the February 2005 e-mail from a banker about the PIMCO meeting cancellation, saying, "She failed to see the seriousness of bankers demanding certain research should coincide with the timing of certain transactions."

A comment letter from the Securities Industry Association last month noted that New York Stock Exchange Rule 472(b)(6)(iii) and National Association of Securities Dealers Rule 2711(c)(7) bar any communication between research analyst and any "internal personnel" unless the communication is "fair, balanced and not misleading, taking into consideration the overall context in which the communication is made."

Of course, feedback pertaining to specific deals is a clear violation of the Chinese Wall but the extent of proper communication between fixed-income analysts and non-research personnel may still be a grey area. — *Colleen Marie O'Connor/Investment Dealers' Digest*