BIMINI MORTGAGE MANAGEMENT INC
Form S-3/A
January 31, 2006

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As filed with the Securities and Exchange Commission on January 31, 2006

Registration No. 333-130818

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

PRE-EFFECTIVE AMENDMENT NO. 1 TO FORM S-3

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

Bimini Mortgage Management, Inc.

(Exact name of registrant as specified in its charter)

Maryland	**3305 Flamingo Drive** **Vero Beach, Florida 32963** **(772) 231-1400**	**72-1571637**
(State or other jurisdiction of incorporation or organization)	*(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)*	*(I.R.S. Employer Identification No.)*

**Jeffrey J. Zimmer
Chief Executive Officer
3305 Flamingo Drive
Vero Beach, Florida 32963
(772) 231-1400**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

**Robert E. King, Jr., Esq.
Larry P. Medvinsky, Esq.
Clifford Chance US LLP
31 West 52nd Street
New York, New York 10019
(212) 878-8000**

Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box: o

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. ý

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon the filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. o

If this form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. o

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share(1)	Proposed Maximum Aggregate Offering Price(1)(2)	Amount of Registration Fee(2)
Class A Common Stock	5,517,242	N/A	N/A	N/A

(1) Estimated solely for purposes of calculating the registration fee, pursuant to Rule 457(c) of the Securities Act of 1933, as amended, based on the average of the high and low reported sales prices on the New York Stock Exchange on December 28, 2005.

(2) The registration fee has been calculated in accordance with Rule 457(o) under the Securities Act of 1933. All shares of the Class A Common Stock registered hereby were initially registered pursuant to Registration Statement No. 333-130818 filed on January 3, 2006. All registration fees in connection with such unsold shares have been previously paid under the foregoing Registration Statement. Accordingly, no registration fee will be paid under this Registration Statement.

The registrant hereby amends this registration statement on the date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

EXPLANATORY NOTE

This Pre-Effective Amendment No. 1 to Form S-3 amends the Registration Statement (No. 333-130818) of Bimini Mortgage Management, Inc. filed on January 3, 2006. It is being filed to register 5,517,242 shares of Class A Common Stock issued or issuable upon conversion of shares of Class A Preferred Stock in connection with the merger of a wholly-owned subsidiary of Bimini Mortgage Management, Inc. into Opteum Financial Services, LLC.

The information in this prospectus is not complete and may be changed. The selling stockholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion, dated January 27, 2006

PROSPECTUS

5,517,242 Shares

Bimini Mortgage Management, Inc.

Class A Common Stock

The selling stockholders named in this prospectus, and any of their pledgees, donees, transferees or other successors in interest, may offer and sell from time to time up to 5,517,242 shares of our Class A Common Stock.

The registration of the shares of our Class A Common Stock does not necessarily mean that any of the shares of our Class A Common Stock will be offered or sold by any of the selling stockholders. We will not receive any portion of the proceeds from the sale of these shares, but will incur expenses in connection with the offering. Our Class A Common Stock is subject to ownership limitations intended to preserve our qualification as a real estate investment trust, or REIT, for U.S. federal income tax purposes. See "Selling Stockholders" and "Plan of Distribution."

Our Class A Common Stock is listed on the New York Stock Exchange, or the NYSE, under the symbol "BMM." On January 26, 2006, the last reported sale price of our Class A Common Stock was $9.50 per share.

See "Risk Factors" beginning on page 2 of this prospectus for a description of risk factors that should be considered by purchasers of our Class A Common Stock.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is January , 2006

No person is authorized to give any information or to represent anything not contained in this prospectus or any applicable prospectus supplement. No person should rely on any unauthorized representations or information. This prospectus is an offer to sell only the shares offered hereby, and only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus and any applicable prospectus supplement is current only as of their respective dates.

TABLE OF CONTENTS

	Page
ABOUT BIMINI MORTGAGE MANAGEMENT, INC.	1
RISK FACTORS	2
CAUTIONARY STATEMENTS	23
USE OF PROCEEDS	23
SELLING STOCKHOLDERS	24
DESCRIPTION OF CAPITAL STOCK	27
CERTAIN PROVISIONS OF MARYLAND LAW AND OF OUR CHARTER AND BYLAWS	34
CLASS A COMMON STOCK AVAILABLE FOR FUTURE SALE	38
MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES	39
PLAN OF DISTRIBUTION	56
LEGAL MATTERS	57
EXPERTS	57
WHERE YOU CAN FIND MORE INFORMATION ABOUT BIMINI MORTGAGE MANAGEMENT	57

ABOUT BIMINI MORTGAGE MANAGEMENT, INC.

General

We invest primarily in residential mortgage-related securities issued by the Federal National Mortgage Association (more commonly known as Fannie Mae), the Federal Home Loan Mortgage Corporation (more commonly known as Freddie Mac) and the Government National Mortgage Association (more commonly known as Ginnie Mae). We earn returns on the spread between the yield on our assets and our costs, including the interest expense on the funds we borrow. We borrow between eight and 12 times the amount of our equity capital to attempt to enhance our returns to stockholders. For purposes of this calculation, we treat our trust preferred securities as an equity capital equivalent. We are self-managed and self-advised. We are taxed as a real estate investment trust, or REIT, for U.S. federal income tax purposes. As a REIT, we generally are not subject to U.S. federal income tax on our net taxable income that we distribute to our stockholders.

On November 3, 2005, we acquired Opteum Financial Services, LLC, or Opteum, through a merger of our wholly-owned subsidiary into Opteum. In connection with the merger, we issued 3,717,242 shares of Class A Common Stock and 1,800,000 shares of Class A Redeemable Preferred Stock to the members of Opteum. The new class of preferred shares will be convertible into shares of our Class A Common Stock if our stockholders approve the conversion at a future stockholder meeting. In addition, the Opteum stockholders will be eligible to receive up to $17.5 million in cash or, in certain circumstances, preferred shares over the next five years, depending on the cash flows of certain residual interests in securitizations which are on Opteum's balance sheet at the closing.

Opteum is a mortgage lender that originates loans nationwide. It offers a wide array of retail and wholesale products including fixed- and adjustable-rate mortgages, 100% financing, interest-only products and home loans for the credit challenged. Opteum has 30 retail branches and serves customers in all 50 states.

As of September 30, 2005, we had a portfolio of mortgage-related securities that totaled approximately $3.9 billion and was comprised of adjustable-rate mortgage-backed securities, or MBS (those that reset within twelve months), representing 56.2% of the fair value of our portfolio, hybrid adjustable-rate MBS (securities backed by mortgages with fixed initial rates which, after a period, convert to adjustable rates) representing 21.5% of the fair value of our portfolio, fixed-rate MBS representing 21.0% of the fair value of our portfolio and balloon maturity MBS (securities backed by mortgages where a significant portion of principal is repaid only at maturity) representing 1.4% of the fair value of our portfolio. Of this portfolio, 60.0% was issued by Fannie Mae, 22.0% was issued by Freddie Mac and 18.0% was issued by Ginnie Mae.

Our portfolio had a weighted average yield of approximately 4.1% as of September 30, 2005. Weighted average yield is the composite of the yields on our securities as determined using the Yield Book model published by Citigroup. Our net weighted average borrowing cost as of September 30, 2005 was approximately 3.8%. The constant prepayment rate for the portfolio was 35.7% for September 2005, which reflects the annualized proportion of principal that was prepaid. The effective duration for the portfolio was 1.19 as of September 30, 2005. Duration measures the price sensitivity of a fixed income security to movements in interest rates. Effective duration captures both the movement in interest rates and the fact that cash flows to a mortgage-related security are altered when interest rates move. An effective duration of 1.19 indicates that an interest rate increase of 1.0% would result in a decline of approximately 1.19% in the value of the securities in our portfolio.

Our principal offices are located at 3305 Flamingo Drive, Vero Beach, Florida 32963. Our telephone number is (772) 231-1400. Our Internet website address is http://www.biminireit.com. Information on our website is not incorporated into this prospectus.

RISK FACTORS

You should carefully consider the risks described below before making an investment decision. Our business, financial condition or results of operations could be harmed by any of these risks. Similarly, these risks could cause the market price of our Class A Common Stock to decline and you might lose all or part of your investment in our Class A Common Stock. Our forward-looking statements in this prospectus are subject to the following risks and uncertainties. Our actual results could differ materially from those anticipated by our forward-looking statements as a result of the risk factors below.

Risks Related to Our Business

Interest rate mismatches between our adjustable-rate securities and our borrowings used to fund our purchases of the mortgage-related securities may reduce our net income or result in a loss during periods of changing interest rates.

As of September 30, 2005, 56.2% of the fair value of the MBS in our portfolio were adjustable rate MBS and 21.5% were hybrid adjustable rate MBS, and these percentages may increase as we modify the mix of securities in our portfolio. This means that the interest rates of the securities may vary over time based on changes in a short-term interest rate index, of which there are many. We finance our acquisitions of adjustable-rate securities in part with borrowings that have interest rates based on indices and repricing terms similar to, but perhaps with shorter maturities than, the interest rate indices and repricing terms of the adjustable-rate securities. Short-term interest rates are ordinarily lower than longer-term interest rates. During periods of changing interest rates, this interest rate mismatch between our assets and liabilities could reduce or eliminate our net income and dividend yield and could cause us to suffer a loss. In particular, in a period of rising interest rates, we could experience a decrease in, or elimination of, net income or a net loss because the interest rates on our borrowings adjust faster than the interest rates on our adjustable-rate securities.

Interest rate fluctuations will also cause variances in the yield curve, which may reduce our net income. The relationship between short-term and longer-term interest rates is often referred to as the "yield curve." If short-term interest rates rise disproportionately relative to longer-term interest rates (a flattening of the yield curve), our borrowing costs may increase more rapidly than the interest income earned on our assets. Because our assets may bear interest based on longer-term rates than our borrowings, a flattening of the yield curve would tend to decrease our net income and the market value of our mortgage loan assets. Additionally, to the extent cash flows from investments that return scheduled and unscheduled principal are reinvested in mortgage loans, the spread between the yields of the new investments and available borrowing rates may decline, which would likely decrease our net income. It is also possible that short-term interest rates may exceed longer-term interest rates (a yield curve inversion), in which event our borrowing costs may exceed our interest income and we could incur operating losses.

A significant portion of our portfolio consists of fixed-rate MBS, which may cause us to experience reduced net income or a loss during periods of rising interest rates.

As of September 30, 2005, 22.4% of the fair value of MBS in our portfolio consisted of fixed-rate and balloon maturity MBS. Because the interest rate on a fixed-rate mortgage never changes, over time there can be a divergence between the interest rate on the loan and the current market interest rates. We fund our acquisition of fixed-rate MBS with short-term repurchase agreements and term loans. During periods of rising interest rates, our costs associated with borrowings used to fund the acquisition of fixed-rate assets are subject to increases while the income we earn from these assets remains substantially fixed. This would reduce and could eliminate the net interest spread between the fixed-rate MBS that we purchase and our borrowings used to purchase them, which would reduce our net interest income and could cause us to suffer a loss.

Increased levels of prepayments on the mortgages underlying our mortgage-related securities might decrease our net interest income or result in a net loss.

Pools of mortgage loans underlie the mortgage-related securities that we acquire. We generally receive payments from the payments that are made on these underlying mortgage loans. When we acquire mortgage-related securities, we anticipate that the underlying mortgages will prepay at a projected rate generating an expected yield. When borrowers prepay their mortgage loans faster than expected, this results in corresponding prepayments on the mortgage-related securities that are faster than expected. Faster-than-expected prepayments could potentially harm the results of our operations in various ways, including the following:

- We seek to purchase some mortgage-related securities that have a higher interest rate than the market interest rate at the time. In exchange for this higher interest rate, we will be required to pay a premium over the market value to acquire the security. In accordance with applicable accounting rules, we will be required to amortize this premium over the term of the mortgage-related security. If the mortgage-related security is prepaid in whole or in part prior to its maturity date, however, we must expense any unamortized premium that remained at the time of the prepayment.

- A portion of our adjustable-rate MBS may bear interest at rates that are lower than their fully indexed rates, which are equivalent to the applicable index rate plus a margin. If an adjustable-rate mortgage-backed security is prepaid prior to or soon after the time of adjustment to a fully-indexed rate, we will have held that mortgage-related security while it was less profitable and lost the opportunity to receive interest at the fully indexed rate over the remainder of its expected life.

- If we are unable to acquire new mortgage-related securities to replace the prepaid mortgage-related securities, our financial condition, results of operations and cash flow may suffer and we could incur losses.

Prepayment rates generally increase when interest rates fall and decrease when interest rates rise, but changes in prepayment rates are difficult to predict. Prepayment rates also may be affected by other factors, including, without limitation, conditions in the housing and financial markets, general economic conditions and the relative interest rates on adjustable-rate and fixed-rate mortgage loans. While we seek to minimize prepayment risk, we must balance prepayment risk against other risks and the potential returns of each investment when selecting investments. No strategy can completely insulate us from prepayment or other such risks.

We may incur increased borrowing costs related to repurchase agreements that would harm our results of operations.

Our borrowing costs under repurchase agreements are generally adjustable and correspond to short-term interest rates, such as LIBOR or a short-term Treasury index, plus or minus a margin. The margins on these borrowings over or under short-term interest rates may vary depending upon a number of factors, including, without limitation:

- the movement of interest rates;

- the availability of financing in the market; and

- the value and liquidity of our mortgage-related securities.

Most of our borrowings are collateralized borrowings in the form of repurchase agreements. If the interest rates on these repurchase agreements increase, our results of operations will be harmed and we may incur losses.

Interest rate caps on our adjustable-rate MBS may reduce our income or cause us to suffer a loss during periods of rising interest rates.

Adjustable-rate MBS are typically subject to periodic and lifetime interest rate caps. Periodic interest rate caps limit the amount an interest rate can increase during any given period. Lifetime interest rate caps limit the amount an interest rate can increase through the maturity of a mortgage-backed security. Our borrowings typically are not subject to similar restrictions. Accordingly, in a period of rapidly increasing interest rates, the interest rates paid on our borrowings could increase without limitation while caps could limit the interest rates on our adjustable-rate MBS. This problem is magnified for adjustable-rate MBS that are not fully indexed. Further, some adjustable-rate MBS may be subject to periodic payment caps that result in a portion of the interest being deferred and added to the principal outstanding. As a result, we may receive less cash income on adjustable-rate MBS than we need to pay interest on our related borrowings.

As of September 30, 2005, the adjustable-rate MBS in our portfolio were subject to a weighted average lifetime interest rate cap of 10.5% and a weighted average periodic interest rate cap of 1.8% and the hybrid adjustable-rate MBS in our portfolio were subject to a weighted average lifetime interest rate cap of 10.0% and a weighted average periodic interest rate cap of 1.6%. Interest rate caps on our MBS could reduce our net interest income or cause us to suffer a net loss if interest rates were to increase beyond the level of the caps.

We may not be able to purchase interest rate caps at favorable prices, which could cause us to suffer a loss in the event of significant changes in interest rates.

Our policies permit us to purchase interest rate caps to help us reduce our interest rate and prepayment risks associated with our investments in mortgage-related securities. This strategy potentially helps us reduce our exposure to significant changes in interest rates. A cap contract is ultimately no benefit to us unless interest rates exceed the target rate. If we purchase interest rate caps but do not experience a corresponding increase in interest rates, the costs of buying the caps would reduce our earnings. Alternatively, we may decide not to enter into a cap transaction due to its expense, and we would suffer losses if interest rates later rise substantially. Our ability to engage in interest rate hedging transactions is limited by the REIT gross income requirements. See " Legal and Tax Risks" below.

Our leverage strategy increases the risks of our operations, which could reduce our net income and the amount available for distributions to stockholders or cause us to suffer a loss.

We generally seek to borrow between eight and 12 times the amount of our equity, although at times our borrowings may be above or below this amount. For purposes of this calculation, we treat our trust preferred securities as an equity capital equivalent. We incur this indebtedness by borrowing against a substantial portion of the market value of our mortgage-related securities. Our total indebtedness, however, is not expressly limited by our policies and will depend on our and our prospective lender's estimate of the stability of our portfolio's cash flow. As a result, there is no limit on the amount of leverage that we may incur. We face the risk that we might not be able to meet our debt service obligations or a lender's margin requirements from our income and, to the extent we cannot, we might be forced to liquidate some of our assets at unfavorable prices. Our use of leverage amplifies the risks associated with other risk factors, which could reduce our net income and the amount available for distributions to stockholders or cause us to suffer a loss. For example:

A majority of our borrowings are secured by our mortgage-related securities, generally under repurchase agreements. A decline in the market value of the mortgage-related securities used to secure these debt obligations could limit our ability to borrow or result in lenders requiring us to pledge additional collateral to secure our borrowings. In that situation, we could be required to sell mortgage-related securities under adverse market conditions in order to obtain the

additional collateral required by the lender. If these sales are made at prices lower than the carrying value of the mortgage-related securities, we would experience losses.

A default under a mortgage-related security that constitutes collateral for a loan could also result in an involuntary liquidation of the mortgage-related security, including any cross-collateralized mortgage-related securities. This would result in a loss to us of the difference between the value of the mortgage-related security upon liquidation and the amount borrowed against the mortgage-related security.

To the extent we are compelled to liquidate qualified REIT assets to repay debts, our compliance with the REIT rules regarding our assets and our sources of income could be negatively affected, which would jeopardize our qualification as a REIT. Losing our REIT qualification would cause us to lose tax advantages applicable to REITs and would decrease our profitability and distributions to our stockholders.

If we experience losses as a result of our leverage policy, such losses would reduce the amounts available for distribution to our stockholders.

An increase in interest rates may adversely affect our book value, which may harm the value of our Class A Common Stock.

Increases in interest rates may negatively affect the fair market value of our mortgage-related securities. Our fixed-rate MBS will generally be more negatively affected by such increases. In accordance with GAAP, we will be required to reduce the carrying value of our mortgage-related securities by the amount of any decrease in the fair value of our mortgage-related securities compared to amortized cost. If unrealized losses in fair value occur, we will have to either reduce current earnings or reduce stockholders' equity without immediately affecting current earnings, depending on how we classify the mortgage-related securities under GAAP. In either case, our net book value will decrease to the extent of any realized or unrealized losses in fair value.

Changes in yields may harm the value of our Class A Common Stock.

Our earnings will be derived primarily from the expected positive spread between the yield on our assets and the cost of our borrowings. There is no assurance that there will be a positive spread in either high interest rate environments or low interest rate environments, or that the spread will not be negative. In addition, during periods of high interest rates, our net income, and therefore the dividend yield on our Class A Common Stock, may be less attractive compared to alternative investments of equal or lower risk. Each of these factors could harm the market value of our Class A Common Stock.

We depend on borrowings to purchase mortgage-related securities and reach our desired amount of leverage. If we fail to obtain or renew sufficient funding on favorable terms or at all, we will be limited in our ability to acquire mortgage-related securities, which will harm our results of operations.

We depend on borrowings to fund acquisitions of mortgage-related securities and reach our desired amount of leverage. Accordingly, our ability to achieve our investment and leverage objectives depends on our ability to borrow money in sufficient amounts and on favorable terms. In addition, we must be able to renew or replace our maturing borrowings on a continuous basis. We depend on many lenders to provide the primary credit facilities for our purchases of mortgage-related securities. If we cannot renew or replace maturing borrowings on favorable terms or at all, we may have to sell our mortgage-related securities under adverse market conditions, which would harm our results of operations and may result in permanent losses.

Possible market developments could cause our lenders to require us to pledge additional assets as collateral. If our assets are insufficient to meet the collateral requirements, we might be compelled to liquidate particular assets at inopportune times and at unfavorable prices.

Possible market developments, including a sharp or prolonged rise in interest rates, a change in prepayment rates or increasing market concern about the value or liquidity of one or more types of mortgage-related securities in which our portfolio is concentrated, might reduce the market value of our portfolio, which might cause our lenders to require additional collateral. Any requirement for additional collateral might compel us to liquidate our assets at inopportune times and at unfavorable prices, thereby harming our operating results. If we sell mortgage-related securities at prices lower than the carrying value of the mortgage-related securities, we would experience losses.

Our use of repurchase agreements to borrow funds may give our lenders greater rights in the event that either we or any of our lenders file for bankruptcy, which may make it difficult for us to recover our collateral in the event of a bankruptcy filing.

Our borrowings under repurchase agreements may qualify for special treatment under the bankruptcy code, giving our lenders the ability to avoid the automatic stay provisions of the bankruptcy code and to take possession of and liquidate our collateral under the repurchase agreements without delay if we file for bankruptcy. Furthermore, the special treatment of repurchase agreements under the bankruptcy code may make it difficult for us to recover our pledged assets in the event that our lender files for bankruptcy. Thus, the use of repurchase agreements exposes our pledged assets to risk in the event of a bankruptcy filing by either our lenders or us.

Because the assets that we acquire might experience periods of illiquidity, we might be prevented from selling our mortgage-related securities at favorable times and prices, which could cause us to suffer a loss and/or reduce our distributions to stockholders.

Although we plan to hold our mortgage-related securities until maturity, there may be circumstances in which we sell certain of these securities. Mortgage-related securities generally experience periods of illiquidity. As a result, we may be unable to dispose of our mortgage-related securities at advantageous times and prices or in a timely manner. The lack of liquidity might result from the absence of a willing buyer or an established market for these assets, as well as legal or contractual restrictions on resale. The illiquidity of mortgage-related securities may harm our results of operations and could cause us to suffer a loss and/or reduce our distributions to stockholders.

Our board of directors may change our operating policies and strategies without prior notice or stockholder approval and such changes could harm our business and results of operations and the value of our Class A Common Stock.

Although our board of directors has no current plans to do so, it has the authority to modify or waive our current operating policies and our strategies (including our election to operate as a REIT) without prior notice to you and without your approval. Any such changes to our current operating policies and strategies may be unsuccessful and may have an adverse effect on our business, operating results and the market value of our Class A Common Stock.

Competition might prevent us from acquiring mortgage-related securities at favorable yields, which could harm our results of operations.

Our net income largely depends on our ability to acquire mortgage-related securities at favorable spreads over our borrowing costs. In acquiring mortgage-related securities, we compete with other REITs, investment banking firms, savings and loan associations, banks, insurance companies, mutual funds, other lenders and other entities that purchase mortgage-related securities, many of which have greater financial resources than we do. Additionally, many of our competitors are not subject to REIT tax compliance or required to maintain an exemption from the Investment Company Act. As a result,

we may not be able to acquire sufficient mortgage-related securities at favorable spreads over our borrowing costs, which would harm our results of operations.

Our investment strategy involves risk of default and delays in payments, which could harm our results of operations.

We may incur losses if there are payment defaults under our mortgage-related securities. Our mortgage-related securities will be government or agency certificates. Agency certificates are mortgage-related securities issued by Fannie Mae, Freddie Mac and Ginnie Mae. Payment of principal and interest underlying securities issued by Ginnie Mae are guaranteed by the U.S. Government. Fannie Mae and Freddie Mac mortgage-related securities are guaranteed as to payment of principal and interest by the respective agency issuing the security. It is possible that guarantees made by Freddie Mac or Fannie Mae would not be honored in the event of default on the underlying securities. Legislation may be proposed to change the relationship between certain agencies, such as Fannie Mae or Freddie Mac, and the federal government. This may have the effect of reducing the actual or perceived credit quality of mortgage-related securities issued by these agencies. As a result, such legislation could increase the risk of loss on investments in Fannie Mae and/or Freddie Mac mortgage-related securities. We currently intend to continue to invest in such securities, even if such agencies' relationships with the federal government changes.

Decreases in the value of the property underlying our mortgage-related securities might decrease the value of our assets.

The mortgage-related securities in which we invest are secured by underlying real property interests. To the extent that the market value of the property underlying our mortgage-related securities decreases, our securities might be impaired, which might decrease the value of our assets.

If we fail to maintain relationships with AVM, L.P. and its affiliate III Associates, or if we do not establish relationships with other repurchase agreement trading, clearing and administrative service providers, we may have to reduce or delay our operations and/or increase our expenditures.

We have engaged AVM, L.P. and its affiliate III Associates, to provide us with certain repurchase agreement trading, clearing and administrative services. If we are unable to maintain relationships with AVM and III Associates or are unable to establish successful relationships with other repurchase agreement trading, clearing and administrative service providers, we may have to reduce or delay our operations and/or increase our expenditures and undertake the repurchase agreement trading, clearing and administrative services on our own.

Hedging transactions may adversely affect our earnings, which could adversely affect cash available for distribution to our stockholders.

We may enter into interest rate cap or swap agreements or pursue other hedging strategies, including the purchase of puts, calls or other options and futures contracts. Our hedging activity will vary in scope based on the level and volatility of interest rates and principal prepayments, the type of MBS we hold, and other changing market conditions. Hedging may fail to protect or could adversely affect us because, among other things:

- hedging can be expensive, particularly during periods of rising and volatile interest rates;
- available interest rate hedging may not correspond directly with the interest rate risk for which protection is sought;
- the duration of the hedge may not match the duration of the related liability;
- certain types of hedges may expose us to risk of loss beyond the fee paid to initiate the hedge;

the amount of income that a REIT may earn from hedging transactions is limited by U.S. federal income tax provisions governing REITs;

the credit quality of the party owing money on the hedge may be downgraded to such an extent that it impairs our ability to sell or assign our side of the hedging transaction; and

the party owing money in the hedging transaction may default on its obligation to pay.

Our hedging activity may adversely affect our earnings, which could adversely affect cash available for distribution to our stockholders.

Terrorist attacks and other acts of violence or war may affect any market for our Class A Common Stock, the industry in which we conduct our operations, and our profitability.

Terrorist attacks may harm our results of operations and your investment. We cannot assure you that there will not be further terrorist attacks against the United States or U.S. businesses. These attacks or armed conflicts may directly impact the property underlying our mortgage-related securities or the securities markets in general. Losses resulting from these types of events are uninsurable.

More generally, any of these events could cause consumer confidence and spending to decrease or result in increased volatility in the United States and worldwide financial markets and economies. They also could result in economic uncertainty in the United States or abroad. Adverse economic conditions could harm the value of the property underlying our mortgage-related securities or the securities markets in general, which could harm our operating results and revenues and may result in the volatility of the market value of our Class A Common Stock.

Current loan performance data may not be indicative of future results.

When making capital budgeting and other decisions, we use projections, estimates and assumptions based on our experience with mortgage loans. Actual results and the timing of certain events could differ materially in adverse ways from those projected, due to factors including changes in general economic conditions, fluctuations in interest rates, fluctuations in mortgage loan prepayment rates and fluctuations in losses due to defaults on mortgage loans. These differences and fluctuations could rise to levels that may adversely affect our profitability.

Risks Related to Our Officers

We depend substantially on two individuals to operate our business, and the loss of such persons would severely and detrimentally affect our operations.

We depend substantially on two individuals, Mr. Zimmer, our Chairman, Chief Executive Officer and President, and Mr. Cauley, our Chief Investment Officer and Chief Financial Officer, to manage our business. We depend on the diligence, experience and skill of Mr. Zimmer and Mr. Cauley for the selection, acquisition, structuring and monitoring of our mortgage-related securities and associated borrowings. Although we have entered into employment contracts with Messrs. Zimmer and Cauley, those employment contracts may not prevent either Messrs. Zimmer or Cauley from leaving our company. The loss of either of them would likely have a severe negative effect on our business, financial condition, cash flow and results of operations.

Our officers own shares of our Class B Common Stock and may take undue risks in managing our company in order to cause a conversion of these shares.

In connection with our formation, our founders and officers, Messrs. Zimmer and Cauley, were issued an aggregate of 319,388 shares of our Class B Common Stock. These shares of Class B Common Stock will begin to convert to shares of Class A Common Stock when stockholders' equity attributable to Class A Common Stock is no less than $15.00 per share. Accordingly, our officers may take undue risks in managing our company in an attempt to increase stockholders' equity and cause a conversion of

these shares. See "Description of Capital Stock Common Stock Conversion of the Class B Common Stock and Class C Common Stock Rights."

Legal and Tax Risks

If we fail to qualify as a REIT, we will be subject to U.S. federal income tax as a regular corporation and may face a substantial tax liability.

We intend to operate in a manner that allows us to qualify as a REIT for U.S. federal income tax purposes. However, REIT qualification involves the satisfaction of numerous requirements (some on an annual or quarterly basis) established under technical and complex provisions of the Internal Revenue Code of 1986, as amended, or the Internal Revenue Code, for which only a limited number of judicial or administrative interpretations exist. The determination that we qualify as a REIT requires an analysis of various factual matters and circumstances that may not be totally within our control. Accordingly, it is not certain we will be able to qualify and remain qualified as a REIT for U.S. federal income tax purposes. Even a technical or inadvertent violation of the REIT requirements could jeopardize our REIT qualification. Furthermore, Congress or the Internal Revenue Service, or IRS, might change the tax laws or regulations and the courts might issue new rulings, in each case potentially having retroactive effect, that could make it more difficult or impossible for us to qualify as a REIT. If we fail to qualify as a REIT in any tax year, then:

- we would be taxed as a regular domestic corporation, which, among other things, means that we would be unable to deduct distributions to stockholders in computing taxable income and would be subject to U.S. federal income tax on our taxable income at regular corporate rates;

- any resulting tax liability could be substantial and would reduce the amount of cash available for distribution to stockholders, and could force us to liquidate assets at inopportune times, causing lower income or higher losses than would result if these assets were not liquidated; and

- unless we were entitled to relief under applicable statutory provisions, we would be disqualified from treatment as a REIT for the subsequent four taxable years following the year during which we lost our qualification, and our cash available for distribution to our stockholders therefore would be reduced for each of the years in which we do not qualify as a REIT.

Even if we remain qualified as a REIT, we may face other tax liabilities that reduce our cash flow. We may also be subject to certain U.S. federal, state and local taxes on our income and property, and our Opteum subsidiary is treated as a "taxable REIT subsidiary," which is a fully taxable corporation for U.S. federal income tax purposes. Any of these taxes would decrease cash available for distribution to our stockholders.

Complying with REIT requirements may cause us to forego otherwise attractive opportunities.

To qualify as a REIT for U.S. federal income tax purposes, we must continually satisfy tests concerning, among other things, our sources of income, the nature and diversification of our assets, the amounts we distribute to our stockholders and the ownership of our stock. We may also be required to make distributions to our stockholders at unfavorable times or when we do not have funds readily available for distribution. Thus, compliance with REIT requirements may hinder our ability to operate solely with the goal of maximizing profits.

In addition, the REIT provisions of the Internal Revenue Code impose a 100% tax on income from "prohibited transactions." Prohibited transactions generally include sales of assets that constitute inventory or other property held for sale to customers in the ordinary course of business, other than foreclosure property. This 100% tax could impact our desire to sell mortgage-related securities at otherwise opportune times if we believe such sales could result in us being treated as engaging in prohibited transactions. However, we would not be subject to this tax if we were to sell assets through a

taxable REIT subsidiary. We will also be subject to a 100% tax on certain amounts if the economic arrangements between us and our taxable REIT subsidiary are not comparable to similar arrangements among unrelated parties. See "Material U.S. Federal Income Tax Consequences."

Complying with REIT requirements may limit our ability to hedge effectively, which could in turn leave us more exposed to the effects of adverse changes in interest rates.

The REIT provisions of the Internal Revenue Code may substantially limit our ability to hedge mortgage-related securities and related borrowings by requiring us to limit our income in each year from qualified hedges, together with any other income not generated from qualified REIT real estate assets, to less than 25% of our gross income. In addition, we must limit our aggregate gross income from non-qualified hedges, fees, and certain other non-qualifying sources, to less than 5% of our annual gross income. As a result, we may in the future have to limit the use of hedges or implement hedges through a taxable REIT subsidiary. This could result in greater risks associated with changes in interest rates than we would otherwise want to incur. If we fail to satisfy the 25% or 5% limitations, unless our failure was due to reasonable cause and not due to willful neglect and we meet certain other technical requirements, we could lose our REIT qualification for U.S. federal income tax purposes. Even if our failure was due to reasonable cause, we may have to pay a penalty tax equal to the amount of income in excess of certain thresholds, multiplied by a fraction intended to reflect our profitability.

Dividends paid by REITs generally do not qualify for reduced tax rates.

In general, the maximum U.S. federal income tax rate for dividends paid to individual U.S. stockholders is 15% (through 2008). Dividends paid by REITs, however, are generally not eligible for the reduced rates. The more favorable rates applicable to regular corporate dividends could cause stockholders who are individuals to perceive investments in REITs to be relatively less attractive than investments in the stock of non-REIT corporations that pay dividends, which could adversely affect the value of the stock of REITs, including our Class A Common Stock.

To maintain our REIT qualification, we may be forced to borrow funds on unfavorable terms or sell our securities at unfavorable prices to make distributions to our stockholders.

As a REIT, we must distribute at least 90% of our annual net taxable income (excluding net capital gains) to our stockholders. To the extent that we satisfy this distribution requirement, but distribute less than 100% of our net taxable income, we will be subject to U.S. federal corporate income tax on our undistributed taxable income. In addition, we will be subject to a 4% nondeductible excise tax if the actual amount that we pay to our stockholders in a calendar year is less than a minimum amount specified under U.S. federal tax laws. From time to time, we may generate taxable income greater than our income for financial reporting purposes from, among other things, amortization of capitalized purchase premiums, or our net taxable income may be greater than our cash flow available for distribution to our stockholders. If we do not have other funds available in these situations, we could be required to borrow funds, sell a portion of our mortgage-related securities at unfavorable prices or find other sources of funds in order to meet the REIT distribution requirements and to avoid corporate income tax and the 4% excise tax. These other sources could increase our costs or reduce our equity and reduce amounts available to invest in mortgage-related securities.

Misplaced reliance on legal opinions or statements by issuers of mortgage-related securities could result in a failure to comply with REIT gross income or asset tests.

When purchasing mortgage-related securities, we may rely on opinions of counsel for the issuer or sponsor of such securities, or statements made in related offering documents, for purposes of determining whether and to what extent those securities constitute REIT real estate assets for purposes of the REIT asset tests and produce income which qualifies under the REIT gross income tests. The inaccuracy of any such opinions or statements may adversely affect our REIT qualification and result in significant corporate-level tax.

Possible legislative or other actions affecting REIT's could adversely affect us and our stockholders.

The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process and by the Internal Revenue Service and the U.S. Treasury Department. Our business may be harmed by changes to the laws and regulations affecting us, including changes to securities laws and changes to the Internal Revenue Code applicable to the taxation of REITs. New legislation may be enacted into law, or new interpretations, rulings or regulations could be adopted, any of which could adversely affect us and our stockholders, potentially with retroactive effect.

We may realize excess inclusion income that would increase the tax liability of our stockholders.

If we realize excess inclusion income and allocate it to stockholders, this income cannot be offset by net operating losses of the stockholders. If the stockholder is a tax-exempt entity, then this income would be fully taxable as unrelated business taxable income under Section 512 of the Internal Revenue Code. If the stockholder is a foreign person, such income would be subject to U.S. federal income tax withholding without reduction or exemption pursuant to any otherwise applicable income tax treaty. In addition, to the extent our stock is owned by tax-exempt "disqualified organizations," such as government-related entities that are not subject to tax on unrelated business taxable income, although Treasury regulations have not yet been drafted to clarify the law, we may incur a corporate level tax at the highest applicable corporate tax rate on the portion of our excess inclusion income that is allocable to such disqualified organizations.

Excess inclusion income could result if we hold a residual interest in a real estate mortgage investment conduit, or REMIC. Excess inclusion income also could be generated if we were to issue debt obligations with two or more maturities and the terms of the payments on these obligations bore a relationship to the payments that we received on our mortgage-related securities securing those debt obligations (i.e., if we were to own an interest in a taxable mortgage pool). However, Treasury regulations have not been issued regarding the allocation of excess inclusion income to stockholders of a REIT that owns an interest in a taxable mortgage pool. We do not expect to acquire significant amounts of residual interests in REMICs, other than interests owned by Opteum, which is treated as a separate taxable entity for these purposes. We intend to structure our borrowing arrangements in a manner designed to avoid generating significant amounts of excess inclusion income. We do, however, expect to enter into various repurchase agreements that have differing maturity dates and afford the lender the right to sell any pledged mortgaged securities if we default on our obligations.

A portion of our distributions may be deemed a return of capital for U.S. federal income tax purposes.

The amount of our distributions to the holders of our Class A Common Stock in a given quarter may not correspond to our net taxable income for such quarter. If distributions exceed our net taxable income, a portion of the distribution may be deemed a return of capital for U.S. federal income tax purposes. A return of capital distribution will not be taxable to the extent of a stockholder's tax basis in its shares but will reduce a stockholder's basis in its shares of Class A Common Stock.

Our reported GAAP financial results differ from the taxable income results that drive our dividend distributions, and our consolidated balance sheet, income statement, and statement of cash flows as reported for GAAP purposes may be difficult to interpret.

Our dividend distributions are driven by our dividend distribution requirements under the REIT tax laws and our profits as calculated for tax purposes pursuant to the Internal Revenue Code. Our reported results for GAAP purposes differ materially, however, from both our cash flows and our taxable income. Opteum transfers mortgage loans or mortgage securities held as available-for-sale into securitization trusts to obtain long-term non-recourse funding for these assets. When Opteum surrenders control over the transferred mortgage loans or mortgage securities held as available-for-sale, the transaction is accounted for as a sale. In the future, if Opteum retains control over the transferred

mortgage loans or mortgage securities available-for-sale, the transaction will be accounted for as a secured borrowing. These securitization transactions do not differ materially in their structure or cash flow generation characteristics, yet under GAAP accounting these transactions are recorded differently. In securitization transactions that Opteum accounts for as sales, Opteum typically records a gain or loss on the assets transferred in its income statement and records the retained interests at fair value on its balance sheet. In securitization transactions that Opteum accounts for as secured borrowings, which Opteum may do in the future, they consolidate all the assets and liabilities of the trust on their financial statements. As a result of this and other accounting issues, stockholders and analysts must undertake a complex analysis to understand our economic cash flows, actual financial leverage, and dividend distribution requirements. This complexity may hinder the trading of our stock or may lead observers to misinterpret our results.

Recent legislation related to corporate governance may increase our costs of compliance and our liability.

Recently enacted and proposed laws, regulations and standards relating to corporate governance and disclosure requirements applicable to public companies, including the Sarbanes-Oxley Act of 2002, new Commission regulations and NYSE rules have increased the costs of corporate governance, reporting and disclosure practices. These costs may increase in the future due to our continuing implementation of compliance programs mandated by these requirements. In addition, these new laws, rules and regulations create new legal bases for administrative enforcement, civil and criminal proceedings against us in case of non-compliance, thereby increasing our risks of liability and potential sanctions.

Failure to maintain an exemption from the Investment Company Act would harm our results of operations.

We intend to conduct our business so as not to become regulated as an investment company under the Investment Company Act. If we fail to qualify for this exemption, our ability to use leverage would be substantially reduced and we would be unable to conduct our business as described in this prospectus.

The Investment Company Act exempts entities that are primarily engaged in the business of purchasing or otherwise acquiring mortgages and other liens on, and interests in, real estate. Under the current interpretation of the SEC staff, in order to qualify for this exemption, we must maintain at least 55% of our assets directly in these qualifying real estate interests, with at least 25% of our remaining assets invested in real estate-related securities. Mortgage-related securities that do not represent all of the certificates issued with respect to an underlying pool of mortgages may be treated as separate from the underlying mortgage loans and, thus, may not qualify for purposes of the 55% requirement. Therefore, our ownership of these mortgage-related securities is limited by the provisions of the Investment Company Act.

As of September 30, 2005, 55.4% of our portfolio constituted qualifying interests in mortgage-related securities for purposes of the Investment Company Act. In satisfying the 55% requirement under the Investment Company Act, we treat as qualifying interests mortgage-related securities issued with respect to an underlying pool as to which we hold all issued certificates. If the SEC or its staff adopts a contrary interpretation of such treatment, we could be required to sell a substantial amount of our mortgage-related securities under potentially adverse market conditions. Further, in order to ensure that we at all times qualify for the exemption under the Investment Company Act, we may be precluded from acquiring mortgage-related securities whose yield is higher than the yield on mortgage-related securities that could be purchased in a manner consistent with the exemption. These factors may lower or eliminate our net income.

Risks Related to this Offering

We have not established a minimum distribution payment level and we cannot assure you of our ability to make distributions to our stockholders in the future.

We intend to make quarterly distributions to our stockholders in amounts such that we distribute all or substantially all of our net taxable income in each year, subject to certain adjustments. This, in addition to other factors, should enable us to qualify for the tax benefits accorded to a REIT under the Internal Revenue Code. We have not established a minimum distribution payment level and our ability to make distributions might be harmed by the risk factors described in this prospectus. All distributions will be made at the discretion of our board of directors and will depend on our earnings, our financial condition, the maintenance of our REIT qualification, the REIT distribution requirements and such other factors as our board of directors may deem relevant from time to time. We cannot assure you that we will have the ability to make distributions to our stockholders in the future.

The payment of dividends on our Class B Common Stock and the conversion of our Class B Common Stock, Class C Common Stock and Class A Redeemable Preferred Stock will dilute the interest of a Class A Common Stockholder in our future earnings and distributions.

The Class B Common Stock is entitled to participate in dividends on a share-for-share basis with the Class A Common Stock, and the Class B Common Stock, Class C Common Stock and Class A Redeemable Preferred Stock will be converted into Class A Common Stock when certain conditions are met. Such conversions would increase the number of shares of Class A Common Stock outstanding by 2,438,776 shares or approximately 10.2% of the Class A Common Stock outstanding. The conversion of the Class C Common Stock and Class A Redeemable Preferred Stock would increase the number of shares entitled to share pro rata in our earnings and distributions by 2,119,388 shares, or 8.9% of the Class A Common Stock outstanding. See "Description of Capital Stock Common Stock."

Restrictions on ownership of a controlling percentage of our capital stock might limit your opportunity to receive a premium on our stock.

For the purpose of preserving our REIT qualification and for other reasons, our charter prohibits direct or constructive ownership by any person of more than 9.8% of the lesser of the total number or value of the outstanding shares of our common stock or more than 9.8% of the outstanding shares of our combined common and preferred stock. The constructive ownership rules in our charter are complex and may cause the outstanding stock owned by a group of related individuals or entities to be deemed to be constructively owned by one individual or entity. As a result, the acquisition of less than 9.8% of the outstanding stock by an individual or entity could cause that individual or entity to own constructively in excess of 9.8% of the outstanding stock, and thus be subject to the ownership limit in our charter. Any attempt to own or transfer shares of our common or preferred stock in excess of the ownership limit without the consent of our board of directors shall be void, and will result in the shares being transferred by operation of law to a charitable trust. These provisions might inhibit market activity and the resulting opportunity for our stockholders to receive a premium for their shares that might otherwise exist if any person were to attempt to assemble a block of shares of our stock in excess of the number of shares permitted under our charter and which may be in the best interests of our stockholders.

We have implemented certain provisions that could make any change in our board of directors or in control of our company more difficult.

Maryland law, our charter and our bylaws contain provisions, such as provisions prohibiting, without the consent of our board of directors, any single stockholder or group of affiliated stockholders from beneficially owning in excess of an ownership limit, which could make it difficult or expensive for a third party to pursue a tender offer, change in control or takeover attempt that is opposed by our management and board of directors. We also have a staggered board of directors that makes it difficult

for stockholders to change the composition of our board of directors in any one year. These and other anti-takeover provisions could substantially impede the ability of stockholders to change our management and board of directors.

Future offerings of our debt and/or preferred securities, which would be senior to our Class A Common Stock upon liquidation, or equity securities, which would dilute our existing stockholders and may be senior to our Class A Common Stock for the purposes of distributions, may harm the value of our Class A Common Stock.

In the future, we may attempt to increase our capital resources by making additional offerings of debt or equity securities, including commercial paper, medium-term notes, senior or subordinated notes and classes of preferred stock or Class A Common Stock, as well as warrants to purchase shares of Class A Common Stock or redeemable preferred stock. Upon the liquidation of our company, holders of our debt securities and shares of preferred stock and lenders with respect to other borrowings will receive a distribution of our available assets prior to the holders of our Class A Common Stock. Additional equity offerings by us may dilute the holdings of our existing stockholders or reduce the market value of our Class A Common Stock, or both. Our preferred stock has a preference on distributions that could limit our ability to make distributions to the holders of our Class A Common Stock. Because our decision to issue securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Our stockholders are therefore subject to the risk of our future securities offerings reducing the market price of our Class A Common Stock and diluting their Class A Common Stock.

A regular trading market for our Class A Common Stock might not continue, which would harm the liquidity and value of our Class A Common Stock; trading and pricing of our Class A Common Stock may be volatile.

Our Class A Common Stock is listed on the NYSE under the symbol "BMM." However, we cannot assure you that active trading of our Class A Common Stock will be sustained. Accordingly, we cannot assure you of the liquidity of any market in our Class A Common Stock, the ability of our stockholders to sell their shares of our Class A Common Stock or the prices that our stockholders may obtain for their shares of our Class A Common Stock.

Broad market fluctuations could harm the market price of our Class A Common Stock.

The stock market has experienced extreme price and volume fluctuations that have affected the market price of many companies in industries similar or related to ours and that have been unrelated to these companies' operating performances. These broad market fluctuations could reduce the market price of our Class A Common Stock. Furthermore, our operating results and prospects may be below the expectations of public market analysts and investors or may be lower than those of companies with comparable market capitalizations, which could harm the market price of our Class A Common Stock.

Shares of our Class A Common Stock eligible for future sale may harm our share price.

We cannot predict the effect, if any, of future sales of shares of our Class A Common Stock, or the availability of shares for future sales, on the market price of our Class A Common Stock. Sales of substantial amounts of these shares of our Class A Common Stock, or the perception that these sales could occur, may harm prevailing market prices for our Class A Common Stock. As of December 27, 2005, we had outstanding 23,806,942 shares of Class A Common Stock. In addition, we have reserved 3,462,689 shares of our Class A Common Stock for issuance under our 2003 Long Term Incentive Compensation plan, 506,175 shares for issuance upon exchange of phantom shares that we have issued under our 2003 Long Term Incentive Compensation plan, 638,776 shares for issuance upon conversion of Class B and Class C Common Stock and 1,800,000 shares for issuance upon conversion of our Class A Redeemable Preferred Stock. All 23,806,942 outstanding shares of Class A Common Stock are or will be available for sale in the public market. If any or all of the holders of our Class A Common Stock covered by this prospectus sell a large number of securities in the public market, the sale could reduce the market price of our Class A Common Stock and could impede our ability to raise future capital.

Risks Related to Opteum's Origination Business

If we do not obtain the necessary state licenses and approvals, we will not be allowed to acquire, fund or originate mortgage loans in some states, which would adversely affect our operations.

Certain states in which we do business require that we be licensed to conduct our business. As part of our acquisition of Opteum, they will be required to reapply for new licenses and approvals under existing licenses. We cannot assure you that we will be able to obtain all the necessary licenses and approvals in a timely manner or at all.

Our failure to comply with federal, state or local regulation of, or licensing requirements with respect to, mortgage lending, loan servicing, broker compensation programs, local branch operations or other aspects of our business could harm our operations and profitability.

As a mortgage lender, loan servicer and broker, we are subject to an extensive body of both state and federal law. The volume of new or modified laws and regulations has increased in recent years and, in addition, some individual municipalities have begun to enact laws that restrict loan origination and servicing activities. As a result, it may be more difficult to comprehensively identify and accurately interpret all of these laws and regulations and to properly program our technology systems and effectively train our personnel with respect to all of these laws and regulations, thereby potentially increasing our exposure to the risks of noncompliance with these laws and regulations. Our failure to comply with these laws can lead to:

- civil and criminal liability;
- loss of licensure;
- damage to our reputation in the industry;
- inability to sell or securitize our loans;
- demands for indemnification or loan repurchases from purchasers of our loans;
- fines and penalties and litigation, including class action lawsuits; or
- administrative enforcement actions.

Any of these results could harm our retained residual interests in securitizations and thus our results of operations, financial condition and business prospects.

New legislation could restrict Opteum's ability to originate mortgage loans, which could harm Opteum's earnings.

Several states, cities or other government entities are considering or have passed laws, regulations or ordinances aimed at curbing predatory lending practices. The federal government is also considering legislative and regulatory proposals in this regard. In general, these proposals involve lowering the existing thresholds for defining a "high-cost" loan and establish enhanced protections and remedies for borrowers who receive such loans. Passage of these laws and rules could reduce Opteum's loan origination volume. In addition, many whole loan buyers may elect not to purchase any loan labeled as a "high cost" loan under any local, state or federal law or regulation. Rating agencies likewise may refuse to rate securities backed by such loans. Accordingly, these laws and rules could severely restrict the secondary market for a portion (typically less than 15.0%) of Opteum's loan production. This would effectively preclude Opteum from continuing to originate loans either in jurisdictions unacceptable to the rating agencies or that exceed the newly defined thresholds which could harm Opteum's business prospects, earnings and results of operations.

Opteum relies on key personnel with long-standing business relationships, the loss of any of whom would impair Opteum's ability to operate successfully.

Opteum's continued future success depends, to a significant extent, on the continued services of Peter R. Norden, Opteum's President and Chief Executive Officer, and other key members of its senior management team. In particular, the extent and nature of the relationships that these individuals have developed with financial institutions and existing and prospective mortgage loan origination channels is critically important to the success of its business. Although Opteum has entered into employment agreements with Mr. Norden and certain of its other senior executives, these executives may not remain employed by Opteum. Nevertheless, the loss of services of one or more members of Opteum's senior management team could harm Opteum's business and Opteum's prospects.

Failure to attract and retain qualified loan originators could harm Opteum's business.

Opteum depends on its loan originators to generate customers by, among other things, developing relationships with consumers, real estate agents and brokers, builders, corporations and others, which Opteum believes leads to repeat and referral business. Accordingly, Opteum must be able to attract, motivate and retain skilled loan originators. In addition, Opteum's growth strategy contemplates hiring additional loan originators. The market for such persons is highly competitive and historically has experienced a high rate of turnover. Competition for qualified loan originators may lead to increased costs to hire and retain them. Opteum cannot guarantee that it will be able to attract or retain qualified loan originators. If Opteum cannot attract or retain a sufficient number of skilled loan originators, or even if Opteum can retain them but at higher costs, Opteum's business and results of operations could be harmed.

To the extent Opteum is unable to adapt to and implement technological changes involving the loan origination process, Opteum may have difficulty remaining competitive and Opteum's loan origination business may be adversely affected.

Opteum's mortgage loan origination business is dependent upon its ability to interface effectively with borrowers and other third parties and to process loan applications efficiently. The origination process is becoming more dependent upon technological advancements, such as the ability to process applications over the Internet, interface with borrowers and other third parties through electronic means and underwrite loan applications using specialized software. Implementing new technology and maintaining the efficiency of the current technology used in its operations may require significant capital expenditures. As these requirements increase in the future, Opteum will have to develop these technological capabilities fully to remain competitive or its loan origination business may be significantly harmed.

If we do not manage our growth effectively, our financial performance could be harmed.

In recent years, we have experienced growth at rates that have applied pressure to our management, administrative, operational and financial infrastructure. We expect to continue to experience those and other pressures on our organization, including the need for us and for Opteum to hire additional experienced personnel to meet our growth and Opteum's needs related to its ability to originate quality loans in accordance with its current mortgage loan origination focus and strategies. We expect to need to attract and hire additional experienced managers and loan officers in a competitive hiring environment and, at the same time, continue to upgrade and expand our financial, operational and managerial systems and controls. We cannot assure you that we will be able to meet our capital needs, expand our systems effectively or hire and retain qualified employees in sufficient numbers to meet our requirements. Any failure by us to manage our current level of business or our growth effectively may result in increased costs and decreased loan production, and could negatively affect our business, financial condition, liquidity, profitability, cash flows, and ability to make distributions to our stockholders.

Opteum is subject to the risk that provisions of its loan agreements may be unenforceable.

Opteum's rights and obligations with respect to its loans are governed by written loan agreements and related documentation. It is possible that a court could determine that one or more provisions of a loan agreement are unenforceable, such as a loan prepayment provision or the provisions governing Opteum's security interest in the underlying collateral. If this were to happen with respect to a material asset or group of assets, Opteum could be required to repurchase these loans and may not be able to sell or liquidate the loans.

Risks Related to Opteum's Profitability

An increase in interest rates could reduce the value of Opteum's loan inventory and commitments and Opteum's hedging strategy may not protect it from interest rate risk and may lead to losses.

The value of Opteum's loan inventory is based, in part, on market interest rates. Accordingly, Opteum may experience losses on loan sales if interest rates change rapidly or unexpectedly. If interest rates rise after Opteum fixes a price for a loan or commitment but before Opteum closes or sells such loan, the value of the loan will decrease. If the amount Opteum receives from selling the loan is less than its cost of originating the loan, Opteum may incur net losses, and its business and operating results could be harmed. While Opteum will enter into hedging transactions with respect to one or more of its assets or liabilities and will use other strategies to minimize its exposure to interest rate risks, no hedging or other strategy can completely protect Opteum. Its hedging activities may include entering into interest rate swaps, caps and floors, options to purchase these items, and futures and forward contracts. Additionally, the nature and timing of hedging transactions may influence the effectiveness of these strategies. Poorly designed strategies or improperly executed transactions could actually increase Opteum's risk and losses. In addition, hedging strategies involve transaction and other costs. Opteum cannot assure you that its hedging strategy and the hedges that Opteum makes will adequately offset the risks of interest rate volatility or that Opteum hedges will not result in losses.

Opteum's mortgage origination business may be harmed by rising interest rates.

A significant percentage of Opteum's mortgage originations have been to customers refinancing an existing loan to obtain a lower interest rate. Rising interest rates would reduce the number of potential customers that can achieve a lower interest rate from refinancing, and to a lesser extent the number of potential customers that can afford to buy homes, and consequently would substantially reduce the amount of loans originated by Opteum's loan origination business and the revenue there from. If short-term interest rates exceed long-term interest rates, there is a higher risk of increased loan prepayments, as borrowers may seek to refinance their fixed and adjustable rate mortgages at lower long-term fixed interest rates. In addition, rising interest rates are likely to reduce the margins achieved by Opteum.

While the prospect of rising interest rates has been incorporated into Opteum's projections, if interest rates rose to the point where mortgage originations slowed more than expected or if margins decreased more than expected, Opteum would not earn the income it projects from its mortgage origination business, and could suffer losses. While rising interest rates generally have a beneficial impact on Opteum's mortgage servicing business, the negative impact from rising interest rates on Opteum's mortgage origination business is generally greater than the offsetting beneficial impact, and consequently, in a period of rising interest rates, Opteum's earnings are projected to decline.

Opteum may be harmed by falling interest rates.

Opteum could suffer losses from its mortgage servicing business if interest rates remain low enough to cause a large number of borrowers whose loans are being serviced by Opteum's servicing business to refinance. In such instance Opteum would experience high amortization and possibly impairment of its servicing assets, and would likely experience a loss from its servicing business.

Adverse economic conditions or declining real estate values would likely result in a reduction of Opteum's mortgage origination activity, which would adversely affect its ability to grow its mortgage loan portfolio.

An economic downturn or a recession may have a significant adverse impact on Opteum's operations and financial condition, particularly if accompanied by declining real estate values. Declining real estate values will likely reduce Opteum's level of new mortgage loan originations, since borrowers often use increases in the value of their existing homes to support the refinancing of their existing mortgage loans or the purchase of new homes at higher levels of borrowings. To the extent that the market value of the property underlying Opteum's mortgage loans decreases, Opteum's loans might be impaired, which might decrease the value of its assets. Any sustained period of increased payment delinquencies, foreclosures or losses could adversely affect Opteum's ability to sell and securitize loans, which would significantly harm Opteum's revenues, results of operations, financial condition and business prospects, which in turn would harm our revenues, results of operations, financial condition and our ability to make distributions to our stockholders.

Retaining subordinated interests exposes Opteum to increased credit risk.

Opteum has maintained and may continue to maintain an interest in loans that it originates and securitizes by retaining subordinated interests in MBS that evidence interests in such loans. Subordinated interests are classes of MBS that may incur losses experienced on the related loans prior to the more senior MBS issued in the related transaction. If the actual rate and severity of losses on the related loans are higher than those assumed by Opteum, the actual return on Opteum's investment in those subordinated interests may be lower than anticipated.

The mortgage banking business is seasonal and Opteum's operating results vary accordingly.

The mortgage banking industry generally is subject to seasonal variations, especially in states with adverse winter weather. Purchase money mortgage loan originations generally experience greater seasonal fluctuations than refinancings, which tend to be less seasonal and more closely related to changes in interest rates. Sales and resales of homes in Opteum's markets, and accordingly purchase money mortgage originations, typically peak during the spring and summer seasons and decline to lower levels from mid-November through February. In addition, delinquency rates typically rise in the winter months, which results in higher servicing costs in Opteum's mortgage banking operations. The magnitude of seasonal variations is beyond Opteum's control and could adversely affect Opteum's business, especially if Opteum is unable to take advantage of increased mortgage volume during peak periods, or if peak periods do not produce anticipated mortgage volume. These variations may affect Opteum's revenues, results of operations, financial condition and business prospectus, which in turn may affect our revenues, results of operations, financial condition, business prospectus and our ability to make distributions to our stockholders.

Opteum may be subject to losses due to misrepresented or falsified information or if Opteum obtains less than full documentation with respect to its mortgage loans.

When Opteum originates mortgage loans, it relies upon information supplied by borrowers and other third parties, including information contained in the applicant's loan application, property appraisal reports, title information and employment and income documentation. If any of this information is misrepresented or falsified and if Opteum does not discover it before funding a loan, the actual value of the loan may be significantly lower than anticipated. As a practical matter, Opteum generally would bear the risk of loss associated with a misrepresentation, whether made by the loan applicant, the mortgage broker, another third party or one of Opteum's employees. A loan subject to a material misrepresentation typically cannot be sold or is subject to repurchase or substitution if it is sold or securitized prior to detection of the misrepresentation. Although Opteum may have rights against persons and entities who made or knew about the misrepresentation, those persons and entities

may be difficult to locate, and it is often difficult to collect from them any monetary losses that Opteum may have suffered.

In the case of certain loan products, Opteum does not receive full documentation of the borrower's income and/or assets. Instead, Opteum bases its credit decision on the borrower's credit score and credit history, the value of the property securing the loan and the effect of the loan on the borrower's debt service requirements. During the nine months ended August 31, 2005 and the year ended November 30, 2004, Opteum received less than full documentation of the borrower's income and/or assets on approximately 62.6% and 56.9%, respectively, of mortgage loans, as measured by principal balance, that Opteum originated. We believe that there is a higher risk of default on loans where there is less than full documentation of the borrower's income and/or assets.

Some of the loans that Opteum originates are subprime, rather than prime, and generally have delinquency and default rates higher than prime loans, which could result in higher loan losses.

Opteum currently originates subprime loans, although all subprime loans are sold in the secondary market and none are retained in its portfolio. Subprime mortgage loans generally have higher delinquency and default rates than prime mortgage loans. Delinquency interrupts the flow of projected interest income from a mortgage loan, and default can ultimately lead to a loss if the net realizable value of the real property securing the mortgage loan is insufficient to cover the principal and interest due on the loan. In whole loan sales, Opteum's risk of delinquency typically only extends to the first payment. Opteum also assumes the risks of delinquency and default for loans that it is obligated to repurchase. Opteum attempts to manage these risks with risk-based loan pricing and appropriate underwriting policies. However, we cannot assure you that such management policies will prevent delinquencies or defaults and, if such policies and methods are insufficient to control Opteum's delinquency and default risks and do not result in appropriate loan pricing, our business, financial condition, liquidity and results of operations could be harmed. During the nine months ended August 31, 2005 and the fiscal year ended November 30, 2004, Opteum originated approximately $493.0 million and $432.1 million, respectively, of subprime mortgage loans, which constituted 10.2% and 9.0%, respectively, of its total originations.

Opteum faces intense competition that could harm its market share and its revenues.

Opteum faces intense competition from commercial banks, savings and loan associations and other finance and mortgage banking companies, as well as from Internet-based lending companies and other lenders participating on the Internet. Entry barriers in the mortgage industry are relatively low and increased competition is likely. As Opteum seeks to expand its business, it will face a greater number of competitors, many of whom will be well-established in the markets Opteum seeks to penetrate. Many of its competitors are much larger than Opteum, have better name recognition than Opteum and have far greater financial and other resources. Opteum cannot assure you that it will be able to effectively compete against them or any future competitors.

In addition, competition may lower the rates Opteum is able to charge borrowers, thereby potentially lowering the amount of income on future loan sales and sales of servicing rights. Increased competition also may reduce the volume of Opteum's loan originations and loan sales. Opteum cannot assure you that it will be able to compete successfully in this evolving market.

Risks Related to Opteum's Ability to Sell Loans it Originates or Purchases

Opteum's business would suffer if it was unable to sell the mortgage loans that it originates.

Opteum sells all of the mortgage loans that it originates and that are not securitized in the secondary market. Opteum's ability to sell mortgage loans depends on the availability of an active secondary market for residential mortgage loans. Additionally, Opteum sells substantially all of the mortgages to institutional buyers. If these financial institutions cease to buy its loans and equivalent

purchasers cannot be found on a timely basis, then Opteum's business and results of operations could be harmed. Opteum's results of operations could also be harmed if these financial institutions or other purchasers lower the price they pay to Opteum or adversely change the material terms of their loan purchases from Opteum. The prices at which Opteum sells its loans vary over time. A number of factors determine the price Opteum receives for its loans. These factors include:

- the number of institutions that are willing to buy Opteum's loans;
- the amount of comparable loans available for sale;
- the levels of prepayments of, or defaults on, loans;
- the types and volume of loans Opteum sells;
- the level and volatility of interest rates; and
- the quality of Opteum's loans.

Opteum's ability to sell mortgage loans to third parties also depends on its ability to remain eligible for the programs offered by Fannie Mae and Freddie Mac. If the criteria for mortgage loans to be accepted under these programs changes or if Opteum loses its eligibility for any reason, or if its eligibility is impaired, then our mortgage banking business would be harmed. Changes in laws in the states where Opteum operates could adversely affect its ability to sell loans. Opteum's profitability from participating in any of these programs may vary depending on a number of factors, including administrative costs of originating and selling qualifying mortgage loans, and the costs imposed upon Opteum by the purchasers' programs. Any decline in profitability from participating in these programs would harm Opteum's mortgage banking business.

Opteum has credit exposure with respect to loans it sells to the whole loan market and loans it sells to securitization entities.

Opteum has potential credit and liquidity exposure for loans that are the subject of fraud, irregularities in their loan files or process, or that result in Opteum breaching the representations and warranties in the contract of sale. In addition, when Opteum sells loans to the whole loan market it has exposure for loans that default. In these cases, Opteum may be obligated to repurchase loans at principal value, which could result in a significant decline in its available cash. When Opteum purchases loans from a third party that it sells into the whole loan market or to a securitization trust, Opteum obtains representations and warranties from the counter-parties that sold the loans to it that generally parallel the representations and warranties it provided to its purchasers. As a result, we believe that Opteum has the potential for recourse against the seller of the loans. However, if Opteum does hot have recourse against the seller, or if the original seller is not in a financial position to be able to repurchase the loan, Opteum may have to use cash resources to repurchase loans which could adversely affect its liquidity.

Risks Related to Opteum's Funding

The terms of Opteum's warehouse credit facilities contain restrictive financial and other covenants, which may restrict Opteum's ability to pay dividends to us in situations where Opteum is not in compliance with such covenants.

The terms of Opteum's warehouse credit facilities contain restrictive financial and other covenants that, among other things, will require Opteum to maintain a minimum ratio of total liabilities to tangible net worth, minimum levels of tangible net worth, liquidity and stockholders' equity, maximum leverage ratios, as well as to comply with applicable regulatory and other requirements. If Opteum is not in compliance with these financial and other covenants in the warehouse credit facilities, its ability

to pay dividends to us may be restricted, which could reduce the earnings available for distribution to our stockholders.

Possible market developments could cause Opteum's lenders to require Opteum to pledge additional assets as collateral; if Opteum's assets are insufficient to meet such collateral requirements, then Opteum may be compelled to liquidate particular assets at an inopportune time, which may cause Opteum to incur losses.

Possible market developments, including a sharp rise in interest rates, a change in prepayment rates or increasing market concern about the value or liquidity of the types of mortgage assets in Opteum's portfolio, may reduce the market value of Opteum's portfolio, which may cause Opteum's lenders to require additional collateral or otherwise limit its ability to borrow. This requirement for additional collateral may compel Opteum to liquidate its assets at a disadvantageous time. If the sales are made at prices lower than the amortized cost of such investments, Opteum would incur losses.

Failure to renew or obtain adequate funding under warehouse repurchase agreements may harm Opteum's lending operations.

Opteum is currently dependent upon a number of credit facilities for funding its mortgage loan originations and its acquisitions. Any failure to renew or obtain adequate funding under these financing arrangements for any reason, including Opteum's inability to meet the covenants contained in such arrangements, could harm Opteum's lending operations and its overall performance. An increase in the cost of financing in excess of any change in the income derived from Opteum's mortgage assets could harm Opteum's earnings, which in turn would harm our earnings and our ability to make distributions to our stockholders.

Risks Related to Opteum's Securitization Activities

An interruption or reduction in the securitization market or change in terms offered by this market would hurt Opteum's financial position.

Opteum is dependent on the securitization market for the sale of its loans because it securitizes loans directly and many of its whole loan buyers purchase its loans with the intention to securitize. The securitization market is dependent upon a number of factors, including general economic conditions, conditions in the securities market generally and in the asset-backed securities market specifically. Similarly, poor performance of Opteum's previously securitized loans could harm its access to the securitization market. A decline in Opteum's ability to obtain long-term funding for its mortgage loans in the securitization market in general, or in Opteum's ability to obtain attractive terms or in the market's demand for its loans could harm its results of operations, financial condition and business prospects, which in turn could harm our results of operations, financial condition and our ability to make distributions to our stockholders.

Competition in the securitization market may negatively affect Opteum's net income.

Competition in the business of sponsoring securitizations of the type Opteum focuses on is increasing as Wall Street broker-dealers, mortgage REITs, investment management companies, and other financial institutions expand their activities or enter this field. Increased competition could reduce Opteum's securitization margins if Opteum has to pay a higher price for the long-term funding of these assets. To the extent that Opteum's securitization margins erode, Opteum's results of operations will be negatively impacted.

Geographic concentration of mortgage loans that Opteum originates and we purchase increases our exposure to risks in those areas, especially in California and Florida.

Over-concentration of loans that Opteum originates and we purchase in any one geographic area increases our exposure to the economic and natural hazard risks associated with that area. Declines in

the residential real estate markets in which we are concentrated may reduce the values of the properties collateralizing our mortgages which in turn may increase the risk of delinquency, foreclosure, bankruptcy, or losses from those loans. To the extent that a large number of loans are impaired, Opteum's retained residual interests in securitizations and thus their financial condition and results of operations may be adversely affected.

To the extent that Opteum has a large number of loans in an area affected by a natural disaster, Opteum may suffer losses.

Standard homeowner insurance policies generally do not provide coverage for natural disasters, such as hurricane Katrina and the ensuing flooding. Furthermore, nonconforming borrowers are not likely to have special hazard insurance. To the extent that borrowers do not have insurance coverage for natural disasters, they may not be able to repair the property or may stop paying their mortgages if the property is damaged. A natural disaster that results in a significant number of delinquencies could cause increased foreclosures and decrease Opteum's ability to recover losses on properties affected by such disasters and could harm Opteum's retained residual interests in securitizations and thus Opteum's financial condition and results of operations.

Differences in Opteum's actual experience compared to the assumptions that Opteum uses to determine the value of its mortgage securities held as available-for-sale could adversely affect Opteum's financial position.

Currently, Opteum's securitization of mortgage loans are structured to be treated as sales for financial reporting purposes and, therefore, result in gain recognition at closing. Delinquency, loss, prepayment and discount rate assumptions have a material impact on the amount of gain recognized and on the carrying value of the retained mortgage securities held as available-for-sale (where applicable). The gain on sale method of accounting may create volatile earnings in certain environments, including when loan securitizations are not completed on a consistent schedule. If Opteum's actual experience differs materially from the assumptions that it uses to determine the value of its mortgage