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JPMorgan Investor Blasts SEC $75M Distribution Plan

By **Martin O'Sullivan**

Law360, New York (May 11, 2017, 6:54 PM EDT) -- An investor in residential mortgage-backed securities has objected to the U.S. Securities and Exchange Commission's plan to distribute a $75 million judgment against J.P. Morgan Securities LLC for hiding delinquent loans, saying the plan leaves out investors.

JPMorgan in 2012 agreed to pay $297 million to settle various alleged securities violations, with $75 million quelling claims it hid delinquent loans in RMBSs. Investor CXA-13 Corp. said Wednesday that the SEC's plan to distribute the $75 million wrongly cut out investors that could not have known about the fraud until the SEC filed its suit.

"[The plan] arbitrarily eliminates from the distribution any investors who purchased bonds after the date of JPM's first investor report on January 25, 2007," CXA said. "But that investor report did not actually reveal JPM's fraudulent concealment of even earlier delinquency rates."

The company said that "the simplest path forward" would be to distribute the funds on a pro rata basis to senior investors who could have cashed out on the day the SEC filed its suit.

JPMorgan's 2012 settlement also included Credit Suisse Securities (USA) LLC, with the two banks paying a collective $417 million.

JPMorgan, on behalf of its Bear Stearns unit, and Credit Suisse were mainly accused of keeping cash settlements from mortgage loan originators for soured loans sold to RMBS trusts. JPMorgan paid $222 million to settle those claims, plus the $75 million for the misrepresentation allegations.

U.S. District Judge James E. Boasberg in January criticized the SEC for failing to consult the Internal Revenue Service on a "waterfall" distribution of the $75 million judgment, which is required under JPMorgan's settlement.

"The Securities and Exchange Commission has, to its detriment in this case, taken too literally the immortal admonition of the famed 1990s pop-music trio TLC: 'Don't go chasing waterfalls,'" Judge Boasberg wrote in an opinion.

The SEC and counsel for CXA did not immediately respond to requests for comment Thursday.

The SEC is represented in-house by Bridget M. Fitzpatrick, Dugan Bliss, Nancy Burton, Nichola Timmons, Olivia Sojin Choe and Kyle DeYoung.

Counsel information for JPMorgan and Credit Suisse was not immediately available.

CXA is represented by Brandon M. Jordan, Gretchen Kleinman and Robert Scheef of McKool Smith PC.

The case is U.S. Securities and Exchange Commission v. J.P. Morgan Securities LLC et al., case number 1:12-cv-01862, in the U.S. District Court for the District of Columbia.

--Additional reporting by Sindhu Sundar. Editing by Edrienne Su.