

BlueMountain Capital Management, LLC Delivers Notice of Default on Certain Notes to Trustee of the HLSS Servicer Advance Receivables Trust



NEW YORK, Jan. 23, 2015 /PRNewswire/ -- BlueMountain Capital Management, LLC, the investment manager of funds that hold certain Series 2012-T2 and Series 2013-T3 Notes issued in connection with the HLSS Servicer Advance Receivables Trust (the "HSART Trust"), today announced that it has sent the letter below to the trustee of the HSART Trust.

Disclosures

This press release is being issued by BlueMountain Capital Management, LLC ("BlueMountain"), an SEC-registered investment adviser. As of January 23, 2015, funds and accounts managed by BlueMountain and/or its affiliates (i) hold certain notes issued in connection with the HLSS Servicer Advance Receivables Trust, (ii) hold certificates of certain residential mortgage-backed securities (the "RMBS Certificates") collateralized by loans serviced by Ocwen Loan Servicing, LLC, (iii) hold a short position in, and put options with respect to, the common stock of Ocwen Financial Corporation ("Ocwen") and (iv) hold a short position in, and put options with respect to, the common stock of Home Loan Servicing Solutions, Ltd. ("HLSS"). BlueMountain also has directed the trustees of certain of the RMBS Certificates to investigate and/or take action with respect to Ocwen Loan Servicing, LLC.

Without making any public or other disclosure except as may be required by applicable law, funds and accounts managed by BlueMountain and/or its affiliates may, at any time, buy and sell securities and instruments issued and/or managed by Ocwen, HLSS and other companies, including, without limitation, increasing and/or covering short positions in Ocwen and/or HLSS and/or changing to long positions in Ocwen and/or HLSS, based upon such factors as BlueMountain may, in its sole and absolute discretion, deem relevant.

The information set forth herein does not constitute a recommendation or solicitation to buy or sell any security. The information set forth herein represents the opinion of BlueMountain as of the date hereof and the trustee's response to the letter is unknown. This press release contains certain "forward-looking statements," which may be identified by the use of such words as "believe," "expect," "anticipate," "should," "planned," "estimated," "potential," "outlook," "forecast," "plan" and other similar terms. All forward-looking statements are subject to various factors, any or all of which could cause actual events to differ materially from projected events. The information set forth herein is based upon information reasonably available to BlueMountain and obtained from sources BlueMountain believes to be reliable; however, such sources cannot be guaranteed as to their accuracy or completeness. BlueMountain makes no representation or warranty, express or implied, as to the accuracy or completeness of the information set forth herein and undertakes no duty to update its contents.

About BlueMountain Capital Management, LLC

BlueMountain Capital Management, LLC ("BlueMountain") is an absolute return manager with approximately \$20 billion in assets under management. BlueMountain and its affiliates have offices in New York, London and Tokyo. More information can be found at www.bluemountaincapital.com (<http://www.bluemountaincapital.com/>).

Letter

Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036-6710

January 23, 2015

By Federal Express & First-Class Mail Postage Prepaid

HLSS Holdings, LLC
as Administrator and as Servicer
(on and after the MSR Transfer Date)
2002 Summit Boulevard, Sixth Floor
Atlanta, GA 30319
Attention: General Counsel

Ocwen Loan Servicing, LLC
as a Subservicer and as Servicer (prior to the MSR Transfer Date)
1661 Worthington Road, Suite 100
West Palm Beach, FL 33409
Attention: Corporate Secretary

HLSS Servicer Advance Receivables Trust
as Issuer
c/o Wilmington Trust Company
as Owner Trustee
Rodney Square North
1100 North Market Street
Wilmington, DE 19890

Deutsche Bank National Trust Company
as Indenture Trustee, Calculation Agent
Paying Agent and Securities Intermediary
1761 East St. Andrew Place
Santa Ana, CA 92705
Attention: Trust Administration – OC10S2

Re: **HLSS Servicer Advance Receivables Trust**

Notice of Default

Notice of Event of Default

Notice of Facility Early Amortization Event

Ladies and Gentlemen:

We write on behalf of our client BlueMountain Capital Management, LLC, as investment manager to BlueMountain Monteners Master Fund SCA SICAV-SIF, BlueMountain Guadalupe Peak Fund L.P., and Blue Mountain Credit Alternatives Master Fund L.P. ("BlueMountain"), which own certain Series 2012-T2 and Series 2013-T3 Notes issued in connection with the HLSS Servicer Advance Receivables Trust (the "HSART Trust"). We write in reference to the Sixth Amended and Restated Indenture, dated as of January 17, 2014, including all Schedules and Exhibits thereto (the "Indenture"), by and among the HSART Trust, as Issuer, Deutsche Bank National Trust Company, as Indenture Trustee, Calculation Agent, Paying Agent and Securities Intermediary, HLSS Holdings, LLC ("HLSS"), as Administrator and as Servicer (on and after the MSR Transfer Date), Ocwen Loan Servicing, LLC ("Ocwen"), as a Subservicer and as Servicer (prior to the MSR Transfer Date), Barclays Bank PLC, as Administrative Agent, Wells Fargo Securities, LLC, as Administrative Agent, and Credit Suisse AG, New York Branch, as Administrative Agent, and all agreements referenced therein, including without limitation all the Designated Servicing Agreements and Transaction Documents. Unless otherwise specified, capitalized terms used but not defined in this letter have the meanings ascribed to them in the Indenture and the Master Subservicing Agreement, dated as of February 10, 2012, by and between HLSS, as Servicer and Ocwen, as Subservicer.

As particularized herein, we write to provide notice that Events of Defaults exist under the Indenture pursuant to (i) Section 8.1(d), resulting from Ocwen's material breach of its covenants to, among other things, comply with applicable laws and requisite servicing obligations; (ii) Section 8.1(m)(i), resulting from Ocwen's breach of a warranty in the Senior Secured Term Loan Facility Agreement and a subsequent amendment thereto that it is not in violation of any law that could reasonably be expected to cause, among other things, a material adverse effect on Ocwen's business and financial condition; and (iii) Section 8.1(g), resulting from the failure of the Collateral Test, which measures whether the Notes are adequately collateralized.[1]

The facts establishing these Events of Default are irrefutable. For example, Ocwen recently "stipulate[d]" and "agree[d]" in a consent order with the New York Department of Financial Services to violations of law and to engaging in imprudent servicing practices. In addition, the California Department of Business Oversight has commenced proceedings to suspend Ocwen's servicer license in California, a significant source of loans in the RMBS trusts that generate the advances that collateralize the payments to Noteholders. These (and other) agencies' findings and enforcement actions demonstrate Ocwen's systemic, long-standing and continuing servicing failures and disregard of applicable and analogous laws. Evidencing the significance of these affirmations of Ocwen's servicing misconduct, the rating agencies expressly referenced the state regulatory authorities' actions as a basis for their decisions to downgrade Ocwen's servicer rating and the corporate ratings of related entities, Ocwen Financial Corporation and Home Loan Servicing Solutions, Ltd. Likewise, the share price of the two related companies fell precipitously following the announcement of the California suspension proceeding, *i.e.*, by approximately 36% and 20%, respectively.

The recent disclosures thus demonstrate Ocwen's material breaches of its covenants and warranties not to engage in such illicit and imprudent practices; and those breaches in turn materially increase the risk of loss on the Notes that are collateralized by receivables affected by Ocwen's standing as a servicer. Indeed, the offering memorandum governing the issuance of the Notes explicitly recited the very servicing misconduct that Ocwen engaged in as a factor that would increase the risk of loss on the Notes. That material increase in the risk of loss gives rise to the specified Events of Default, and a corresponding right to an increased return for the Noteholders.

Specifically, under the bargained-for terms of the Indenture, the Note Interest Rate is increased by 3.00% upon the occurrence of any Event of Default to compensate the Noteholders for the associated increased risk of loss. Deutsche Bank National Trust Company, in its capacity as Calculation Agent, must provide "written notice specifying the nature and status of any . . . Event of Default, Facility Early Amortization Event or other event or occurrence which could have an Adverse Effect." (Indenture § 3.3(b).) Such notice must be provided to the Noteholders, the Indenture Trustee, the Issuer and each Note Rating Agency promptly after receiving knowledge of such event, but no later than three Business Days thereafter.[2] (*Id.*)

The following sections detail (i) the facts that serve as a predicate for Events of Default under the Indenture, (ii) the rating agency downgrades and the share price declines that evidence the significance of Ocwen's admitted violations of law and imprudent servicing practices, (iii) the materially increased risk of loss to the Noteholders stemming from Ocwen's conduct, and (iv) the provisions of the Indenture governing the specified Events of Default.

I. Ocwen's Violations of Law and Imprudent Servicing Practices

A. New York Investigations

Facts admitted by Ocwen establish multiple breaches of various covenants in the Transaction Documents and Designated Servicing Agreements and multiple defaults or Events of Default under the Indenture. On December 19, 2014, Ocwen and Ocwen Financial Corporation admitted to facts that give rise to material breaches and defaults of the covenants and agreements in the above-referenced provisions. Ocwen's stipulations are memorialized in the Consent Order Pursuant to New York Banking Law § 44 (the "2014 Consent Order") that Ocwen entered into with the New York State Department of Financial Services ("NYSDFS").[3] Specifically, the 2014 Consent Order sets forth numerous facts to which Ocwen has admitted, including the following:

- Ocwen committed "**numerous and significant violations**" of New York State laws and regulations and engaged in "**repeated non-compliance**" with prior regulatory orders. (2014 Consent Order at 1, 2 and ¶¶ 7, 11, emphasis added.)
- In September 2011, "Ocwen and the [NYSDFS] entered into an Agreement on Mortgage Servicing Practices ('2011 Agreement'), which required Ocwen to adhere to certain servicing practices in the best interest of borrowers and investors . . . "[4] (*Id.* ¶ 2.) In June 2012, the NYSDFS conducted a review of Ocwen which "identified . . . repeated non-compliance by Ocwen" and violations of New York Real Property Actions and Proceedings Law ("RPAPL") §§ 1304 and 1302. (*Id.* ¶ 7.) Consequently, on December 5, 2012, Ocwen entered into a Consent Order Under New York Banking Law § 44 (the "2012 Consent Order"),[5] in which the NYSDFS found that Ocwen had engaged in violations of the 2011 Agreement and violations of New York state laws and regulations. (*Id.* ¶¶ 9, 11.)
- Following the 2012 Consent Order, a compliance monitor appointed pursuant to the 2012 Consent Order (the "Compliance Monitor") initiated a review of Ocwen in July 2013. (*Id.* ¶ 10.) A review by the Compliance Monitor of 478 New York loans that Ocwen had foreclosed upon revealed 1,358 violations of Ocwen's legal obligations, including: "failing to ensure that [Ocwen's] statements to the court in foreclosure proceedings were correct"; "pursuing foreclosure even while modification applications were pending"; "failing to maintain records confirming that [Ocwen] is not pursuing foreclosure of servicemembers on active duty"; and "failing to assign a designated customer care representative." (*Id.* ¶¶ 10, 12.)
- Ocwen has "inadequate and ineffective information technology systems and personnel." (*Id.* ¶ 13.)
- As a result of deficiencies in its information technology systems, "Ocwen regularly gives borrowers

incorrect or outdated information, sends borrowers backdated letters, unreliably tracks data for investors, and maintains inaccurate records." (*Id.* ¶ 14.) Examples of backdating letters include giving borrowers 30 days from the date of a denial letter to appeal that denial where "those 30 days had already elapsed by the time they received the backdated letter." (*Id.* ¶ 15.) Ocwen's systems also show that "borrowers facing foreclosure received letters with a date by which to cure their default and avoid foreclosure," but "the cure date was months prior to receipt of the letter." (*Id.*) "There are insufficient controls in place—either manual or automated—to catch all of these errors and resolve them." (*Id.* ¶ 14.) "Ocwen's systems have been backdating letters **for years**" and "Ocwen's processes failed to identify and remedy these errors" (*Id.* ¶ 15, emphasis added.)

- Even when an employee questioned Ocwen's backdating processes and informed the company's Vice President of Compliance, Ocwen did not "fully investigate and appropriately address the backdating issue." (*Id.* ¶ 16.) Ocwen ignored the backdating issue for five months until the same employee complained again. (*Id.*) This time, Ocwen began an investigation, which was incomplete, and "Ocwen has not fully resolved the issue to date, more than a year after its initial discovery." (*Id.*)
- Ocwen's "core servicing functions rely on its inadequate systems." (*Id.* ¶ 17.) Though Ocwen's "comment codes," which are used to initiate a process such as sending a delinquency letter to a borrower or referring a loan for foreclosure, are ineffective, Ocwen "continues to rely on [the inadequate systems] to service its portfolio of distressed loans." (*Id.* ¶¶ 17, 18.)
- Ocwen "employ[s] fewer trained personnel than its competitors." (*Id.* ¶ 18.) Ocwen's Chief Financial Officer has acknowledged that Ocwen is "simply 'training people to read the scripts and the dialogue engines with feeling.'" (*Id.*) Ocwen forces its "customer support staff to follow the scripts closely." (*Id.*) Ocwen has penalized and terminated employees who do not adhere to the script. (*Id.*)
- Ocwen's policy of requiring its customer service representatives to adhere to the script has "frustrated struggling borrowers who have complex issues that exceed the bounds of a script and have issues speaking with representatives at Ocwen capable of addressing their concerns." (*Id.*) In many cases, Ocwen's representatives "provide conflicting responses to a borrower's question" and "fail[] . . . to record in Ocwen's servicing system the nature of the concerns that a borrower has expressed, leading to inaccurate records of the issues raised by the borrowers." (*Id.* ¶ 18.)
- "Ocwen's inadequate infrastructure and ineffective personnel have resulted in Ocwen's failure to fulfill its legal obligations." (*Id.* ¶ 19.)
- The NYSDFS also identified "widespread conflicts of interest with related parties." (*Id.* ¶ 13.) The 2014 Consent Order required that William Erbey resign from his position as Executive Chairman of Ocwen and affiliated entities. (*Id.* ¶ 57.)

B. California Investigations

Two different California regulators have found that Ocwen violated California law. On a webpage answering "frequently asked questions" related to Ocwen's settlement with the Consumer Finance Protection Bureau and attorneys general from 49 states and the District of Columbia (discussed below), the California Attorney General states, "[w]e believe that Ocwen violated federal and state laws against unfair and deceptive practices. Ocwen's unlawful conduct hurt consumers who have had home loans serviced by Ocwen, Litton, and Homeward. For example, Ocwen made consumers pay improper fees and charges, caused unreasonable delays and expenses when consumers asked for help to avoid foreclosure, and wrongly refused to give consumers loan modifications that could have helped those consumers stay in their homes." [6]

Separately, the California Department of Business Oversight (the "DBO"), the state regulator responsible for Ocwen's residential mortgage lender and loan servicer license, has found that Ocwen violated California Financial Code §§ 50326 and 50314 as well as a prior Order to Discontinue Violations issued by the DBO. "After a series of complaints tied to Ocwen's servicing of mortgages in California, state regulators began investigating the company to ensure its compliance with the California Homeowners Bill of Rights, a set of laws to protect against abusive foreclosure practices, in addition to the state's Residential Mortgage Lending Act."

[7] On October 3, 2014, the agency **commenced a proceeding to suspend Ocwen's license** because "Ocwen has violated [California] Financial Code section 50326 and has violated a prior issued Order to Discontinue Violations." (Accusation In Support of Notice of Intent to Issue an Order Suspending Residential Mortgage Lender and Loan Servicer License ("DBO Accusation") at 6.)[8]

- In January 2013, the California Commissioner of Business Oversight (the "DBO Commissioner") "commenced a regulatory examination of Ocwen," as recited in the DBO Accusation. (*Id.* at 2.) On October 15, 2013, the DBO Commissioner requested documents from Ocwen "to ensure its compliance with the recently enacted California Homeowners Bill of Rights . . . , a package of amendments to the California Civil Code that became law on January 1, 2013." (*Id.*) According to the DBO Commissioner, "Ocwen failed to produce all of the requested documentation and information." (*Id.*)
- The DBO made an additional request for documents on February 7, 2014, which included documents previously requested by the DBO. (*Id.*) Although Ocwen "produced a portion of the documentation," it did not respond to the [DBO's] inquiries seeking clarification whether the documents produced "consist[ed] of all of the documentation called for in the [DBO's] February 7, 2014 request." (*Id.*) According to the DBO Commissioner, "[t]he documentation produced by Ocwen in response to the [DBO's] February 7, 2014 request is incomplete." (*Id.* at 2-3.)
- "Based on Ocwen's failure to produce all documentation and information called for in the Department's February 7, 2014 request, on March 12, 2014, the [DBO] Commissioner issued an administrative subpoena duces tecum requesting documentation and information from Ocwen." (*Id.* at 3.) Although Ocwen produced some documents requested by the subpoena, "[o]n May 1, 2014, the [DBO] informed Ocwen that Ocwen's latest production is incomplete." (*Id.*) The DBO "requested that Ocwen produce the outstanding documentation and information by May 5, 2014, or the [DBO] may issue administrative orders and file a petition in California Superior Court to compel Ocwen to comply with the ongoing examination and administrative subpoena duces tecum." (*Id.*) "On May 5, 2014, Ocwen produced a portion of the outstanding documentation called for in the subpoena duces tecum." (*Id.*)
- On June 16, 2014, the DBO Commissioner issued an Order to Discontinue Violations, pursuant to California Financial Code section 50321 (the "DBO Order to Discontinue").[9] The DBO Order to Discontinue states that Ocwen "failed to produce documents and records, upon request of the [DBO] Commissioner and within the time period specified, that would properly enable the [DBO] Commissioner to determine whether Ocwen . . . is performing residential mortgage loan servicing functions in compliance with the provisions of the California Residential Mortgage Lending Act . . . and the rules promulgated thereunder in violation of California Financial Code section 50314." (DBO Order to Discontinue at 1.) Ocwen was ordered to "immediately discontinue the violations set forth [in the DBO Order to Discontinue] and immediately produce all books and records requested by the [DBO] Commissioner by no later than 5:00 p.m. (Pacific time) June 26, 2014." (*Id.* at 2). According to the DBO Commissioner, "Ocwen did not request a hearing to challenge the Order to Discontinue Violations and the Order to Discontinue Violations is now final." (DBO Accusation at 4.) "On August 4, 2014, representatives of Ocwen and the Commissioner took part in a meeting regarding Ocwen's production of documentation. As a result of

discussions during the meeting, it became apparent that Ocwen had not produced all outstanding documentation by June 26, 2014, as directed in the Order to Discontinue Violations." (*Id.* at 4.)

- On June 16, 2014, the DBO sent Ocwen a letter requesting "a loan servicing report and other information from Ocwen." (DBO Accusation at 4.) Although Ocwen produced some documents, as of July 10, 2014, "Ocwen had still not produced all the information called for in the June 16, 2014 letter." (*Id.* at 4.) On July 11, 2014, the DBO "notified Ocwen that as a result of Ocwen's failure to produce all matters requested in the June 16, 2014 letter," Ocwen shall pay a \$100 per diem fine through July 20, 2014, "until Ocwen produces all of the matters requested." (*Id.*) The July 11, 2014 notification "further informed Ocwen that if it fails to produce all matters requested by . . . July 21, 2014, this failure shall constitute grounds for the suspension or revocation of Ocwen's license pursuant to California Financial Code section 50327." (*Id.* at 4-5.)
- On July 31, 2014 and August 5, 2014, the DBO requested additional documents to be produced by August 15, 2014 "in preparation for an on-site examination of Ocwen." (*Id.* at 5.) The DBO "informed Ocwen that failure to produce the requested information may lead to the Commissioner taking adverse action against Ocwen's license." (*Id.*) Although Ocwen produced certain documents requested by the July 31, 2014 and August 5, 2014 requests, as of October 2014, "Ocwen ha[d] still not produced all matters requested," despite being informed by the DBO that its failure "to produce all matters required by . . . August 28, 2014 . . . shall constitute ground for the suspension or revocation of Ocwen's license pursuant to California Financial Code section 50327." (*Id.*)
- On October 3, 2014, the DBO Commissioner issued the DBO Accusation, stating that "Ocwen has violated Financial Code section 50326 and has violated a prior issued Order to Discontinue Violations and based thereon, grounds exist to suspend the residential mortgage lender and loan servicer license of Ocwen for a period of up to twelve (12) months." (*Id.*) The DBO Commissioner's prayer for relief asked that "the residential mortgage lender and loan servicer license of Ocwen be suspended for a period of up to twelve . . . months." (*Id.*) As of January 2, 2015, the DBO Commissioner's "legal action . . . to suspend the mortgage servicer license of Ocwen" is pending before "an administrative law judge, with the California Office of Administrative Hearings . . . "[10]
- On October 3, 2014, November 26, 2014 and January 2, 2015, the Commissioner issued Orders of Forfeiture against Ocwen, finding that Ocwen had not timely produced all requested documentation, as required by provisions of California law, and ordering Ocwen to forfeit and pay penalties of \$2,000, \$1,000, and \$1,000, respectively.[11]
- A spokesperson for the DBO has stated: "[Ocwen] failed to comply with requests for information. They failed to comply with a subpoena for information. They violated a lawful order from the commissioner. And they failed to comply with an order from an administrative law judge. . . . We can't countenance that kind of behavior." [12] "If Ocwen ultimately doesn't or cannot satisfy the regulator's demands, it could be forced to transfer its mortgage servicing rights in the state to other companies." [13]

If Ocwen's servicer license is suspended in California, as requested by the DBO Commissioner, Ocwen would lose the right to service "23% by unpaid principal balance of [its] portfolio and 15% by number of loans," and "potentially become ineligible to be a master servicer for any of its non-agency trusts." [14]

C. Consumer Finance Protection Bureau and State Attorneys General Investigation

Additionally, in December 2013, the federal Consumer Finance Protection Bureau ("CFPB") and the attorneys general for 49 states and the District of Columbia filed a Complaint against Ocwen and Ocwen Financial Corporation in the U.S. District Court for the District of Columbia.[15] The CFPB and state attorneys general

alleged "violations" of (i) "state law prohibiting unfair and deceptive consumer practices with respect to loan servicing," (ii) "state law prohibiting unfair and deceptive consumer practices with respect to foreclosure processing," (iii) the Consumer Protection Act of 2010, 12 U.S.C. § 5481 *et seq.*, "with respect to loan servicing," and (iv) the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5481 *et seq.*, "with respect to foreclosure processing." [16] Specifically, the CFPB and the attorneys general alleged that Ocwen engaged in the following acts and practices:

- "failing to timely and accurately apply payments made by borrowers and failing to maintain accurate account statements";
- "charging unauthorized fees for default-related services";
- "imposing force-placed insurance when [Ocwen] knew or should have known that borrowers already had adequate coverage";
- "providing false or misleading information in response to borrower complaints";
- "providing false or misleading information to borrowers regarding loans that have been transferred from other servicers";
- "failing to provide accurate and timely information to borrowers who seek information about loss mitigation services, including loan modifications";
- "falsely advising borrowers that they must be at least 60 days delinquent in loan payments to qualify for a loan modification";
- "misrepresenting to borrowers that loss mitigation programs would provide relief from the initiation of foreclosure or further foreclosure efforts";
- "providing false or misleading information to consumers about the status of the loss mitigation review, including while referring loans to foreclosure";
- "providing false or misleading information to consumers about the status of foreclosure proceedings where the borrower was in good-faith actively pursuing a loss mitigation alternative offered by [Ocwen]";
- "failing to properly calculate borrowers' eligibility for loan modification programs and improperly denying loan modification relief to eligible borrowers";
- "failing to properly process borrowers' applications for loan modifications, including failing to account for documents submitted by borrowers and failing to respond to borrowers' reasonable requests for information and assistance, and as a result, denying loan modifications to consumers who were eligible";
- "providing false or misleading reasons for denial of loan modifications";
- "with respect to transferred loans, failing to honor in-process trial modifications agreed to by prior servicers";
- "with respect to transferred loans with in-process trial and permanent modifications, deceptively [sought] to collect payments from the consumer under the mortgage's original unmodified terms";
- "preparing, executing, notarizing, and presenting false and misleading documents, filing false and misleading documents with courts and government agencies, or otherwise using false or misleading documents as part of the foreclosure process (including, but not limited to, affidavits, declarations, certifications, substitutions of trustees, and assignments)"; and
- "preparing, executing, notarizing, and filing affidavits in foreclosure proceedings, whose affiants lacked personal knowledge of the assertions in the affidavits and did not review any information or documentation to verify the assertions in such affidavits[,] [p]opularly known as 'robosigning.'"

(Complaint ¶ 20.) Ocwen agreed to settle the claims by entering into a Consent Judgment with the CFPB and the attorneys general. In the December 2013 Consent Judgment, Ocwen (along with Ocwen Financial Corporation) agreed to, among other things, (i) provide \$127.3 million as "cash payment" to, among others, "borrowers whose homes were sold in a foreclosure sale between and including January 1, 2009, and December 31, 2012" and (ii) "provide \$2 billion of relief to consumers who meet [certain] eligibility criteria . . . to remediate harms allegedly caused by the alleged unlawful conduct of [Ocwen]."[17] According to the CFPB, the Consent Judgment "addresses Ocwen's systemic misconduct at every stage of the mortgage servicing process." [18] Ocwen's servicing failures continue to be investigated by state and federal regulators. For instance, Florida's Attorney General announced on December 16, 2014 that her "office and other attorneys general on the National Mortgage Settlement Monitoring Committee have been investigating Ocwen ever since a whistleblower came forward earlier this year with significant issues about Ocwen's internal compliance review." [19] "[T]he states' investigation, in their enforcement role, is directed at determining whether Ocwen provided false or misleading information during the course of its compliance reporting." [20]

D. Federal Monitor Investigation

On December 16, 2014, a monitor appointed in *United States, et al. v. Bank of America Corp., et al.*, No. 12-CV-361 (D.D.C. 2012) (the "Federal Monitor") issued the "Monitor's Interim Report Regarding Compliance by Ocwen Loan Servicing, LLC as Successor by Assignment from Defendants Residential Capital LLC, GMAC Mortgage LLC, and Ally Financial Inc. for the Measurement Periods Ended March 31, 2014 and June 30, 2014" (the "Monitor Report"). The Monitor Report addressed, among other things, the "independence, competency and capacity" of Ocwen's internal quality control review group ("IRG"). (Monitor Report at 7.) According to the Federal Monitor, IRG's processes and procedures "lacked the critical keys to integrity mandated in the Enforcement Terms [as defined in the Monitor Report]," namely "an internal quality control group that is independent from the line of business whose performance is being measured and an internal quality control group with the appropriate authority, privileges and knowledge to effectively implement and conduct the reviews and metric assessments contemplated in the Enforcement Terms." (*Id.* at 13 (quotations omitted).) The Federal Monitor identified a "dysfunctional and chaotic working environment" during the first half of 2014, noting "serious problems and flaws in the processes and procedures" employed by the IRG. (*Id.* at 13.) Based on these findings, the Federal Monitor notified Ocwen that the IRG had not correctly implemented the Enforcement Terms in a number of "material respects." (*Id.* at 14.)

II. The Market Reaction

The rating agencies have cited the NYSDFS's investigation of Ocwen as a reason for their downgrading of Ocwen's servicer rating. The rating downgrades have increased the risk that Ocwen will be terminated as a servicer and/or subservicer. [21] For example, in October 2014—months before Ocwen signed the 2014 Consent Order—Standard & Poor's downgraded Ocwen's servicer rating to "average" following a letter by the NYSDFS to Ocwen "stating that during its review of Ocwen's mortgage servicing practices it had uncovered serious issues with Ocwen's systems and processes, including Ocwen's backdating of potentially hundreds of thousands of foreclosure-related letters to borrowers." [22] Standard & Poor's concluded that, based on the facts uncovered in the NYSDFS investigation, Ocwen's "internal practices and policies may not meet industry or regulatory standards." [23] On October 22, 2014, Moody's also downgraded its assessments of Ocwen "as a primary servicer of subprime residential mortgage loans to SQ3 from SQ3+ and as a special servicer of

residential mortgage loans to SQ3 from SQ3+." [24] According to Moody's, "[t]he assessment actions follow [the NYSDFS'] allegations," which "also raise the risk of actions that restrict Ocwen's activities, the levying of monetary fines against Ocwen, or additional actions that negatively affect Ocwen's servicing stability." [25]

Ocwen's servicing failures have also led to the downgrading of Ocwen Financial Corporation's and Home Loan Servicing Solutions, Ltd.'s corporate credit ratings. [26] Despite the fact that the California suspension proceeding was initiated in October 2014, after it was widely reported in January 2015, Moody's downgraded Ocwen Financial Corporation's rating to B3. [27] Moody's announcement stated, "[t]he negative outlook reflects the uncertain outcome of the DBO [Commissioner's] regulatory action and its effects on the Ocwen's ability to operate in California. The negative outlook also reflects the uncertain outcome of the National Mortgage Settlement Monitor investigation of Ocwen launched in December 2014 as well as potential exposure to other investigations or litigation that exist or could be prompted by recent actions taken by other regulators." [28] Moody's further noted that the downgrade to Home Loan Servicing Solutions, Ltd.'s rating was driven by its business "reliance on Ocwen" and the fact that "[v]irtually all of [Home Loan Servicing Solutions, Ltd.'s] assets were acquired from Ocwen" [29]

Similarly, on January 16, 2015, S&P revised its outlook on Home Loan Servicing Solutions Ltd.'s long-term issuer credit rating "to negative from stable . . . based on the risk that the company's sole subservicer, Ocwen, could lose the right to servicing mortgages in California—[Home Loan Servicing Solutions, Ltd.'s] largest state exposure." [30] According to Standard & Poor's, "[t]he negative outlook also reflects Ocwen's broader regulatory challenges." [31] As Ocwen Financial Corporation acknowledged in its Quarterly Report, dated October 31, 2014, "[t]he credit rating agencies have generally cited uncertainty regarding the impact of the regulatory scrutiny and possible regulatory actions against us as the primary basis for their actions." (Ocwen Financial Corporation, Quarterly Report (Form 10-Q) at 69-70 (Oct. 31, 2014).)

After the California suspension proceeding was widely reported on the night of January 12, 2015, Ocwen Financial Corporation's shares fell over 36% the next day. [32] Given that "virtually all of [Home Loan Servicing Solutions, Ltd.'s] assets were acquired from Ocwen," [33] its shares also fell nearly 20% in the wake of this news. [34]

III. Increased Risk of Loss to Noteholders

Ocwen's admittedly widespread and pervasive servicing failures, violations of applicable law, and the resultant governmental scrutiny and downgrade in its servicing ratings, increase the risk of loss to the Noteholders under the Indenture. This conclusion is supported by the risk factors set forth in the offering memorandum related to the HSART Trust, dated January 16, 2014 (the "Offering Memo"), which acknowledge that the type of conduct and associated events (e.g., risk of set-off in reimbursements from the underlying trusts, governmental investigations, ratings downgrades, inability to or delay in foreclosure on borrowers' properties) increase the risk of loss on the Notes.

- Ocwen's admitted failure to comply with the applicable laws and standards of practice of a prudent mortgage servicer in violation of the Master Subservicing Agreement and the Designated Servicing Agreements also increases the risk of loss to the Noteholders. The Offering Memo acknowledges that "[r]eimbursement of the outstanding amount of Advances funded by the Servicer under a Designated Servicing Agreement may be subject to delay, **reduction or set-off in the event that the Servicer breaches any of its obligations under the related Designated Servicing Agreement**, including, without limitation, any failure to perform its servicing functions in accordance with the terms of such

Designated Servicing Agreement" (*Id.* at 44; *see also id.* at 59-60, emphasis added.)

- Ocwen's admitted misconduct related to the foreclosure process increases the risk of delays in foreclosure and/or the inability to foreclose. The Offering Memo acknowledges the risk that states will impose foreclosure moratoria pending investigation of robo-signing and other servicing misconduct. (See Offering Memo at 33). As noted in the Offering Memo, such foreclosure risks create a concomitant risk of delays in reimbursement of, or losses in respect of, the Advances and, consequently, delays in payment on the Notes. (*Id.* at 32, 38-39.) Moreover, "[a]ny actions taken to remedy any tainted foreclosure proceedings or respond to . . . foreclosure defenses . . . may result in increasing costs and expenses of the Servicer while at the same time increasing the time Advances are outstanding and decreasing servicing cash flows." (*Id.* at 39.) Further, "[s]uch increased financial pressures may have a negative effect on the ability of the Servicer to pursue collection on mortgage loans that are experiencing increased delinquencies and defaults and to maximize recoveries on the sale of underlying properties following foreclosure." (*Id.*)
- Ocwen's admitted misconduct and payment of fines increases the risk of private litigation and governmental oversight, including in states with statutes similar to the ones Ocwen has admitted to violating in New York.[35] As the Offering Memo acknowledges, "adverse resolution of such proceedings could reduce amounts distributed on the Notes." (*Id.* at 56.) As noted, Ocwen is already facing suspension of its license in California.[36] The *Wall Street Journal* reported that "[t]he continued regulatory problems and failure to reform have undermined market confidence in the company to the point that it is raised concerns about whether it can continue as an independent operation." [37] The Journal quoted an analyst at Compass Point Research & Trading LLC who expressed concern about the "serious and far-reaching implications" stemming from California's scrutiny of Ocwen.[38] Zacks, an investment research firm, also warned, "[i]f [Ocwen's] mortgage license is revoked, the company will suffer tremendously as California is a major source of business. This is apprehended to further dent its goodwill as well as profitability." [39] According to an analyst with Keefe, Bruyette & Woods, "[w]ere Ocwen to lose its California license it would impact 378,132 loans that the company services in the state." [40] "Those loans currently carry a unpaid principal balance of \$95 billion or roughly 23% of Ocwen's total UPB [unpaid balance] due." [41] California is not the only state where Ocwen faces regulatory scrutiny. The Florida Attorney General recently announced that "attorneys general on the National Mortgage Settlement Monitoring Committee have been investigating . . . whether Ocwen provided false or misleading information during the course of its compliance reporting" related to Ocwen's servicing practices." [42]
- As the Offering Memo acknowledges, Ocwen's breaches increase the risk of payment by Ocwen of significant judgments, fines and penalties, which affect the company's overall financial position and ultimately increase the risk of loss on the Notes. (*Id.* at 36, 50-51.) A recent article, entitled "Barclays: California Situation Could Destroy Ocwen - potential settlement could permanently cripple nonbank," notes that "analysts are questioning if this is the beginning of the end for the troubled nonbank." [43] The article refers to a client note from Barclays analysts "suggest[ing] that paying out another massive settlement may be more than Ocwen can handle financially" and that "a negative outcome for Ocwen in California could be too much for the company to recover from." [44] The article notes that "Ocwen may also be required to pay a civil monetary fine as part of a potential settlement." [45] The market's sharp reaction demonstrates the significance of Ocwen's troubles with regulatory authorities due to its servicing failures. As noted, after the announcement of the California action, Ocwen Financial Corporation's and Home Loan Servicing Solutions, Ltd.'s share price fell sharply.
- Ocwen's admitted failures in servicing the loans increases the risk of the occurrence of a Servicer Termination Event under the Designated Servicing Agreements. Such termination, according to the

Offering Memo, "may result in delays or interruptions in payments on the Notes (including, without limitation, if the trustee for the related MBS Trust [as defined in the Offering Memo] seeks to offset the Servicer's claim for reimbursement against amounts owed by the Servicer to the related MBS Trust following termination of the Servicer)." (*Id.* at 59-60.) If that happens, the likelihood of payment of principal and interest on the Notes is diminished. "The yield on [the] Notes may be impacted by . . . [t]he occurrence of any Servicer Termination Event, Target Amortization Event, Facility Early Amortization Event or Event of Default as described herein and in the related Supplement." (*Id.* at 43.) Indeed, trustees in many of the Designated Servicing Agreements—including Deutsche Bank National Trust Co., the Indenture Trustee for the HSART Trust—have already declared Events of Default (as defined in the Designated Servicing Agreements) in the underlying securitization trusts and have initiated a poll of certificateholders to determine whether the Servicer should be terminated.[46] Additionally, Ocwen Financial Corporation has acknowledged that "[i]t is possible that additional actions by credit rating agencies could have a material adverse impact on our liquidity and funding position, including materially changing the terms on which we may be able to borrow money." (*Id.*)

IV. Events of Default Under the Indenture

A. Section 8.1(d)

Pursuant to Section 8.1(d), an Event of Default occurs when "the Servicer (itself or acting through a Subservicer)," among others, "shall materially breach or default in the due observance or performance of any of its covenants or agreements in this Indenture or any other Transaction Document (subject to any cure period provided therein)" (Indenture § 8.1(d).) The Servicer and/or Subservicer have materially breached or defaulted in the due observance and performance of covenants and agreements, including Sections 10.2(d) and 10.2(e) of the Indenture and Articles 2.3, 5.1, 5.16, and 5.17 of the Master Subservicing Agreement (a Transaction Document).

Section 10.2 of the Indenture, titled "Covenants of Administrator and Servicer," provides, among other things:

- "(d) . . . [t]he Servicer shall not fail to comply with its obligations as the servicer under each of the Designated Servicing Agreements, which failure would have a material adverse effect on the interests of the Noteholders under the Indenture"; and
- "(e) . . . [e]ach of the Administrator and the Servicer shall comply with all of their obligations and duties set forth in this Indenture and any other Transaction Document." [47]

The Designated Servicing Agreements[48] require, among other things, the Servicer or Subservicer to administer the mortgage loans included in each underlying trust in accordance with applicable state and federal law and/or normal and usual standards of practice of prudent mortgage servicers servicing similar mortgage loans.[49]

The Master Subservicing Agreement sets forth additional covenants:

- Article 2.3 of the Master Subservicing Agreement requires Ocwen, among other things, to service and administer each Mortgage Loan "in accordance with Applicable Law, the terms of the related Mortgage Loan Documents and any applicable private mortgage insurance or pool insurance, the standards, requirements, guidelines, procedures, restrictions and provisions of the related Subject Servicing Agreement and Underlying Documents governing the duties of Servicer thereunder and/or any subservicer thereunder, and this Agreement and the related Subservicing Supplement. . . . Without limiting the

foregoing, Ocwen covenants and agrees that it shall perform its obligations pursuant to this Agreement and each Subservicing Supplement in a manner that will not cause the termination of Servicer as servicer under any Subject Servicing Agreement" (Master Subservicing Agreement § 2.3.)(50]

- Article 5.1 of the Master Subservicing Agreement further requires Ocwen to "comply with all Applicable Laws in connection with the performance of its obligations under this Agreement and each Subservicing Supplement." (*Id.* § 5.1.)
- Article 5.16 of the Master Subservicing Agreement requires Ocwen to "maintain the servicing file with respect to each Mortgage Loan pursuant to Applicable Law and customary industry practice" (*Id.* § 5.16.)
- Article 5.17(d) of the Master Subservicing Agreement provides that "Ocwen shall assign an adequate number of personnel to the performance of Ocwen's obligations under this Agreement and the Subservicing Supplements. Ocwen shall properly educate and train all such personnel and ensure that all such personnel are fully qualified to perform the services that they are providing and shall have passed Ocwen's customary background check for personnel in similar provisions." (*Id.* § 5.17(d).)

The facts detailed above demonstrate that the Servicer and/or Subservicer have materially breached or defaulted in the due observance and performance of each of the foregoing covenants and agreements. Specifically, Ocwen has admitted to, among other things, having committed "numerous and significant violations" of New York state laws and regulations (2014 Consent Order at 1, 2 and ¶¶ 7, 11), engaging in "repeated non-compliance" of prior regulatory orders (*id.* ¶ 7), having "inadequate and ineffective information technology systems and personnel" (*id.* ¶ 13), providing borrowers "incorrect or outdated information" (*id.* ¶ 14), sending borrowers "backdated letters" (*id.*), "maintain[ing] inaccurate records" (*id.*), having "insufficient controls" (*id.*), "employ[ing] fewer trained personnel than its competitors" (*id.* ¶ 18), and having "[an] inadequate infrastructure and ineffective personnel [that has] resulted in Ocwen's failure to fulfill its legal obligations" (*id.* ¶ 19).

B. Section 8.1(m)(i)

Under Section 8.1(m)(i), an Event of Default occurs when there is "an event of default under any full-recourse, term loan facility under which a Subservicer, HLSS or Home Loan Servicing Solutions, Ltd. is borrower, including, without limitation, the loan facility evidenced by that certain Senior Secured Term Loan Facility Agreement." (Indenture § 8.1(m)(i).) Ocwen is a party to the Senior Secured Term Loan Facility Agreement, pursuant to which an Event of Default (as defined therein) occurs when, among other things, "[a]ny representation, warranty, certification or other statement made or deemed made by any Loan Party in any Loan Document or in any statement or certificate at any time given by any Loan Party or any of its Subsidiaries in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect as of the date made or deemed made." (Senior Secured Term Loan Facility Agreement § 8.01(b).)

When it entered into the Senior Secured Term Loan Facility Agreement on February 15, 2013, Ocwen represented and warranted, among other things, that it was not "in violation of any applicable laws that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect [as defined therein]," and that it was not "subject to or in default with respect to any . . . decrees, rules or regulations of any . . . state, . . . department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect." (*Id.* § 4.22.)

Further, on September 23, 2013, Ocwen entered into Amendment No. 1 to Senior Secured Term Loan Facility Agreement and Amendment No. 1 to Pledge and Security Agreement (the "Amendment"). In the Amendment,

Ocwen again represented and warranted that on the Effective Date of the Amendment (as defined therein), "each of the representations and warranties made by [Ocwen] contained in Article IV of the [Senior Secured Term Loan Facility Agreement] and each other Loan Document is true and correct in all material respects (except that any representation and warranty that is qualified as to 'materiality' or 'Material Adverse Effect' shall be true and correct in all respects on and as of the Effective Date (before and after giving effect to this Amendment), as if made on and as of such date and except to the extent that such representations and warranties specifically relate to an earlier date)." (Amendment § 4(b).)

Ocwen's representations and warranties in Section 4.22 of the Senior Secured Term Loan Agreement and Section 4(b) of the Amendment were false because, when made, Ocwen was engaged in widespread and pervasive violations of applicable law. Ocwen admitted in the 2014 Consent Order that it had committed "numerous and significant violations" of New York state laws and regulations and had engaged in "repeated non-compliance" of prior regulatory orders. (2014 Consent Order at 1, 2 and ¶¶ 7, 11.) Ocwen also admitted that a "targeted examination" of Ocwen conducted by the NYSDFS in June 2012 "identified gaps in the servicing records of certain loans that indicated repeated non-compliance by Ocwen, including: (a) failing to send borrowers a 90-day notice prior to commencing a foreclosure action as required under [RPAPL] § 1304, (b) commencing foreclosure actions on subprime loans without affirmatively alleging in the complaint that Ocwen had standing to bring the foreclosure action as required by RPAPL § 1302, and (c) commencing foreclosure actions without sufficient documentation of its standing to do so." (*Id.* ¶ 7.) Further, "Ocwen's systems have been backdating letters for years" and "Ocwen's processes failed to identify and remedy these errors" (*Id.* ¶¶ 15-16.) These facts, as well as those discussed above, clearly establish that, as of February 15, 2013, and as of the Effective Date of the Amendment, Ocwen was engaged in continuous violations of applicable law and regulatory orders, in material breach of Ocwen's representations and warranties under the Senior Secured Term Loan Facility Agreement and the Amendment. This resulted in an Event of Default under the Senior Secured Term Loan Facility Agreement, and consequently triggered an Event of Default under Section 8.1(m)(i) of the Indenture.

C. Section 8.1(g)

Pursuant to Section 8.1(g) of the Indenture, an Event of Default occurs upon a "failure of the Collateral Test at the end of any Advance Collection Period or at the close of business on . . . any date on which a Receivable becomes ineligible by virtue of an Unmatured Default . . . ; provided, however, that if such failure results solely from Receivables no longer being Facility Eligible Receivables because of an Unmatured Default or monetary claim, such failure shall become an Event of Default only if it continues unremedied for a period of thirty (30) days following the Servicer's Responsible Officer's receipt of such notice of or obtaining such actual knowledge." (Indenture § 8.1(g).) The Collateral Test fails for two independent reasons: (i) Ocwen's admittedly pervasive servicing failures and violations of law result in the right of counterparties to terminate their contractual arrangements with Ocwen as servicer or subservicer under the Designated Servicing Agreements, giving rise to an Unmatured Default, as a consequence of which the Receivables under such Designated Servicing Agreements are not Facility Eligible Receivables; and (ii) Ocwen's admittedly pervasive failures and violations of law result in the exclusion of Designated Servicing Agreements from Facility Eligible Servicing Agreements due to Ocwen's breach of the Master Subservicing Agreement.

Pursuant to the Indenture, Events of Default trigger a Facility Early Amortization Event, and vice versa. (Indenture §§ 1.1, 8.1(s).) The Indenture provides an express and reasoned remedy to compensate the Noteholders for the increased risk of loss associated with the specified Events of Default: an increased rate of

return. Upon the occurrence of an Event of Default or a Facility Early Amortization Event, the Note Interest Rate "shall equal the applicable Note Interest Rate for such Class plus 3.00%." (*Id.* § 1.1.) The Note Interest Rate must be increased retroactively as of the date an Event of Default had occurred, and on a going-forward basis, accordingly.

Please be advised that this notice is without prejudice to, and with express reservation of, any additional rights and remedies (including the right to seek acceleration of the Notes pursuant to Section 8.2 of the Indenture) that BlueMountain has under the Indenture or otherwise. Also, please do not hesitate to contact me with any questions relating to the above at the telephone number or email address listed at the top of this letter.

Sincerely,

Erik Haas

cc: HLSS Holdings, LLC
as Administrator and as Servicer
(on and after the MSR Transfer Date)
1661 Worthington Road, Suite 100
West Palm Beach, FL 33409
Attention: Corporate Secretary

[1] Defaults and Events of Default under the Indenture are not necessarily limited to those described in this letter. This letter is without prejudice to, and with express reservation of, BlueMountain's right to provide notice of additional defaults and Events of Default whether presently existing or occurring at a later date. BlueMountain also expressly reserves its rights with respect to remedies under the Indenture and Transaction Documents, including but not limited to acceleration of the Notes under the Indenture.

[2] An Event of Default arises under Section 8.1(d) if such default continues for five days after the earlier of (i) "actual discovery by a Responsible Officer of the Issuer, the Receivables Seller, the Servicer, the Depositor or the Administrator, as applicable, or (ii) the date on which written . . . notice of such failure, requiring same to be remedied, shall have been given from the Indenture Trustee or any Noteholder to a Responsible Officer of the Issuer, the Receivables Seller, the Servicer, the Depositor or the Administrator" An Event of Default exists under Section 8.1(m)(i) as of the date an event of default occurred under the Senior Secured Term Loan Facility Agreement, *i.e.*, February 15, 2013. An Event of Default exists under Section 8.1(g) upon a failure of the Collateral Test at certain specified time periods, provided "that if such failure results solely from Receivables no longer being Facility Eligible Receivables because of an Unmatured Default . . . , such failure shall become an Event of Default only if it continues unremedied for a period of thirty . . . days following the Servicer's Responsible Officer's receipt of such notice of or obtaining actual knowledge."

[3] Consent Order Pursuant to New York Banking Law § 44, *In re Ocwen Fin. Corp. & Ocwen Loan Servicing, LLC* (NYSDFS Dec. 22, 2014), <http://www.dfs.ny.gov/about/ea/ea141222.pdf> (<http://www.dfs.ny.gov/about/ea/ea141222.pdf>).

[4] Agreement on Mortgage Servicing Practices between NYSDFS and Ocwen Financial Corp. (NYSDFS September 1, 2011), <http://www.dfs.ny.gov/about/press/clocwen.pdf> (<http://www.dfs.ny.gov/about/press/clocwen.pdf>).

[5] 2012 Consent Order Under New York Banking Law § 44, *In re Ocwen Loan Servicing, LLC* (NYSDFS Dec. 5, 2012), <http://www.dfs.ny.gov/about/ea/ea121205.pdf> (<http://www.dfs.ny.gov/about/ea/ea121205.pdf>).

[6] State of California, Attorney General, Ocwen Frequently Asked Questions, "What laws did Ocwen violate," <http://oag.ca.gov/ag-mortgage-settlements/ocwen-faqs> (<http://oag.ca.gov/ag-mortgage-settlements/ocwen-faqs>).

[7] Antoine Gara, *California Regulator In Process Of Suspending Ocwen Financial's Mortgage License*, Forbes, Jan. 13, 2015, <http://www.forbes.com/sites/antoinegara/2015/01/13/california-regulator-in-process-of-suspending-ocwen-financials-mortgage-license/> (<http://www.forbes.com/sites/antoinegara/2015/01/13/california-regulator-in-process-of-suspending-ocwen-financials-mortgage-license/>).

[8] Accusation in Support of Notice of Intent to Issue an Order Suspending Residential Mortgage Lender and Loan Servicer License, *In re Accusation of Comm'r of Bus. Oversight v. Ocwen Loan Servicing, LLC*, File No. 413-0544 (Cal. Dep't of Bus. Oversight Oct. 3, 2014), http://www.dbo.ca.gov/ENF/pdf/2014/OcwenLoanServicingLLC_Accusation.pdf.

[9] Order to Discontinue Violations Pursuant to California Financial Code Section 50321, *In re Cal. Comm'r of Bus. Oversight v. Ocwen Loan Servicing, LLC*, File No. 413-0544 (Cal. Dep't Bus. Oversight June 16, 2014), <http://www.dbo.ca.gov/ENF/pdf/2015/Ocwen%20Loan%20Servicing,%20LLC-Order%20to%20Discontinue.pdf>.

[10] Order of Forfeiture, *In re Comm'r of Bus. Oversight v. Ocwen Loan Servicing, LLC*, File No. 413-0544 (Cal. Dep't of Bus. Oversight Jan. 2, 2015), <http://www.dbo.ca.gov/ENF/pdf/2015/Ocwen%20Loan%20Servicing,%20LLC-Order%20of%20Forfeiture.pdf>.

[11] Order of Forfeiture, *In re Comm'r of Bus. Oversight v. Ocwen Loan Servicing, LLC*, File No. 413-0544 (Cal. Dep't of Bus. Oversight Oct. 3, 2014), http://www.dbo.ca.gov/ENF/pdf/2014/OcwenLoanServicingLLC_OrderOfForfeiture.pdf; Order of Forfeiture, *In re Comm'r of Bus. Oversight v. Ocwen Loan Servicing, LLC*, File No. 413-0544 (Cal. Dep't of Bus. Oversight Nov. 26, 2014), http://www.dbo.ca.gov/ENF/pdf/2014/OcwenLoanServicingLLC_OrderOfForfeiture_1114.pdf; Order of Forfeiture; Order of Forfeiture, *In re Comm'r of Bus. Oversight v. Ocwen Loan Servicing, LLC*, File No. 413-0544 (Cal. Dep't of Bus. Oversight Jan. 2, 2015), <http://www.dbo.ca.gov/ENF/pdf/2015/Ocwen%20Loan%20Servicing,%20LLC-Order%20of%20Forfeiture.pdf>.

[12] E. Scott Reckard, *California Seeking to Suspend Ocwen Financial's Mortgage License*, L.A. Times, Jan. 12, 2015, <http://www.latimes.com/business/la-fi-ocwen-mortgage-license-20150113-story.html> (<http://www.latimes.com/business/la-fi-ocwen-mortgage-license-20150113-story.html>).

[13] James Sterngold, *Ocwen, California Regulators Lock Horns*, Wall Street Journal, Jan. 13, 2015, <http://www.wsj.com/articles/ocwen-financials-shares-tumble-on-california-concerns-1421178252> (<http://www.wsj.com/articles/ocwen-financials-shares-tumble-on-california-concerns-1421178252>).

[14] Ben Lane, *Barclays: California Situation could destroy Ocwen*, HousingWire, Jan. 14, 2015, <http://www.housingwire.com/articles/32607-barclays-california-situation-could-destroy-ocwen> (<http://www.housingwire.com/articles/32607-barclays-california-situation-could-destroy-ocwen>) (citing Barclays analysts).

[15] *CFPB, State Authorities Order Ocwen to Provide \$2 Billion in Relief to Homeowners for Servicing Wrongs*, Dec. 19, 2013, <http://www.consumerfinance.gov/newsroom/cfpb-state-authorities-order-ocwen-to-provide-2-billion-in-relief-to-homeowners-for-servicing-wrongs/> (<http://www.consumerfinance.gov/newsroom/cfpb-state-authorities-order-ocwen-to-provide-2-billion-in-relief-to-homeowners-for-servicing-wrongs/>).

[16] Complaint, *CFPB et al. v. Ocwen Fin. Corp. et al.*, Dkt. 1, No. 2013-CV-2025, at 14-15 (D.D.C. Dec. 19, 2013), http://files.consumerfinance.gov/f/201312_cfpb_complaint (http://files.consumerfinance.gov/f/201312_cfpb_complaint) _ocwen.pdf.

[17] Consent Judgment, *CFPB et al. v. Ocwen Fin. Corp. et al.*, Dkt. 12, ¶¶ 4-5, No. 2013-CV-2025 (D.D.C. Feb. 26, 2014).

[18] *CFPB, State Authorities Order Ocwen to Provide \$2 Billion in Relief to Homeowners for Servicing Wrongs*, Dec. 19, 2013, <http://www.consumerfinance.gov/newsroom/cfpb-state-authorities-order-ocwen-to-provide-2-billion-in-relief-to-homeowners-for-servicing-wrongs/> (<http://www.consumerfinance.gov/newsroom/cfpb-state-authorities-order-ocwen-to-provide-2-billion-in-relief-to-homeowners-for-servicing-wrongs/>).

[19] A press release issued by the Office of Florida's Attorney General, Pam Bondi, in December 2014 stated that the National Mortgage Settlement Monitoring Committee (consisting of various attorneys general) has also been investigating "whether Ocwen provided false or misleading information during the course of its compliance reporting." *Attorney General Bondi's Office and Other Attorneys General Investigate Ocwen*, Dec. 16, 2014, http://myfloridalegal.com/__852562220065EE67.nsf/0/BAA251FB24B1EABC85257DB00050CEA7?Open&Highlight=0,ocwen. The United States Securities and Exchange Commission also issued a subpoena to Ocwen Financial Corporation for documents concerning its "business dealings with Altisource, HLSS, AAMC and Residential and the interests of [Ocwen Financial Corporation's] directors and executive officers in these companies." Quarterly Report (Form 10-Q) at 48, Ocwen Financial Corp., Aug. 18, 2014; see also Ben Lane, *SEC subpoenas Ocwen over Altisource, HLSS Associations*, HousingWire, Aug. 19, 2014, <http://www.housingwire.com/articles/31083-sec-subpoenas-ocwen-over-business-dealings> (<http://www.housingwire.com/articles/31083-sec-subpoenas-ocwen-over-business-dealings>).

[20] *Attorney General Bondi's Office and Other Attorneys General Investigate Ocwen*, Dec. 16, 2014, http://myfloridalegal.com/__852562220065EE67.nsf/0/BAA251FB24B1EABC85257DB00050CEA7?Open&Highlight=0,ocwen

[21] As a consequence, Ocwen is in breach of its covenant under Section 2.3 of the Master Subservicing Agreement to "perform its obligations pursuant to this Agreement and each Subservicing Supplement in a manner that will not cause the termination of Servicer as servicer under any Subject Servicing Agreement." (Master Subservicing Agreement § 2.3.)

[22] Standard & Poor's, *Ocwen Loan Servicing LLC Residential Servicer Rankings Lowered; Outlook Remains Negative*, Oct. 28, 2014, [http://www.standardandpoors.com/prot/ratings/articles/en/us?](http://www.standardandpoors.com/prot/ratings/articles/en/us?articleType=HTML&assetID=1245376535698) ([http://www.standardandpoors.com/prot/ratings/articles/en/us?](http://www.standardandpoors.com/prot/ratings/articles/en/us?articleType=HTML&assetID=1245376535698)) articleType=HTML&assetID=1245376535698.

[23] *Id.*

[24] Moody's Investor Services, *Announcement - Servicer: Moody's Downgrades Ocwen's SQ Subprime and Special Servicer Assessments*, Oct. 22, 2014, [https://www.moody's.com/](https://www.moody's.com/research/Moodys-downgrades-Ocwens-SQ-subprime-and-special-servicer-assessments--PR_311024) (<https://www.moody's.com/>) research/Moodys-downgrades-Ocwens-SQ-subprime-and-special-servicer-assessments--PR_311024.

[25] *Id.*

[26] See, e.g., Fitch Ratings, *Fitch Downgrades Ocwen to 'B-' Following Regulatory Settlement, Chairman Departure*, Dec. 23, 2014, https://www.fitchratings.com/creditdesk/press_releases/detail.cfm?pr_id=961576; Moody's Investor Service, *Rating Action: Moody's downgrades Ocwen's, Altisource Solutions', and HLSS' rating to B3*, Jan. 14, 2015, https://www.moody's.com/research/Moodys-downgrades-Ocwens-Altisource-Solutions-and-HLSS-ratings-to-B3--PR_316455 (https://www.moody's.com/research/Moodys-downgrades-Ocwens-Altisource-Solutions-and-HLSS-ratings-to-B3--PR_316455).

[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] StreetInsider.com, *S&P Moves Outlook on Home Loan Servicing Solutions (HLSS) to Negative (OCN)*, Jan. 16, 2005, [http://www.streetinsider.com/Credit+Ratings/S%26P+Moves+Outlook+on+\(http://www.streetinsider.com/Credit+Ratings/S%26P+Moves+Outlook+on+\) Home+Loan+Servicing+Solutions+\(HLSS\)+to+Negative+\(OCN\)/10171327.html](http://www.streetinsider.com/Credit+Ratings/S%26P+Moves+Outlook+on+(http://www.streetinsider.com/Credit+Ratings/S%26P+Moves+Outlook+on+) Home+Loan+Servicing+Solutions+(HLSS)+to+Negative+(OCN)/10171327.html).

[31] *Id.*

[32] E. Scott Reckard, *California Seeking to Suspend Ocwen Financial's Mortgage License*, L.A. Times, Jan. 12, 2015, <http://www.latimes.com/business/la-fi-ocwen-mortgage-license-20150113-story.html> (<http://www.latimes.com/business/la-fi-ocwen-mortgage-license-20150113-story.html>); James Sterngold, *Ocwen, California Regulators Lock Horns*, Wall Street Journal, Jan. 13, 2015, <http://www.wsj.com/articles/ocwen-financials-shares-tumble-on-california-concerns-1421178252> (<http://www.wsj.com/articles/ocwen-financials-shares-tumble-on-california-concerns-1421178252>).

[33] Moody's, Moody's confirms Ocwen's, Altisource Solutions', and HLSS' ratings; outlook negative, Dec. 22, 2014, https://www.moody's.com/research/Moodys-confirms-Ocwens-Altisource-Solutions-and-HLSS-ratings-outlook-negative--PR_315646 (https://www.moody's.com/research/Moodys-confirms-Ocwens-Altisource-Solutions-and-HLSS-ratings-outlook-negative--PR_315646).

[34] Ben Lane, *Ocwen Stock Eviscerated by Threat of California License Suspension*, HousingWire, Jan. 13, 2015, <http://www.housingwire.com/articles/32592-ocwen-stock-eviscerated-by-threat-of-california-license-suspension> (<http://www.housingwire.com/articles/32592-ocwen-stock-eviscerated-by-threat-of-california-license-suspension>). The price of Ocwen Financial Corporation's stock fell from \$12.19 at the close on January 12, 2015 to \$7.78 at the close on January 13, 2015. See Yahoo Finance, Historical Prices (Ocwen Financial Corporation), <http://finance.yahoo.com/q/hp?s=OCN> (<http://finance.yahoo.com/q/hp?s=OCN>). Similarly, Home Loan Servicing Solutions, Ltd.'s stock closed at \$16.09 on January 12, 2015, but fell to \$12.95 at the close of the next day. Yahoo Finance, Historical Prices (Home Loan Servicing Solutions, Ltd.), <http://finance.yahoo.com/q/hp?s=HLSS+Historical+Prices> (<http://finance.yahoo.com/q/hp?s=HLSS+Historical+Prices>).

[35] See, e.g., Ariz. Rev. Stat. § 33-807; Cal Civ. Code § 2924(a); Nev. Rev. Stat. § 107.080; Tex. Prop. Code § 51.002(d).

[36] E. Scott Reckard, *California Seeking to Suspend Ocwen Financial's Mortgage License*, L.A. Times, Jan. 12, 2015, <http://www.latimes.com/business/la-fi-ocwen-mortgage-license-20150113-story.html> (<http://www.latimes.com/business/la-fi-ocwen-mortgage-license-20150113-story.html>).

[37] James Sterngold, *Ocwen, California Regulators Lock Horns*, Wall Street Journal, Jan. 13, 2015, <http://www.wsj.com/articles/ocwen-financials-shares-tumble-on-california-concerns-1421178252> (<http://www.wsj.com/articles/ocwen-financials-shares-tumble-on-california-concerns-1421178252>).

[38] *Id.*

[39] *Analyst Blog, Ocwen Facing License Suspension Risk: Is This the End?*, Nasdaq, Jan. 14, 2015, <http://www.nasdaq.com/article/ocwen-facing-license-suspension-risk-is-this-the-end-analyst-blog-cm432763#ixzz3P8bPIOt6> (<http://www.nasdaq.com/article/ocwen-facing-license-suspension-risk-is-this-the-end-analyst-blog-cm432763#ixzz3P8bPIOt6>).

[40] Antoine Gara, *California Regulator In Process Of Suspending Ocwen Financial's Mortgage License*, Jan. 13, 2015, <http://www.forbes.com/sites/antoinegara/2015/01/13/california-regulator-in-process-of-suspending-ocwen-financials-mortgage-license/> (<http://www.forbes.com/sites/antoinegara/2015/01/13/california-regulator-in-process-of-suspending-ocwen-financials-mortgage-license/>).

[41] *Id.*

[42] *Attorney General Bondi's Office and Other Attorneys General Investigate Ocwen*, Dec. 16, 2014, Florida Office of the Attorney General, <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/BAA251FB24B1EABC85257DB00050CEA7>.

[43] Ben Lane, *Barclays: California Situation Could Destroy Ocwen - potential settlement could permanently cripple nonbank*, HousingWire, Jan. 14, 2015, <http://www.housingwire.com/articles/32607-barclays-california-situation-could-destroy-ocwen> (<http://www.housingwire.com/articles/32607-barclays-california-situation-could-destroy-ocwen>).

[44] *Id.*

[45] *Id.*

[46] See, e.g., Notice of Servicer Event of Default by Deutsche Bank National Trust Company, as Trustee, Morgan Stanley ABS Capital I Inc. Trust 2005-HE1, dated Dec. 23, 2014, at 1 (providing notice to certificateholders that "an additional Event of Default has occurred").

[47] Section 10.2(e) further provides that "Servicer shall remain obligated and primarily liable to the Indenture Trustee and the Noteholders for the servicing and administering of the Mortgage Loans in accordance with the provisions of this Indenture without diminution of such obligation or liability by virtue of such Subservicing Agreements or arrangements or by virtue of indemnification from a Subservicer and to the same extent and under the same terms and conditions as if such Servicer alone were servicing and administering the Mortgage Loans." (Indenture § 10.2(e).)

[48] The Designated Servicing Agreements and Subject Servicing Agreements both refer to the pooling and servicing agreements, servicing agreement, or subservicing agreements, the Receivables attributable to which have been assigned to the HSART Trust.

[49] See, e.g., SABR 2007-NC2, Pooling and Servicing Agreement § 3.01 ("The Servicer shall service and administer the Mortgage Loans in accordance with applicable state and federal law and shall provide to the Mortgagors any reports required to be provided to them thereby."); ABFC 2003-WMC1, Pooling and Servicing Agreement § 3.01 ("The Servicer, as independent contract servicer, shall service and administer the Mortgage Loans (including with respect to collection procedures) in accordance with this Agreement and the normal and usual standards of practice of prudent mortgage servicers servicing similar mortgage loans . . .").

[50] In the Second Amended and Restated Receivables Sale Agreement, dated as of September 13, 2012, by and among Ocwen, as Servicer (prior to the respective MSR Transfer Dates), HLSS, as Receivables Seller (and as Servicer on and after the respective MSR Transfer Dates), and HLSS Servicer Advance Facility Transferor, LLC, as Depositor, Ocwen covenants, among other things, (i) to "do or cause to be done all things necessary on its part to . . . maintain each of its licenses, approvals, registrations and qualifications in all jurisdictions in which . . . the conduct of its business requires such licenses, approvals, registrations or qualifications . . ." and (ii) "to comply in all material respects with all laws, rules, regulations and orders of any governmental authority applicable to its operation" To the extent the Third Amended and Restated Receivables Sale Agreement (a Transaction Document), dated as of March 13, 2013, contains the same covenants, Ocwen is in material breach thereof.

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