

## Large Cap Banks

### Massachusetts Foreclosure Ruling Against USB & WFC; Unlikely to Stop Foreclosures - ALERT

A negative court ruling against WFC and USB by the Massachusetts Supreme Court Friday morning raised concerns around the ability of banks to do foreclosures. The Massachusetts Supreme Court ruled against Wells Fargo and U.S. Bancorp in a foreclosure case, saying that the trustees did not have the proper assignments and title in place at the time of foreclosure. Based on calls with two law firms, our understanding is that the ruling seems to be specific to Massachusetts. And it seems that the issue could be remedied via procedural changes for foreclosures in the future and therefore not halt foreclosures, just some delays. What is not clear is whether anyone could be sued in this case for missteps in procedures that resulted in the judge disallowing the foreclosure in the case and which party would be sued – servicers or trustees but that should be a relatively small cost. Accordingly, we maintain an Overweight on both WFC and USB, and the sell-off Friday seems overdone.

- **Massachusetts Supreme Court reaffirmed a lower court's ruling against USB and WFC in a foreclosure case** regarding two mortgages that were part of a securitization. As trustees, USB and WFC were unable to prove that they had proper mortgage assignments at the time of foreclosure – rather the last mortgage holder was Option One (which sold the mortgages into securitizations). Assignments “in blank” is a standard industry practice as mortgages are transferred from originators to mortgage securitizations. In case of foreclosure, trustees will assign mortgages to themselves, typically done after the foreclosure for many years in Massachusetts too, but proper assignments are required at the time of foreclosure in that state.
- **Wells Fargo and U.S. Bancorp both put out press releases noting that the ruling does not have any financial impact in those instances.** WFC and USB were named in the case as trustees, but credit losses would be realized by holders of the loans or MBS investors or originators in the event of a mortgage repurchase. WFC noted that the court’s decision does not prevent foreclosures in securitizations, and it appears that the issue can be cured for future securitizations. USB indicated that as trustee it is not liable for the transfer of mortgages to the trust, the foreclosure process, or the adequacy of the mortgage documentation.
- **It’s unclear whether servicers or trustees could be sued for not having assigned the mortgage and registered it before foreclosure and therefore not having followed the foreclosure procedures in Massachusetts.** However, in our view, the cost should be relatively immaterial. Both USB and WFC indicated that the mortgage involved in the MA foreclosure case was foreclosed by the servicer acting on behalf of the securitization trust. The other major trustee in our coverage universe is Bank of New York.
- **This ruling seems to be specific to Massachusetts.** According to calls with two law firms, unlike other states, Massachusetts has not adopted the U.C.C., and therefore the mortgage does not follow the promissory note in Massachusetts – the note refers to the loan and the mortgage refers to the collateral for the loan.
- **As previously noted, mortgage-related headlines and concerns are likely to persist over the medium term** with ebbs and flows. In a separate foreclosure case in Maine, the court Friday ruled in favor of the holder of loan against the borrower.

See page 2 for analyst certification and important disclosures.

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U.S. Bancorp (USB/\$26.09/Overweight), Wells Fargo (WFC/\$31.50/Overweight)

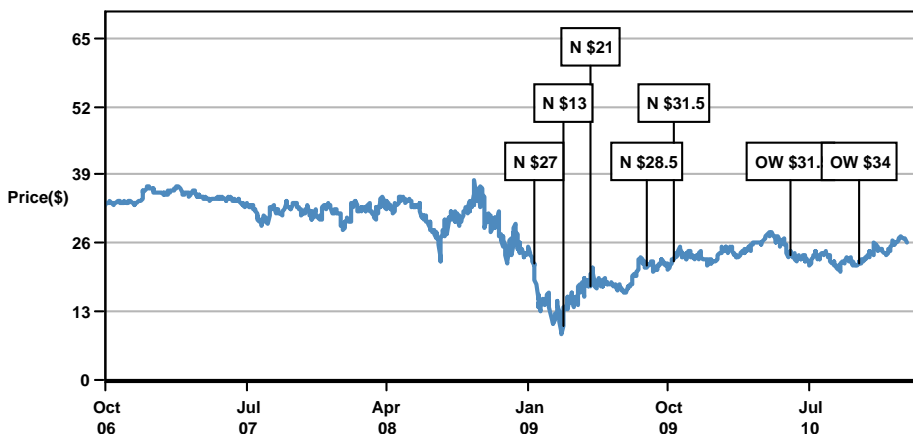
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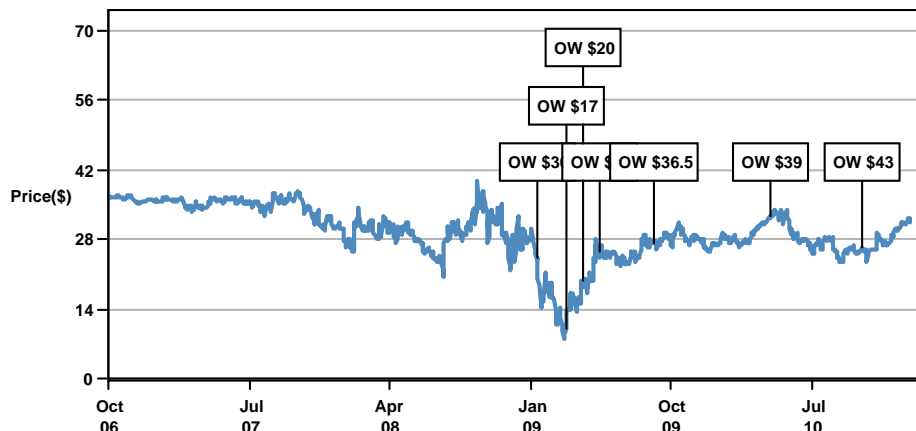
U.S. Bancorp (USB) Price Chart



Date	Rating	Share Price (\$)	Price Target (\$)
13-Jan-09	N	22.19	27.00
09-Mar-09	N	10.19	13.00
01-May-09	N	17.96	21.00
19-Aug-09	N	21.58	28.50
09-Oct-09	N	22.60	31.50
26-May-10	OW	23.63	31.50
05-Oct-10	OW	22.34	34.00

Source: Bloomberg and J.P. Morgan; price data adjusted for stock splits and dividends.  
 Break in coverage Sep 12, 2002 - Dec 30, 2003. This chart shows J.P. Morgan's continuing coverage of this stock; the current analyst may or may not have covered it over the entire period.  
 J.P. Morgan ratings: OW = Overweight, N = Neutral, UW = Underweight.

**Wells Fargo (WFC) Price Chart**



Date	Rating	Share Price (\$)	Price Target (\$)
13-Jan-09	OW	24.38	30.00
09-Mar-09	OW	9.97	17.00
13-Apr-09	OW	19.61	20.00
15-May-09	OW	25.69	33.00
25-Aug-09	OW	27.33	36.50
12-Apr-10	OW	32.42	39.00
05-Oct-10	OW	26.25	43.00

Source: Bloomberg and J.P. Morgan; price data adjusted for stock splits and dividends. Break in coverage Sep 12, 2002 - Dec 16, 2003. This chart shows J.P. Morgan's continuing coverage of this stock; the current analyst may or may not have covered it over the entire period. J.P. Morgan ratings: OW = Overweight, N = Neutral, UW = Underweight.

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