



Small investors have hammer in ABCP crisis

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For months, individual retail investors were left out of efforts to fix the \$32-billion debacle in asset-backed commercial paper.

Suddenly, they've got the hammer in their hands.

About 2,000 small investors with less than one per cent of the assets now have the power to scuttle the restructuring plan in a vote this month.

And that's exactly what they're threatening to do.

At an information meeting in Montreal this week, one investor complained he was being asked to vote for the deal with a gun to his head.

Another said all he wants is his money back, and he won't settle for less.

Gale Wakeam, who represented her family at the meeting, said her late father had invested well over \$2 million of his life savings in ABCP, purchased through the National Bank of Canada.

The bank, she said in an interview, had led them to believe the investment was safe. While the National Bank has paid back a small portion of the amount, she wants to retain her legal recourse to recover the rest.

"All Canadians can recognize the injustice of what's happened here," Diane Urquhart, an adviser to independent ABCP investors, said in an interview yesterday.

Many of the retail investors are elderly people who risk losing their life savings and have little choice but to vote against the deal, she said.

Others were investing their savings to buy a home or were saving money to send children or grandchildren to university.

They thought they were buying a savings product, when in fact they were sold a risky investment product, she said.

In essence, the restructuring plan proposed by a committee led by corporate lawyer Purdy Crawford would convert the frozen short-term notes into longer term bonds with eight or 10-year terms.

That would be ideal for big financial institutions like the Caisse de dépôt et placement, which holds \$13 billion of the dubious paper. The big guys can afford to take long-term assets onto their books and wait for those asset values to recover.

Not so for small investors who bought these things as savings products with a one-month or three-month term. Many simply can't afford to wait.

Of course, the hope is that those longer term securities can begin to trade in a secondary market, so people who want cash right away can sell them.

But Urquhart has done her own math on the market value of ABCP notes and says they would probably lose 40 to 60 per cent of their value on the first day of trading.

Some claim that the assets underlying the ABCP paper are good quality - mortgages, car loans and credit-card receivables etc.

Maybe so. But Urquhart points out that because of default insurance agreements reached with ABCP trusts, banks get first call on a lot of the collateral, not investors. That's why trading values won't hold up.

Yet investors are being told: Vote Yes and you stand the chance of getting a good portion of your money back.

Vote No and you risk sending the whole deal down the drain, with a wholesale liquidation of ABCP at perhaps 15 or 20 per cent of face value.

What's really hard to swallow is that voting for this deal means signing a legal waiver that releases anyone connected to the sale and marketing of ABCP paper from ever being sued.

This looks like a bad deal for a good reason:

In essence, the retail investor has two assets right now: a frozen piece of ABCP paper and the right to legal recourse against the institutions responsible.

A Yes vote means swapping those assets for a new piece of paper worth perhaps 50 per cent of face value, and no more legal recourse.

There's some poetic justice to the fact that individual investors get to have the last word here. They were the biggest victims - maybe not in terms of the money at stake but certainly in terms of questionable marketing practices.

In some cases, investors were told that the ABCP notes had good liquidity and a AAA credit rating. It's clear that either brokers didn't know their clients or didn't understand the products they were selling.

There was an appalling lack of transparency and disclosure in this market and an obvious failure in the regulatory system.

It shouldn't be allowed to happen again.

In the meantime, there might be a way out for the big financial institutions who so badly want a deal. Make the small investors an offer - 70, 80 or 90 cents on the dollar - to get their approval.

After all, they do have the hammer.

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