

Bank of NY Mellon must face \$1 billion Commerzbank lawsuit

By [Jonathan Stempel](#)

NEW YORK (Reuters) - Bank of New York Mellon Corp ([BK.N](#)) must face a Commerzbank AG ([CBKGn.DE](#)) lawsuit seeking to hold it liable for toxic mortgage-backed securities that the German lender bought before the financial crisis, resulting in more than \$1 billion of losses.

File photo: The Bank of New York Mellon Corp. building at 1 Wall St. is seen in New York's financial district March 11, 2015. REUTERS/Brendan McDermid

U.S. District Judge George Daniels in Manhattan ruled on Tuesday that Commerzbank may pursue breach of contract and negligence claims, as well as a claim that Bank of New York Mellon violated the federal Trust Indenture Act.

Bank of New York Mellon had no immediate comment. David Wollmuth, a lawyer for Commerzbank, declined to comment.

Commerzbank had sued over Bank of New York Mellon's role as trustee for 72 residential mortgage trusts and the Millstone II collateralized debt obligation, backed by home loans from lenders such as Countrywide Home Loans and NovaStar Mortgage.

The lawsuit accused Bank of New York Mellon of having "sat idly" for years as losses piled up, rather than require lenders to buy back defective loans and press servicers to address defaulted loans faster.

Daniels said Commerzbank could pursue arguments that Bank of New York Mellon failed to act prudently, and may have had a conflict of interest because taking action against lenders and servicers could imperil "lucrative business relationships."

Three other claims were dismissed.

Bond issuers appoint trustees to ensure that payments are funneled to investors, and handle back-office work after securities are sold. Many trustees have in recent years been sued by investors who claim they shirked their responsibilities.

Commerzbank sued Bank of New York Mellon in December 2015, and filed similar lawsuits that month against Deutsche Bank AG ([DBKGn.DE](#)), HSBC Holdings Plc ([HSBA.L](#)) and Wells Fargo & Co ([WFC.N](#)). Those lawsuits remain active.

The cases in the U.S. District Court, Southern District of New York, are Commerzbank AG v. The Bank of New York Mellon et al, No. 15-10029; Commerzbank AG v. Deutsche Bank National Trust Co, No. 15-10031; Commerzbank AG v. HSBC Bank USA NA, National Association, No. 15-10032; and Commerzbank AG v. Wells Fargo Bank NA, No. 15-10033.