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New York Investigates Banks' Role in Financial Crisis

By GRETCHEN MORGENSON

The New York attorney general has requested information and documents in recent weeks from three major Wall Street banks about their mortgage securities operations during the credit boom, indicating the existence of a new investigation into practices that contributed to billions in mortgage losses.

Officials in [Eric T. Schneiderman's](#), office have also requested meetings with representatives from [Bank of America](#), [Goldman Sachs](#) and [Morgan Stanley](#), according to people briefed on the matter who were not authorized to speak publicly. The inquiry appears to be quite broad, with the attorney general's requests for information covering many aspects of the banks' loan pooling operations. They bundled thousands of home loans into securities that were then sold to investors such as pension funds, [mutual funds](#) and insurance companies.

It is unclear which parts of the byzantine securitization process Mr. Schneiderman is focusing on. His spokesman said the attorney general would not comment on the investigation, which is in its early stages.

Several civil suits have been filed by federal and state regulators since the financial crisis erupted in 2008, some of which have generated settlements and fines, most prominently a \$550 million deal

between Goldman Sachs and the Securities and Exchange Commission.

But even more questions have been raised in private lawsuits filed against the banks by investors and others who say they were victimized by questionable securitization practices. Some litigants have contended, for example, that the banks dumped loans they knew to be troubled into securities and then misled investors about the quality of those underlying mortgages when selling the investments.

The possibility has also been raised that the banks did not disclose to mortgage insurers the risks in the instruments they were agreeing to insure against default. Another potential area of inquiry — the billions of dollars in credit extended by Wall Street to aggressive mortgage lenders that allowed them to continue making questionable loans far longer than they otherwise could have done.

“Part of what prosecutors have the advantage of doing right now, here as elsewhere, is watching the civil suits play out as different parties fight over who bears the loss,” said Daniel C. Richman, a professor of law at Columbia. “That’s a very productive source of information.”

Officials at Bank of America and Goldman Sachs declined to comment about the investigation; Morgan Stanley did not respond to a request for comment.

During the mortgage boom, Wall Street firms bundled hundreds of billions of dollars in home loans into securities that they sold profitably to investors. After the real estate bubble burst, the perception took hold that the securitization process as performed by the major investment banks contributed to the losses generated in the crisis.

Critics contend that Wall Street’s securitization machine masked the existence of risky home loans and encouraged reckless lending because pooling the loans and selling them off allowed many participants to avoid responsibility for the losses that followed.

The requests for information by Mr. Schneiderman’s office also seem to confirm that the New York attorney general is operating independently of peers from other states who are negotiating a broad settlement with large banks over foreclosure practices.

By opening a new inquiry into bank practices, Mr. Schneiderman has indicated his unwillingness to accept one of the settlement's terms proposed by financial institutions — that is, a broad agreement by regulators not to conduct additional investigations into the banks' activities during the mortgage crisis. Mr. Schneiderman has said in recent weeks that signing such a release was unacceptable.

It is unclear whether Mr. Schneiderman's investigation will be pursued as a criminal or civil matter. In the last few months, the office's staff has been expanding. In March, Marc B. Minor, former head of the securities division for the New Jersey attorney general, was named bureau chief of the investor protection unit in the New York attorney general's office.

Early in the financial crisis, [Andrew M. Cuomo](#), the governor of New York who preceded Mr. Schneiderman as attorney general, began investigating Wall Street's role in the debacle. But those inquiries did not result in any cases filed against the major banks. Nevertheless, some material turned over to Mr. Cuomo's investigators may turn out to be helpful to Mr. Schneiderman's inquiry.



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