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Responding to Comprehensive Financial  
Fraud Enforcement Efforts



When the President of the United States highlights an enforcement initiative in the State of the Union Address, as he did on January 24, 2012, it likely is a strong indication of things to come. And action was swift. Later that week, on January 27, 2012, Attorney General Eric Holder, SEC Director of Enforcement Robert Khuzami, New York Attorney General Eric Schneiderman and a host of others introduced the new Residential Mortgage-Backed Securities Working Group (RMBS Working Group), a component of the current Financial Fraud Enforcement Task Force (Task Force). With New York Attorney General Eric Schneiderman at the helm, the RMBS Working Group has already issued subpoenas to 11 financial institutions to investigate wrongdoing in the packaging, selling, and valuing of residential mortgage-backed securities (RMBS), and the Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) have already brought related charges against four former traders at a major investment bank. And more is expected to come.

The President's announcement is the latest development in the government's enforcement response to the financial crisis. Over the last two years, President Obama's Task Force – led by the DOJ – has facilitated an increase in the investigation and prosecution of financial crimes and other related violations. The President established the interagency Financial Fraud Enforcement Task Force by Executive Order 13519 on November 17, 2009. This group consists of dozens of federal government agencies, the National Association of Attorneys General, and the National District Attorneys Association, and it is growing.

The Task Force's primary mission is to provide advice to the Attorney General for the enforcement of cases of bank, mortgage, loan, and lending fraud; securities and commodities fraud; retirement plan fraud; mail and wire fraud; tax crimes; money laundering; False Claims Act violations; unfair competition; discrimination; and other financial crimes and violations. To achieve this objective, the Task Force formed five working groups focusing on specific areas of fraud:

- Mortgage Fraud Working Group
- Recovery Act, Procurement, and Grant Fraud Working Group
- Rescue Fraud Working Group
- Securities and Commodities Fraud Working Group
- Non-Discrimination Working Group

Last year, Attorney General Holder announced the formation of an Oil and Gas Price Fraud Working Group to focus on energy markets. With the President's State of the Union announcement, the Task Force adds RMBS fraud to its list of working groups.

K&L Gates has been at the forefront of representing clients in the mortgage industry who are within the targeted industry segment that may be affected by these developments.

## CROSS-DISCIPLINARY EXPERIENCE

K&L Gates has deep experience in the substantive mortgage financing issues that are the focus of the RMBS Working Group. The most recent edition of *Chambers USA*, an independent and research-based guide to the legal profession, described K&L Gates as "one of the premier players in the consumer finance arena." Moreover, K&L Gates has been handling investigations into this industry with a cross-disciplinary team for some time. Drawing on lawyers from its securities enforcement, white collar, litigation, financial services, internal investigation, and insurance coverage practice areas, K&L Gates' team formulates coordinated defense strategies to address allegations of RMBS fraud, mortgage fraud, securities fraud, and other types of financial fraud or discrimination alleged by the government. K&L Gates has represented clients in all of the various stages of the government's enforcement initiative including internal investigations, enforcement investigations, litigation, regulatory, compliance and Congressional investigations.

Our financial fraud team reflects our firm's one-company, one-team mentality, where the client's needs are always the only driver of our decision making, including on such issues as case staffing and resource utilization. This firm philosophy of responsiveness to client needs domestically and abroad has contributed greatly to the firm, individual practices, offices, and partners receiving special recognitions and rankings by rating services and others. Some of our recent firmwide recognitions include:

- In May 2011, *Law360* included the firm within its "Global 20" as one of the world's "preeminent" global law firms.
- In 2009 and 2011, *Legal Business* included the firm on the short list for "US Law Firm of the Year."
- In October 2010, the inaugural survey of clients and lawyers in *U.S. News & World Report* "Best Law Firm" rankings reported that K&L Gates earned more first-tier rankings than any other law firm.

You can learn more about the firm, its offices and its practice areas by visiting our website at [www.klgates.com](http://www.klgates.com).

## GOVERNMENT ENFORCEMENT

The Financial Fraud Enforcement Task Force and its various working groups are investigating financial institutions over their RMBS practices and other practices relevant to financial fraud or discrimination. K&L Gates has a large and diverse Government Enforcement practice. Whether a matter involves federal or state securities regulators, financial institution regulators, or criminal investigators at the federal or state level, our diverse group of lawyers located across the United States, in Europe and in Asia provides substantial experience in addressing the matter, often proactively and early. Our Government Enforcement team includes a former United States Attorney General, more than a dozen former staffers from the SEC, a number of former prosecutors from the DOJ, Assistant U.S. Attorneys and Deputy State Attorneys General, former heads of state securities regulators, and lawyers from a diverse collection of regulators or agencies. Our enforcement lawyers have handled a wide range of grand jury or other government investigations and resulting litigation in court and administrative proceedings.

### Securities Enforcement

Securities and commodities fraud is an area that the Task Force expressly prioritizes. Our securities enforcement lawyers include former senior officials and staffers from the SEC, former prosecutors from the DOJ and U.S. Attorney's Office, the Financial Industry Regulatory Authority (FINRA), and the Commodity Futures Trading Commission (CFTC), as well as former heads of state securities regulators and former staff members from the offices of state attorneys general. We have been involved in virtually every significant enforcement initiative during the past 40 years. In the United Kingdom, our lawyers represent clients before the Financial Services Authority (FSA), the London Stock Exchange, and the Serious Fraud Office. K&L Gates lawyers have also represented clients before securities regulators in Germany, France, and Hong Kong.

### Representative Experience

- Represented financial institutions in investigations by the SEC concerning disclosures in RMBS offering documents.
- Represented defendant/informant hedge fund manager in *Galleon* insider investigation by DOJ and SEC.
- Represented individuals at major financial institutions in SEC investigations relating to structuring and sale of collateralized debt obligations (CDOs).
- Represented several Fortune 50 companies in investigations by the DOJ, SEC, FINRA and state securities regulators.

- Investigated whistleblower complaints for public and private companies and non-profit organizations.

### Consumer Finance Government Investigation and Enforcement

Our enforcement attorneys and litigators represent financial service providers, including lending institutions, investors, servicers and other settlement service providers, in a broad array of investigations and enforcement actions involving the DOJ, Federal Trade Commission (FTC), Department of Housing and Urban Development (HUD), Federal Reserve Board, Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision and Federal Deposit Insurance Corporation. We also are among the leading firms focusing on the new Bureau of Consumer Financial Protection (CFPB), including its jurisdiction and enforcement powers.

### Representative Experience

- Conducted investigations and helped clients respond to allegations of inappropriate foreclosures, including allegations related to "robo-signing" (*i.e.*, improper executions of affidavits of indebtedness in judicial foreclosure actions) and notarizing documents outside of the presence of a notary.
- Represented bank in global settlement discussions with the federal and state attorneys general involving loan servicing practices.
- Assisted client in connection with an ongoing False Claims Act investigation by the U.S. Attorney's Office regarding the origination of Federal Housing Administration (FHA)-insured loans.
- Assisted client in responding to inquiries from HUD's Mortgagee Review Board, Quality Assurance Division and National Servicing Center in connection with the servicing of FHA-insured loans and the offering of loss mitigation to delinquent borrowers.
- Assisted mortgage company in negotiating a settlement with state banking department in response to allegations regarding the licensing of loan officers and proposed license revocation.
- Represent former officer in connection with failed bank in U.S. Attorney, SEC and civil class action cases.
- Assisted client in responding to inquiries from HUD in connection with FHA-insured loans, including multimillion dollar requests for indemnification and double damages under the Program Fraud Civil Remedies Act.

- Represented provider of reloadable prepaid cards in investigation by state attorney general.
- Represented loan servicers in connection with civil investigative demands by the FTC and state regulatory authorities.
- Represented a large United Kingdom mortgage administrator facing allegations of breaching of FSA rules and control failures around treating customers fairly.

## White Collar Crime/Criminal Defense

The Financial Fraud Enforcement Task Force facilitates the prosecution of wire and mail fraud, tax crimes, procurement fraud, and False Claims Act violations. K&L Gates has a geographically dispersed team of highly regarded lawyers with deep and broad experience defending white collar and financial crime allegations. Our team includes former federal and state prosecutors and a former United States Attorney General, all of whom regularly handle these types of cases. Our lawyers are poised to act quickly and decisively for our clients at the first hint of potential wrongdoing to final appeals. We have routinely handled all manner of high-visibility Congressional investigations and hearings, state and federal investigations, grand jury proceedings, parallel civil and criminal proceedings, and criminal trials on behalf of corporations and individuals. For many years, we have conducted complex but cost-effective and comprehensive internal investigations, have provided compliance advice to corporations, and have assisted clients in taking appropriate responsive steps to correct errors and omissions. We distinguish ourselves from others by being aggressively proactive. In this regard, we do not just fight charges already filed against our clients; we devise and implement strategies to prevent such charges from being filed in the first place.

### Representative Experience

- Represented a mortgage lender in HUD/FBI fraud investigation.
- Represented banks in examination issues, formal enforcement orders, and civil money penalty proceedings before bank regulators.
- Defended a United States Ambassador in fraud investigation in connection with the marketing of real estate limited partnerships.
- Represented a global company charged with defrauding government agencies.
- Represented national figures involved in an investigation regarding high-yield junk bonds.

- Represented an individual defendant charged with criminal market manipulation in alleged violation of the Commodity Exchange Act and related conspiracy and mail fraud charges.
- Represented a manufacturer in criminal false claims investigation.
- Represented real estate brokers in alleged mortgage fraud in federal criminal investigation.
- Represented individuals alleged to have participated in rigged bids in non-judicial foreclosure auctions.

## Fair Lending/Unfair And Deceptive Trade Practices

Financial discrimination is something that the Financial Fraud Enforcement Task Force specifically prioritizes as a type of financial fraud that affects the nation most during a time of economic recovery. K&L Gates provides sophisticated fair lending representation to financial institutions throughout the United States. Our fair lending lawyers handle a wide array of issues ranging from class action defense, government enforcement, price monitoring and other compliance programs, and day-to-day compliance advice. We handle investigations of clients by the DOJ, the FTC, HUD, federal banking regulators, state attorneys general, and state banking departments. We also regularly defend banking, mortgage lending, and consumer financial services institutions in federal and state consumer class action litigation. In addition to federal and state antidiscrimination statutes, our fair lending team handles compliance with the Home Mortgage Disclosure Act, Community Reinvestment Act, anti-predatory lending laws, and related requirements. Our depth of experience in fair lending enforcement, litigation, and compliance, combined with our understanding of how lending institutions operate, enables us to provide effective advice that balances practical business considerations with minimizing risk.

Our attorneys also have handled a broad array of multistate attorney general investigations involving allegations of unfair and deceptive trade practices in the origination and servicing of residential mortgage loans. We also have handled numerous individual state attorney general investigations involving fair lending and unfair and deceptive trade practices.

### Representative Experience

- Represented lending institutions, including large depository institutions, regional depository institutions and non-bank mortgage lenders in fair lending investigations by the DOJ, HUD and FTC involving mortgage loan pricing, loan decisioning, product steering, redlining and reverse redlining.

- Represented a non-prime lender in multistate investigation and settlement with state banking agencies and attorneys general in virtually all states based on alleged violations of the state unfair and deceptive trade practices acts and not on alleged violations of the explicit provisions of consumer credit laws pertaining to residential mortgage lending. The review included the sales and marketing practices of the lender with respect to pricing and disclosures, the underwriting practices used by the lender with respect to reduced documentation requirements and the adequacy of appraisals, excessive refinancings, and prepayment provisions.
- Represented mortgage lender in New York Attorney General enforcement action involving alleged discriminatory loan pricing and predatory lending practices.
- Represented a large national bank in multiple federal fair lending investigations related to loan modification denials.
- Represented a large national lender in joint DOJ/HUD enforcement action alleging discrimination in retail and wholesale loan pricing practices.
- Represented a lender in joint DOJ/HUD/FTC enforcement action involving alleged discrimination in wholesale loan pricing practices and Real Estate Settlement Procedures Act (RESPA) anti-kickback violations.
- Represented multiple mortgage lenders in fair lending investigations involving loan pricing and decisioning by HUD's Office of General Counsel.

## Public Policy and Government Affairs

K&L Gates has the largest policy practice of any integrated global law firm. With over 60 bipartisan legal and policy professionals and more than 500 years of combined government experience, the K&L Gates Public Policy and Law Group regularly assists clients, including financial services and mortgage industry clients, avoid, prepare for, and successfully manage Congressional hearings, investigations, and interviews.

For those who are targeted, Congressional investigation activities offer both opportunities and dangers. The opportunities include the chance to distinguish lenders and service companies – the good, the bad and the ugly – one from the other. They allow businesses and the industry as a whole to offer their side of the story. They can also provide an opportunity for companies to establish and maintain positive relationships with decision makers. The dangers are similarly high. Personal and reputational risk can be involved. An entire industry may be challenged.

Congress uses investigations and hearings to educate, to legislate, and to generate public attention to issues – and in the process may focus hard on you or your business. Congress makes its own rules and applies them as it sees fit to achieve the legislative objectives it sets. Hearings are political events which, like trials, are public, but unlike trials, don't have rules that guarantee a level playing field. In investigations, witnesses can be badgered and publicly scorned. There are no guarantees that the confidentiality of proprietary business information will be protected. Those under scrutiny need to prepare for the worst and yet get their message across to an often skeptical audience.

Preparing for and participating in a high-profile Congressional inquiry requires the help of experienced counsel. Our bipartisan team includes a former Attorney General, a Senator, two Congressmen, and former committee counsel who have organized and staffed countless hearings, complex investigations and legislative mark-ups. A member of our group was even selected to serve as a Special Counsel to a Congressional committee conducting a high-profile investigation.

With a thorough understanding of the political climate and the current dynamics on Capitol Hill, we are able to provide expert political advice and assistance. We gather all available information about the purpose of the investigation; engage investigators on behalf of our clients; and, where it is necessary, assist clients in identifying appropriate information to send in response to requests and preparing responses to information requests. We prepare clients for Congressional committee staff interviews. We aid in drafting written testimony for Congressional hearings and prepare witnesses for oral testimony. We prepare those under investigation thoroughly so that they can anticipate and address the questions they must field under pressure and still drive home their own arguments. In the event that Congress proposes legislation, we can mobilize to amend or defeat harmful bills.

## Representative Experience

- Represent a company in an investigation of foreclosure activities by the Senate Permanent Investigations Subcommittee.
- Represent a bank in response to inquiries from the House Oversight and Government Reform Committee regarding foreclosure practices.
- Represent a financial services company with respect to Administration and Congressional inquiries regarding how it provides financial advice.
- Represent an individual in parallel DOJ and Congressional investigation of lobbying activities.

- Represent a company in connection with Congressional investigation of a U.S. Food and Drug Administration action.
- Represent a trustee in an investigation by the Senate Permanent Investigations Subcommittee of offshore investment devices.
- Represent a corporate officer in connection with an investigation into alleged irregularities relating to a contract issued by the House of Representatives.
- Represent a lawyer in investigations by Senate Permanent Investigations Subcommittee of abusive offshore tax shelters.

## Internal Investigations

Regardless of the propriety of a company's practices, based on the heightened level of scrutiny placed on entities subject to the Task Force's reach, it might make sense to commission an independent investigation. In the post-Sarbanes-Oxley world, internal investigations are a reality for all companies and other institutions. While high-profile and significant internal investigations have occurred in the context of major public company scandals, they may also be appropriate in many other situations. Allegations of ethical lapses, whistleblower complaints, governmental inquiries, negative media stories, and abuses in an industry or by competitors can be reasons to conduct an internal investigation. Failure to do so can have severe negative repercussions for the board and senior management of a company.

The growth in investigations has been fueled in part by the statements by the DOJ, the SEC and other law enforcement agencies noting that credit may be given to organizations that conduct internal investigations. Failure to conduct an internal investigation when there is a credible indication of wrongdoing or other precipitating event could give rise to claims that the board breached its fiduciary duties. The stakes have never been higher as regulatory fines and sanctions have increased dramatically and reputational costs can be staggering.

K&L Gates has successfully conducted scores of internal investigations for companies. While an internal investigation can provide great benefits to a company and its board and senior management, it can cause serious harm if it is not conducted properly. K&L Gates' significant experience and overall reputation in conducting internal investigations can help make them highly effective with minimal disruptions to the organization.

The lawyers at K&L Gates who conduct internal investigations have noteworthy credentials. They include a former United States Attorney General, a former United States Senator, a former President of the American Bar Association, and former senior officials at the DOJ and the SEC.

## Representative Experience

- Served as the DOJ-appointed Examiner with respect to New Century Financial Corporation, the second largest subprime lender, for the Bankruptcy Court for the District of Delaware. The issues covered included various accounting issues, loan origination practices, the role of the Audit Committee and Internal Audit Department and the adequacy of the work of the outside auditors. Prepared a report that was unsealed on March 26, 2008.
- Served as the DOJ-appointed Examiner with respect to WorldCom for the U.S. Bankruptcy Court for the Southern District of New York concerning numerous issues, including accounting fraud, acquisitions, corporate governance, securities offerings, IPO allocations, internal audit, loans to senior officers and executive compensation.
- Conducted internal investigation of an international bank concerning the adequacy of internal controls and procedures under Financial Accounting Standards.
- Conducted internal investigation for large financial institution regarding allegations of "robo-signing" and other issues related to foreclosure practices.
- Conducted internal investigation of a hedge fund in connection with parallel New York Attorney General/SEC investigation.
- Conducted internal investigation of investment advisory client in connection with the Bernard Madoff fraud.
- Conducted internal investigation and representation in regulatory, civil and criminal actions of public pension funds victimized by fraud.
- Conducted internal investigations of bank bribery or failure to adhere to safe and sound business or lending practices.

## FINANCIAL SERVICES

An ounce of prevention is worth a pound of cure. Our competitive advantage is the scope and depth of our enforcement experience combined with our comprehensive knowledge of financial services industries. Our enforcement lawyers work closely with the firm's premier Financial Services practice groups, which have broad substantive expertise in the areas of mortgage banking, securitization, finance, securities, investment management, broker-dealer and derivatives regulation.

## Consumer Financial Services

State and federal regulatory compliance is an integral part of our Consumer Financial Services practice. With respect to federal compliance issues, K&L Gates lawyers are fully conversant in the federal laws that regulate providers of consumer financial products and services. Our state law practice includes researching and analyzing mortgage banking, real property, money transmitter, payment systems, consumer protection, and consumer finance laws in all 50 states and the District of Columbia.

Our lawyers understand the interplay between state and federal law, and routinely counsel clients on federal preemption and related issues. We also analyze policies and procedures for compliance with applicable federal and state laws, prepare industry comment letters on proposed regulations, conduct due diligence, conduct in-house training seminars, and design and evaluate enterprise risk, due diligence, and quality control systems. In addition, we assist companies with implementing the latest federal and state laws and regulations.

### *Representative Experience*

- Advised national banks and federally chartered thrifts regarding the new rules of federal preemption of state consumer finance laws, surveyed state law requirements potentially applicable to their consumer finance operations, and helped them restructure operations to minimize legal and compliance risk.
- Advised client on loss mitigation requirements under federal government programs including FHA, the Home Affordable Modification Program (HAMP) and Fannie Mae/Freddie Mac requirements.
- Assisted financial services company and several of its affiliates in developing prepaid card, payroll card, and mobile payments programs and operations to comply with federal and state laws. Also provided extensive regulatory advice in connection with the development and launch of mobile payments platform.
- Assisted national banks and state chartered member bank in their foreclosure audits performed pursuant to OCC supervisory guidance concerning foreclosure management.
- Managed review for large national bank concerning its compliance with the Servicemembers Civil Relief Act.
- Conducted fair lending risk assessment for bank and its affiliates in anticipation of examination by the CFPB.

## Investment Management, Hedge Funds, and Alternative Investments

We are routinely ranked among the leading law firms in the area of fund client representations in the mutual fund industry. Our clients represent a cross-section of the investment management industry, including both financial service providers, such as investment advisers, broker-dealers, banks, trust companies, and insurance companies, as well as investment vehicles and other institutional investors, such as open- and closed-end registered investment companies (and their independent directors), exchange-traded funds, hedge funds (onshore and offshore), private equity funds, commodity pools, business development companies, retirement plans (ERISA and governmental plans), and collective investment funds sponsored by banks and trust companies.

### *Representative Experience*

- Defended mutual fund in connection with claims relating to investment in and valuation of subprime related securities.
- Assisted fund managers in valuation and liquidity issues related to subprime securities including preparation of disclosure to investors concerning these issues.
- Represented funds with regard to SEC and other regulatory inquiries concerning investments in subprime related securities.
- Represented investment managers in connection with restructuring of troubled CDOs.
- Represented equity investor in connection with restructuring of market value CDO.
- Assisted client to form private investment fund to invest, in part, in distressed residential mortgage loans, mortgage-backed securities, and CDOs.
- Advised manager of several private funds in connection with call for repayment of loans and redemption requests when underlying fund assets (collateralized loan obligations, CDOs, asset-backed securities) have become highly illiquid.
- Assisted institutional asset managers in resolving ERISA issues relating to holding and disposition of illiquid asset-backed securities.
- Advised institutional investors as to rights against CDOs, trustees and underlying obligors of trust preferred securities.
- Formulated and filed objections with bank regulators, setting forth factual and regulatory issues raised by proposed transactions involving issuers of trust preferred securities held by CDOs.

## Derivatives and Structured Products

We capitalize on our institutional knowledge and achieve efficiencies for the benefit of clients by establishing multidisciplinary teams of practitioners in investment management, securities, commodity trading, tax, broker-dealer, securitization, bankruptcy, bank regulatory, structured products, ERISA, commercial and residential real estate, the Uniform Commercial Code, distressed debt, securities lending, repurchase and reverse-repurchase transactions, and international law.

Derivatives and structured products trade in markets throughout the world and require a global legal platform. This is especially true in light of current international reform efforts. By leveraging our experience from our global offices including those in key financial markets, we add value and provide a competitive cost advantage compared to other firms whose financial services practices may lack our breadth and depth.

### *Representative Experience*

- On behalf of an international asset manager in a large coalition of leading derivative market participants, presented to the Chairman and Commissioners of the CFTC on December 15, 2011 a new model to prevent clearing member fraud and to provide enhanced customer protections for derivatives to be cleared under the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- For a leading custodian, submitted a public comment letter to the CFTC in support of the utilization of accounts maintained by custodians to avoid futures and cleared derivatives collateral mismanagement and other abuses alleged in the MF Global failure.
- Developed counterparty risk policies and procedures to enable derivative market participants to manage the risk of the failure of swap dealers, clearing brokers and futures commission merchants following the bankruptcies of Lehman Brothers and MF Global.
- Developed and implemented best practices derivatives and futures documentation for leading international investment advisers and other derivatives market participants to manage counterparty risk.
- For U.S. mutual funds, interpreted SEC guidance on the application of diversification, senior securities, concentration, custody, and other 1940 Act tests to asset-backed securities, derivatives and other financial products.

## CLASS ACTION AND LOAN-LEVEL LITIGATION

K&L Gates has an active class action defense litigation group, which specializes in, among other things, mortgage banking/consumer finance class actions. K&L Gates has represented mortgage banks and loan servicers in numerous class actions in various federal and state courts throughout the country. Over the last 15 years, K&L Gates' consumer finance class action team has defended over 160 consumer and commercial class actions. The class action group's representative clients have included both large and small financial institutions and mortgage companies.

### *Representative Experience*

- Defending mortgage lenders in federal fair lending class actions filed in Boston, Chicago, and Los Angeles alleging disparate impact discrimination under the Equal Credit Opportunity Act and the Fair Housing Act.
- Serves as appellate counsel for investors in a consolidated appeal to the Massachusetts Supreme Judicial Court challenging the state Land Court's decisions concerning an investor's authority to foreclose, and whether underlying loan documentation was sufficient as a matter of law.
- Obtained summary judgment in favor of an investor in a case involving chain of title and whether the investor had standing to foreclose.
- Secured dismissal of loan servicer and its investor in a case involving adequacy of an assignment of mortgage in the context of a foreclosure proceeding.
- Secured voluntary dismissal of putative class action filed in federal court in California alleging that defendant loan servicer engaged in wrongful foreclosure activities, including failure to obtain proper assignments of mortgage before initiating foreclosure proceedings.
- Represented investors and loan servicers in various show cause proceedings in federal bankruptcy court in Ohio where predecessor counsel filed motions for relief from stay that the court viewed as having failed to show chain of title and/or failed to establish standing to enforce the underlying mortgage debt. K&L Gates also developed guidelines that investors provided to loan servicers addressing chain of title and standing issues to be followed in Ohio bankruptcy court proceedings.

- Represent loan servicer in putative class actions and multiple individual actions in multidistrict litigation proceeding. Plaintiffs in these actions allege various fraud and other wrongdoing arising out of the identification of Mortgage Electronic Registration Systems, Inc. on deeds of trust and mortgages in states that allow for non-judicial foreclosure. Secured dismissal in putative class actions and a number of individual actions.

Our litigators have been engaged as national coordinating counsel on behalf of our clients in various types of actions. For example:

- We have defended a large mortgage servicer in connection with a DOJ investigation into the client's business practices. We were responsible for all aspects of the defense of 200+ cases nationwide. Among other things, we coordinated the defense to discovery (depositions and requests for production of tens of thousands of pages of documents), responded to opposition briefs and letters of inquiry filed in federal courts across the country, and communicated regularly with the DOJ and the customers at issue. We closely worked with the client regarding policies and procedures and regulatory compliance in order to formulate strategy and defense.
- We are national coordinating counsel for a large bank in connection with litigation arising from residential home mortgage foreclosure practices. As part of this engagement, we oversee, manage, and coordinate civil litigation matters pending in state and federal court throughout the country. The litigation matters are both class actions as well as individual lawsuits. We coordinate discovery responses, briefing, and enable communications among counsel both outside and inside the company to facilitate efficient defense practices and ensure consistent defense approaches.

## INSURANCE COVERAGE

For nearly 30 years, the lawyers of K&L Gates have been developing and implementing innovative legal strategies to assist businesses, including financial services and mortgage industry clients, in obtaining insurance coverage for an ever-increasing range of liabilities and losses. Nearly 100 of the firm's lawyers are concentrated in what has become one of the world's largest policyholder-side insurance coverage practices according to the November 2010 issue of *Business Insurance*. In 2011, *U.S. News & World Report* "Best Law Firm" rankings recognized our Insurance Coverage practice as a national first-tier insurance law practice.

For those targeted, insurance is a genuine asset, the value of which often depends on the skill and vigor with which claims for coverage are advanced and pursued. The firm's insurance coverage group has been at the forefront in obtaining insurance recoveries on the most challenging and complex claims such as those that will arise

from the oncoming securities fraud enforcement initiative. Over the years, we have represented financial institution and mortgage industry clients in pursuing and obtaining insurance recoveries for fraud-based investigations and proceedings initiated by federal and state regulators and enforcement authorities, such as the SEC, the DOJ, and banking regulators. Such recoveries have been obtained under an array of insurance instruments, including professional liability and errors and omissions insurance policies, directors and officers liability insurance policies, and blended insurance programs.

Particularly as relates to government investigations, it is vital to coordinate the insurance coverage strategy with other client interests, including, of course, minimizing the likelihood of any adverse outcome in the investigation itself. Our coverage group is particularly sensitive to these concerns, and our clients benefit from the firm's interdisciplinary approach to the challenges posed by such investigations.

## E-DISCOVERY AND COMPLEX DOCUMENT REVIEW

K&L Gates has extensive experience in handling the type of document discovery – in particular, electronic discovery – that is likely to result from the investigations being launched by the Financial Fraud Enforcement Task Force members. K&L Gates' e-Discovery Analysis and Technology ("e-DAT") Group assists our clients in collecting, filtering and reviewing electronically stored information and documents for litigation and regulatory investigations, as well as advising regarding all aspects of e-discovery.

- The partners in our e-DAT group are experienced in handling e-discovery issues, helping to ensure that the right decisions are made and the right steps are taken to reduce risks and improve outcomes in the litigation.
- Our team can assist with document review needs from collection to trial support, and everything in between (preservation and collection; attorney review for responsiveness, hot issues, and privilege; specialized processes for privilege and issue review; production in a variety of formats to the litigation support tool of choice; deposition and trial preparation).

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