NEW YORK MORTGAGE TRUST INC
Form 10-Q
November 14, 2005

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549
FORM 10-Q

þ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2005.

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Transition Period From __________ to __________
Commission File Number 001-32216
NEW YORK MORTGAGE TRUST, INC.
(Exact name of registrant as specified in its charter)

Maryland	**47-0934168**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

1301 Avenue of the Americas, New York, New York 10019
(Address of principal executive office) (Zip Code)
(212) 634-9400
(Registrant s telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes R No £
Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2).
Yes £ No R
Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
Yes £ No R
The number of shares of the registrant s common stock, par value $.01 per share, outstanding on November 1, 2005 was 18,219,302.

NEW YORK MORTGAGE TRUST, INC.
FORM 10-Q

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PART I: FINANCIAL INFORMATION
NEW YORK MORTGAGE TRUST, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

	September 30, 2005 (unaudited)	December 31, 2004
ASSETS		
Cash and cash equivalents	$ 11,302,458	$ 7,613,106
Restricted cash	445,635	2,341,712
Investment securities available for sale	797,079,293	1,204,744,714
Due from loan purchasers	143,620,835	79,904,315
Escrow deposits pending loan closings	11,932,354	16,235,638
Accounts and accrued interest receivable	16,027,466	15,554,201
Mortgage loans held for sale	116,533,155	85,384,927
Mortgage loans held in securitization trusts	589,354,405	
Mortgage loans held for investment	140,411,907	190,153,103
Deferred tax and other assets	12,537,424	4,351,869
Derivative assets	9,298,248	3,677,572
Property and equipment, net	6,456,230	4,801,302
TOTAL ASSETS	$ 1,854,999,410	$ 1,614,762,459
LIABILITIES AND STOCKHOLDERS EQUITY		
LIABILITIES:		
Financing arrangements, portfolio investments	$ 1,282,723,167	$ 1,115,809,285
Financing arrangements, loans held for sale/for investment	398,907,025	359,202,980
Due to loan purchasers	1,607,750	350,884
Accounts payable and accrued expenses	18,380,787	19,485,241
Subordinated debentures	45,000,000	
Derivative liabilities	1,076,310	164,816
Other liabilities	250,726	267,034
Total liabilities	1,747,945,765	1,495,280,240
COMMITMENTS AND CONTINGENCIES (Note 10)		
STOCKHOLDERS EQUITY :		
Common stock, $0.01 par value, 400,000,000 shares authorized 18,219,302 shares issued and outstanding at September 30, 2005 and 18,114,445 shares issued and 17,797,375 outstanding at December 31, 2004	182,193	180,621
Additional paid-in capital	111,359,871	119,045,450
Accumulated other comprehensive (loss) income	(4,488,419)	256,148
Total stockholders equity	107,053,645	119,482,219
TOTAL LIABILITIES AND STOCKHOLDERS EQUITY	$ 1,854,999,410	$ 1,614,762,459

See notes to consolidated financial statements.

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NEW YORK MORTGAGE TRUST, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME
(unaudited)

	For the Nine Months Ended September 30,		For the Three Months Ended September 30,	
	2005	2004 As restated (1)	2005	2004
REVENUE:				
Gain on sales of mortgage loans	$ 21,633,961	$ 14,933,433	$ 8,985,293	$ 4,482,262
Interest income:				
Loans held for sale	10,573,325	5,777,240	4,473,157	2,633,442
Investment securities and mortgage loans held for investment	34,035,558	7,659,748	9,208,733	7,656,699
Loans held in the securitization trusts	11,875,521		6,016,479	
Brokered loan fees	7,180,484	4,398,137	2,646,683	1,437,664
Gain on sale of securities and related hedges	2,207,433	732,812	1,286,031	125,837
Miscellaneous income	194,683	95,597	91,043	49,620
Total revenue	87,700,965	33,596,967	32,707,419	16,385,524
EXPENSES:				
Salaries, commissions and benefits	23,874,659	11,394,409	7,302,398	4,503,571
Interest expense:				
Loans held for sale/for investment	11,194,956	2,960,294	4,807,623	1,227,997
Portfolio investments	30,089,833	4,237,195	10,749,583	4,237,195
Subordinated debentures	1,095,300		601,722	
Brokered loan expenses	5,688,931	3,136,452	1,483,323	1,016,930
Occupancy and equipment	4,981,098	2,426,188	1,264,643	888,671
Marketing and promotion	3,900,043	1,973,922	1,310,316	677,531
Data processing and communications	1,807,406	1,136,470	617,824	515,234
Office supplies and expenses	1,908,839	1,017,243	651,279	370,003
Professional fees	2,812,478	1,087,735	965,945	433,981
Travel and entertainment	706,904	393,872	261,293	88,597
Depreciation and amortization	1,068,906	308,859	301,705	102,953
Other	1,083,537	795,716	530,214	102,645
Total expenses	90,212,890	30,868,355	30,847,868	14,165,308
(LOSS) INCOME BEFORE INCOME TAXES	(2,511,925)	2,728,612	1,859,551	2,220,216
Income tax benefit	5,880,000	221,653	1,000,000	231,653
NET INCOME	$ 3,368,075	$ 2,950,265	$ 2,859,551	$ 2,451,869
Basic income per share	$ 0.19	$ 0.17	$ 0.16	$ 0.14

Diluted income per share	$ 0.19	$ 0.17	$ 0.16	$ 0.14
Weighted average shares outstanding basic	17,854,850	17,797,375	17,958,175	17,797,375
Weighted average shares outstanding diluted	18,121,074	17,800,024	18,242,373	17,800,547

(1) See note 18 for details regarding the restatement.

See notes to consolidated financial statements.

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NEW YORK MORTGAGE TRUST, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)

	For the Nine Months Ended September 30,	
	2005	2004 As restated (1)
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	$ 3,368,075	$ 2,950,265
Adjustments to reconcile net income to net cash used in operating activities:		
Depreciation and amortization	1,068,906	308,859
Amortization of premium on investment securities and mortgage loans	4,880,406	358,835
Gain on sale of securities and related hedges	(2,207,433)	(732,812)
Origination of mortgage loans held for sale	(2,179,945,226)	(954,882,602)
Proceeds from sales of mortgage loans	1,689,574,271	949,391,144
Restricted stock compensation expense	1,823,199	1,326,375
Stock option grants compensation expense	33,758	
Deferred tax benefit	(5,880,000)	(221,653)
Change in value of derivatives	(1,348,991)	(692,019)
(Increase) decrease in operating assets:		
Due from loan purchasers	(63,716,520)	7,960,875
Escrow deposits pending loan closings	4,303,284	(28,569,060)
Accounts and accrued interest receivable	(473,265)	(8,401,518)
Deferred tax and other assets	(792,829)	(1,336,174)
Increase (decrease) in operating liabilities:		
Due to loan purchasers	1,256,866	(519,548)
Accounts payable and accrued expenses	(583,040)	6,546,317
Other liabilities	(16,308)	139,966
Net cash used in operating activities	(548,654,847)	(26,372,750)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Restricted cash	1,896,077	(2,761,205)
Sale of investment securities	223,812,777	21,398,981
Purchase of investment securities	(148,150,185)	(1,216,359,998)
Purchase of mortgage loans held in the securitization trusts	(167,873,446)	
Principal repayments received on loans held in the securitization trust	77,720,402	
Proceeds from sale of marketable securities		2,320,414
Principal paydown on investment securities	320,539,626	30,563,700
Payments received on loans held for investment	8,935,308	(25,715,056)
Purchases of property and equipment	(2,723,834)	(1,189,528)
Net cash provided by (used in) investing activities	314,156,725	(1,191,742,692)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from issuance of common stock		123,116,740
Cash distributions to members		(3,295,448)

Payments on subordinated notes due to members				(13,706,902)
Increase in financing arrangements, net		206,617,927		1,120,776,691
Dividends paid		(13,430,453)		
Issuance of subordinated debentures		45,000,000		
Net cash provided by financing activities		238,187,474		1,226,891,081
NET INCREASE IN CASH AND CASH EQUIVALENTS		3,689,352		8,775,639
CASH AND CASH EQUIVALENTS Beginning of period		7,613,106		4,357,069
CASH AND CASH EQUIVALENTS End of period	$	11,302,458	$	13,132,708
SUPPLEMENTAL DISCLOSURE				
Cash paid for interest	$	25,282,759	$	932,830
NON CASH ACTIVITIES				
Reduction of subordinated notes due members	$		$	1,000,000
Grant of common stock		31,035		3,709,125
Dividends declared to be paid in subsequent period	$	3,826,053	$	2,905,939

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(1) See note 18 for details regarding the restatement.

See notes to consolidated financial statements.

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NEW YORK MORTGAGE TRUST, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
September 30, 2005 (Unaudited)

1. Summary of Significant Accounting Policies

Organization New York Mortgage Trust, Inc. (NYMT or the Company) is a fully-integrated, self-advised, residential mortgage finance company formed as a Maryland corporation in September 2003. The Company earns net interest income from residential mortgage-backed securities and fixed-rate and adjustable-rate mortgage loans and securities originated through its wholly-owned subsidiary, The New York Mortgage Company, LLC (NYMC). The Company also earns net interest income from its investment in and the securitization of certain self-originated adjustable rate mortgage loans that meet the Company s investment criteria. Licensed, or exempt from licensing, in 42 states and the District of Columbia and through a network of 27 full-service loan origination locations and 39 satellite loan origination locations, NYMC originates a wide range of mortgage loans, with a primary focus on prime, residential mortgage loans.

The Company is organized and conducts its operations to qualify as a real estate investment trust (REIT) for federal income tax purposes. As such, the Company will generally not be subject to federal income tax on that portion of its income that is distributed to stockholders if it distributes at least 90% of its REIT taxable income to its stockholders by the due date of its federal income tax return and complies with various other requirements.

On January 9, 2004, the Company capitalized New York Mortgage Funding, LLC (NYMF) as a wholly-owned subsidiary of the Company. NYMF is a qualified REIT subsidiary, or QRS, in which the Company accumulates mortgage loans that the Company intends to securitize. In June 2004, the Company sold 15 million shares of its common stock in an initial public offering (IPO) at a price to the public of $9.00 per share, for net proceeds of $122.0 million after deducting the underwriters discount and other offering expenses. Concurrent with the Company s IPO, the Company issued 2,750,000 shares of common stock in exchange for the contribution to the Company of 100% of the equity interests of NYMC. Subsequent to the IPO and the contribution of NYMC, the Company had 18,114,445 shares of common stock issued and 17,797,375 shares outstanding. Prior to the IPO, NYMT did not have recurring business operations.

On February 25, 2005, the Company completed its first loan securitization of high-credit quality, first-lien, adjustable rate mortgage (ARM) loans, by contributing loans into New York Mortgage Trust 2005-1 (NYMT 05-1 Trust). NYMT 05-1 Trust is a wholly-owned subsidiary of NYMT. The securitization was structured as a secured borrowing, with the line-of-credit financing used to purchase and originate the mortgage loans and refinanced through repurchase agreements upon securitization. On March 15, 2005, the Company closed a private placement of $25.0 million of trust preferred securities issued by NYM Preferred Trust I. NYM Preferred Trust I is a wholly-owned subsidiary of NYMC. On July 28, 2005 the Company completed its second loan securitization of $239.5 million of high-credit quality, first-lien, ARM loans, by contributing loans to New York Mortgage Trust 2005-2 (NYMT 05-2 Trust). NYMT 05-2 Trust is a wholly-owned subsidiary of NYMT. The securitization was structured as a secured borrowing, with the line-of-credit financing used to purchase and originate the mortgage loans and refinanced through repurchase agreements upon securitization. On September 1, 2005, the Company closed a private placement of $20.0 million of preferred securities issued by NYM Preferred Trust II. NYM Preferred Trust II is a wholly-owned subsidiary of NYMC.

As used herein, references to the Company, NYMT, we, our and us refer to New York Mortgage Trust, Inc., collectively with its subsidiaries.

Basis of Presentation The consolidated financial statements include the accounts of the Company subsequent to the IPO and also include the accounts of NYMC and NYMF prior to the IPO. As a result, our historical financial results reflect the financial operations of this prior business strategy of selling virtually all of the loans originated by NYMC to third parties. All intercompany accounts and transactions are eliminated in consolidation. Certain prior period amounts have been reclassified to conform to current period classifications.

The unaudited condensed consolidated financial statements should be read in conjunction with the Company s consolidated financial statements and notes thereto included in the Company s Annual Report on Form 10-K for the year ended December 31, 2004. The condensed consolidated financial statements reflect all adjustments (consisting

only of normal recurring adjustments) that are, in the opinion of management, necessary for the fair statement of the results for the interim period. The results of operations for interim periods are not necessarily indicative of results for the entire year.

The combination of the Company and NYMC was accounted for as a transfer of assets between entities under common control. Accordingly, the Company has recorded assets and liabilities transferred from NYMC at their carrying amounts in the accounts of NYMC at the date of transfer.

Upon the closing of the Company s IPO, of the 2,750,000 shares exchanged for the equity interests of NYMC, 100,000 shares were held in escrow through December 31, 2004 and were available to satisfy any indemnification claims the Company may have had against the contributors of NYMC for losses incurred as a result of defaults on any residential mortgage loans originated by NYMC and closed prior to the completion of the IPO. As of December 31, 2004, the amount of escrowed shares was reduced by 47,680 shares, representing $492,536 for estimated losses on loans closed prior to the Company s IPO. Furthermore, the contributors of NYMC entered into a new escrow agreement which extended the escrow period to December 31, 2005 for the remaining 52,320 shares. There have been no additional losses with respect to the escrow agreement booked during the nine month period ended September 30, 2005.

Use of Estimates The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The Company s estimates and assumptions primarily arise from risks and uncertainties associated with interest rate volatility, prepayment volatility, credit exposure and regulatory changes. Although management is not currently aware of any factors that would significantly change its estimates and assumptions in the near term, future changes in market conditions may occur which could cause actual results to differ materially.

Cash and Cash Equivalents Cash and cash equivalents include cash on hand, amounts due from banks and overnight deposits. The Company maintains its cash and cash equivalents in highly rated financial institutions, and at times these balances exceed insurable amounts.

Restricted Cash Restricted cash is held by counterparties as collateral for hedging instruments and two letters of credit related to the Company's lease of the corporate headquarters.

Investment Securities Available for Sale The Company s investment securities are residential mortgage-backed securities comprised of FannieMae (FNMA), Freddie Mac (FHLMC), Ginnie Mae (GNMA) and AAA rated adjustable-rate loans, including adjustable-rate loans that have an initial fixed-rate period. Investment securities are classified as available for sale securities and are reported at fair value with unrealized gains and losses reported in other comprehensive income (OCI). Realized gains and losses recorded on the sale of investment securities available for sale are based on the specific identification method and included in gain on sale of securities. Purchase premiums or discounts on investment securities are accreted or amortized to interest income over the estimated life of the investment securities using the interest method. Investment securities may be subject to interest rate, credit and/or prepayment risk.

When the fair value of an available for sale security is less than amortized cost, management considers whether there is an other-than-temporary impairment in the value of the security (e.g., whether the security will be sold prior to the recovery of fair value). Management considers at a minimum the following factors that, both individually or in combination, could indicate the decline is other-than-temporary: 1) the length of time and extent to which the market value has been less than book value; 2) the financial condition and near-term prospects of the issuer; or 3) the intent and ability of the Company to retain the investment in the issuer for a period of time sufficient to allow for any anticipated recovery in market value. If, in management s judgment, an other-than-temporary impairment exists, the cost basis of the security is written down to the then-current fair value, and the unrealized loss is transferred from accumulated other comprehensive income as an immediate reduction of current earnings (i.e., as if the loss had been realized in the period of impairment). Even though no credit concerns exist with respect to an available for sale security, an other- than-temporary impairment may be evident if management determines that the Company does not have the intent and ability to hold an investment until a forecasted recovery of the value of the investment.

Due from Loan Purchasers and Escrow Deposits Pending Loan Closings Amounts due from loan purchasers are a receivable for the principal and premium due to us for loans sold and shipped but for which payment has not yet been received at period end. Escrow deposits pending loan closing are advance cash fundings by us to escrow agents

to be used to close loans within the next one to three business days.

Mortgage Loans Held for Sale Mortgage loans held for sale represent originated mortgage loans held for sale to third party investors. The loans are initially recorded at cost based on the principal amount outstanding net of deferred direct origination costs and fees. The loans are subsequently carried at the lower of cost or market value. Market value is determined by examining outstanding commitments from investors or current investor yield requirements, calculated on an aggregate loan basis, less an estimate of the costs to close the loan, and the deferral of fees and points received, plus the deferral of direct origination costs. Gains or losses on sales are recognized at the time title transfers to the investor which is typically concurrent with the transfer of the loan files and related documentation and are based upon the difference between the sales proceeds from the final investor and the adjusted book value of the loan sold.

Mortgage Loans Held in the Securitization Trusts Mortgage loans held in the securitization trusts are certain ARM mortgage loans transferred to the NYMT 05-1 Trust and to the NYMT 05-2 Trust which have been securitized into sequentially rated classes of beneficial interests. Currently the Company has retained 100% interest in the securitized loans and the transfer has been accounted for as a secured borrowing with a pledge of collateral. Mortgage loans held in the securitization trusts are recorded at amortized cost, using the same accounting principles as that used for mortgage loans held for investment, as described below.

Mortgage Loans Held for Investment The Company retains substantially all of the adjustable-rate mortgage loans originated that meet specific investment criteria and portfolio requirements. Loans originated and retained in the Company s portfolio are serviced through a subservicer. Servicing is the function primarily consisting of collecting monthly payments from mortgage borrowers, and disbursing those funds to the appropriate loan investors.

Mortgage loans held for investment are recorded net of deferred loan origination fees and associated direct costs and are stated at amortized cost. Net loan origination fees and associated direct mortgage loan origination costs are deferred and amortized over the life of the loan as an adjustment to yield. This amortization includes the effect of projected prepayments.

Interest income is accrued and recognized as revenue when earned according to the terms of the mortgage loans and when, in the opinion of management, it is collectible. The accrual of interest on loans is discontinued when, in management s opinion, the interest is not collectible in the normal course of business, but in no case when payment becomes greater than 90 days delinquent. Loans return to accrual status when principal and interest become current and are anticipated to be fully collectible.

Credit Risk and Allowance for Loan Losses The Company limits its exposure to credit losses on its portfolio of residential adjustable-rate mortgage-backed securities by purchasing securities that are guaranteed by a government-sponsored or federally-chartered corporation (FNMA, FHLMC or GNMA) (collectively Agency Securities) or that have a AAA investment grade rating by at least one of two nationally recognized rating agencies, Standard & Poor s, Inc. or Moody s Investors Service, Inc. at the time of purchase.

The Company seeks to limit its exposure to credit losses on its portfolio of residential adjustable-rate mortgage loans held for investment (including mortgage loans held in the securitization trusts) by originating and investing in loans primarily to borrowers with strong credit profiles, which are evaluated by analyzing the borrower s credit score (FICO is a credit score, ranging from 300 to 850, with 850 being the best score, based upon the credit evaluation methodology developed by Fair, Isaac and Company, a consulting firm specializing in creating credit evaluation models), employment, income and assets and related documentation, the amount of equity in and the value of the property securing the borrower s loan, debt to income ratio, credit history, funds available for closing and post-closing liquidity.

The Company estimates an allowance for loan losses based on management s assessment of probable credit losses in the Company s investment portfolio of residential mortgage loans. Mortgage loans are collectively evaluated for impairment as the loans are homogeneous in nature. The allowance is based upon management s assessment of various credit-related factors, including current economic conditions, the credit diversification of the portfolio, loan-to-value ratios, delinquency status, historical credit losses, purchased mortgage insurance and other factors deemed to warrant consideration. If the credit performance of mortgage loans held for investment deviates from expectations, the allowance for loan losses is adjusted to a level deemed appropriate by management to provide for estimated probable losses in the portfolio.

The allowance will be maintained through ongoing provisions charged to operating income and will be reduced by loans that are charged off. Determining the allowance for loan losses is subjective in nature due to the estimation required.

Property and Equipment, Net Property and equipment have lives ranging from three to ten years, and are stated at cost less accumulated depreciation and amortization. Depreciation is determined in amounts sufficient to charge the cost of depreciable assets

to operations over their estimated service lives using the straight-line method. Leasehold improvements are amortized over the lesser of the life of the lease or service lives of the improvements using the straight-line method.

Derivative Financial Instruments The Company has developed risk management programs and processes, which include investments in derivative financial instruments designed to manage market risk associated with its mortgage banking and its mortgage-backed securities investment activities.

All derivative financial instruments are reported as either assets or liabilities in the consolidated balance sheet at fair value. The gains and losses associated with changes in the fair value of derivatives not designated as hedges are reported in current earnings. If the derivative is designated as a fair value hedge and is highly effective in achieving offsetting changes in the fair value of the asset or liability hedged, the recorded value of the hedged item is adjusted by its change in fair value attributable to the hedged risk. If the derivative is designated as a cash flow hedge, the effective portion of change in the fair value of the derivative is recorded in OCI and is recognized in the income statement when the hedged item affects earnings. The Company calculates the effectiveness of these hedges on an ongoing basis, and, to date, has calculated effectiveness of approximately 100%. Ineffective portions, if any, of changes in the fair value or cash flow hedges, are recognized in earnings. (See Note 13).

In accordance with a Securities and Exchange Commission (SEC) Staff Accounting Bulletin No. 105, Application of Accounting Principles to Loan Commitments (SAB 105) issued on March 9, 2004, beginning in the second quarter of 2004, the fair value of interest rate lock commitments (IRLCs) excludes future cash flows related to servicing rights, if such rights are retained upon the sale of originated mortgage loans. Since the Company sells all of its originated loans with servicing released, SAB 105 had no effect on the value of its IRLCs.

Risk Management Derivative transactions are entered into by the Company solely for risk management purposes. The decision of whether or not an economic risk within a given transaction (or portion thereof) should be hedged for risk management purposes is made on a case-by-case basis, based on the risks involved and other factors as determined by senior management, including the financial impact on income, asset valuation and restrictions imposed by the Internal Revenue Code among others. In determining whether to hedge a risk, the Company may consider whether other assets, liabilities, firm commitments and anticipated transactions already offset or reduce the risk. All transactions undertaken to hedge certain market risks are entered into with a view towards minimizing the potential for economic losses that could be incurred by the Company. Under Statement of Financial Accounting Standards No. 133, Accounting for Derivative Instruments and Hedging Activities (SFAS No. 133), the Company is required to formally document its hedging strategy before it may elect to implement hedge accounting for qualifying derivatives. Accordingly, all qualifying derivatives are intended to qualify as fair value, or cash flow hedges, or free standing derivatives. To this end, terms of the hedges are matched closely to the terms of hedged items with the intention of minimizing ineffectiveness.

In the normal course of its mortgage loan origination business, the Company enters into contractual interest rate lock commitments to extend credit to finance residential mortgages. These commitments, which contain fixed expiration dates, become effective when eligible borrowers lock-in a specified interest rate within time frames established by the Company s origination, credit and underwriting practices. Interest rate risk arises if interest rates change between the time of the lock-in of the rate by the borrower and the sale of the loan. Under SFAS No. 133, the IRLCs are considered undesignated or free-standing derivatives. Accordingly, such IRLCs are recorded at fair value with changes in fair value recorded to current earnings. Mark to market adjustments on IRLCs are recorded from the inception of the interest rate lock through the date the underlying loan is funded. The fair value of the IRLCs is determined by the interest rate differential between the contracted loan rate and the currently available market rates as of the reporting date.

To mitigate the effect of the interest rate risk inherent in providing IRLCs from the lock-in date to the funding date of a loan, the Company generally enters into forward sale loan contracts (FSLC). The FSLCs in place prior to the funding of a loan are undesignated derivatives under SFAS No. 133 and are marked to market through current earnings.

Derivative instruments contain an element of risk in the event that the counterparties may be unable to meet the terms of such agreements. The Company minimizes its risk exposure by limiting the counterparties with which it enters into contracts to banks, investment banks and certain private investors who meet established credit and capital

guidelines. Management does not expect any counterparty to default on its obligations and, therefore, does not expect to incur any loss due to counterparty default. These commitments and option contracts are considered in conjunction with the Company s lower of cost or market valuation of its mortgage loans held for sale.

The Company uses other derivative instruments, including treasury, agency or mortgage-backed securities forward sale contracts which are also classified as free-standing, undesignated derivatives and thus are recorded at fair value with the changes in fair value recognized in current earnings.

Once a loan has been funded, the Company s primary risk objective for its mortgage loans held for sale is to protect earnings from an unexpected charge due to a decline in value. The Company s strategy is to engage in a risk management program involving the designation of FSLCs (the same FSLCs entered into at the time of rate lock) to hedge most of its mortgage loans held for sale. The FSLCs have been designated as qualifying hedges for the funded loans and the notional amount of the forward delivery contracts, along with the underlying rate and critical terms of the contracts, are equivalent to the unpaid principal amount of the mortgage loan being hedged. The FSLCs effectively fix the forward sales price and thereby offset interest rate and price risk to the Company. Accordingly, the Company evaluates this relationship quarterly and, at the time the loan is funded, classifies and accounts for the FSLCs as cash flow hedges.

Interest Rate Risk The Company hedges the aggregate risk of interest rate fluctuations with respect to its borrowings, regardless of the form of such borrowings, which require payments based on a variable interest rate index. The Company generally intends to hedge only the risk related to changes in the benchmark interest rate (London Interbank Offered Rate (LIBOR) or a Treasury rate).

In order to reduce such risks, the Company enters into swap agreements whereby the Company receives floating rate payments in exchange for fixed rate payments, effectively converting the borrowing to a fixed rate. The Company also enters into cap agreements whereby, in exchange for a fee, the Company is reimbursed for interest paid in excess of a certain capped rate.

To qualify for cash flow hedge accounting, interest rate swaps and caps must meet certain criteria, including:

- the items to be hedged expose the Company to interest rate risk; and
- the interest rate swaps or caps are expected to be and continue to be highly effective in reducing the Company s exposure to interest rate risk.

The fair values of the Company s interest rate swap agreements and interest rate cap agreements are based on market values provided by dealers who are familiar with the terms of these instruments. Correlation and effectiveness are periodically assessed at least quarterly based upon a comparison of the relative changes in the fair values or cash flows of the interest rate swaps and caps and the items being hedged.

For derivative instruments that are designated and qualify as a cash flow hedge (i.e. hedging the exposure to variability in expected future cash flows that is attributable to a particular risk), the effective portion of the gain or loss on the derivative instruments are reported as a component of OCI and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. The remaining gain or loss on the derivative instruments in excess of the cumulative change in the present value of future cash flows of the hedged item, if any, is recognized in current earnings during the period of change.

With respect to interest rate swaps and caps that have not been designated as hedges, any net payments under, or fluctuations in the fair value of, such swaps and caps, will be recognized in current earnings.

Termination of Hedging Relationships The Company employs a number of risk management monitoring procedures to ensure that the designated hedging relationships are demonstrating, and are expected to continue to demonstrate, a high level of effectiveness. Hedge accounting is discontinued on a prospective basis if it is determined that the hedging relationship is no longer highly effective or expected to be highly effective in offsetting changes in fair value of the hedged item.

Additionally, the Company may elect to undesignate a hedge relationship during an interim period and re-designate upon the rebalancing of a hedge profile and the corresponding hedge relationship. When hedge accounting is discontinued, the Company continues to carry the derivative instruments at fair value with changes recorded in current earnings.

Other Comprehensive Income Other comprehensive income is comprised primarily of net income (loss) from changes in value of the Company s available for sale securities, and the impact of deferred gains or losses on changes in the fair value of derivative contracts hedging future cash flows.

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Gain on Sale of Mortgage Loans The Company recognizes gain on sale of loans sold to third parties as the difference between the sales price and the adjusted cost basis of the loans when title transfers. The adjusted cost basis of the loans includes the original principal amount adjusted for deferrals of origination and commitment fees received, net of direct loan origination costs paid.

Loan Origination Fees and Direct Origination Cost The Company records loan fees, discount points and certain incremental direct origination costs as an adjustment of the cost of the loan and such amounts are included in gain on sales of loans when the loan is sold. Accordingly, salaries, compensation, benefits and commission costs have been reduced by $32.2 million and $13.6 million for the nine-month periods ended September 30, 2005 and 2004, respectively, because such amounts are considered incremental direct loan origination costs.

Brokered Loan Fees and Expenses The Company records commissions associated with brokered loans when such loans are closed with the borrower. Costs associated with brokered loans are expensed when incurred.

Loan Commitment Fees Mortgage loans held for sale: fees received for the funding of mortgage loans to borrowers at pre-set conditions are deferred and recognized at the date at which the loan is sold. Mortgage loans held for investment: such fees are deferred and recognized into interest income over the life of the loan based on the effective yield method.

Employee Benefits Plans The Company sponsors a defined contribution plan (the Plan) for all eligible domestic employees. The Plan qualifies as a deferred salary arrangement under Section 401(k) of the Internal Revenue Code. Under the Plan, participating employees may defer up to 25% of their pre-tax earnings, subject to the annual Internal Revenue Code contribution limit. The Company matches contributions up to a maximum of 25% of the first 5% of salary. Employees vest immediately in their contribution and vest in the Company s contribution at a rate of 25% after two full years and then an incremental 25% per full year of service until fully vested at 100% after five full years of service. The Company s total contributions to the Plan were $0.3 million and $0.1 million for the nine months ended September 30, 2005 and 2004, respectively.

Stock Based Compensation. The Company follows the provisions of SFAS No. 123, Accounting for Stock-Based Compensation (SFAS No. 123) and SFAS No. 148, Accounting for Stock-Based Compensation, Transition and Disclosure (SFAS No. 148). The provisions of SFAS No. 123 allow companies either to expense the estimated fair value of stock options or to continue to follow the intrinsic value method set forth in Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees (APB No. 25) and disclose the pro forma effects on net income (loss) had the fair value of the options been expensed. The Company, since it s inception, has elected not to apply APB No. 25 in accounting for its stock option incentive plans and has expensed stock based compensation in accordance with SFAS No. 123.

In December, 2004 the Financial Accounting Standards Board (FASB) issued SFAS No. 123R, Share-Based payment, (SFAS No. 123R) which will require all companies to measure compensation costs for all share-based payments, including employee stock options, at fair value. This statement will be effective for the Company with the quarter beginning January 1, 2006. The adoption of SFAS No. 123R will not have a material impact on the Company s financial statements.

Marketing and Promotion The Company charges the costs of marketing, promotion and advertising to expense in the period incurred.

Income Taxes The Company operates so as to qualify as a REIT under the requirements of the Internal Revenue Code. Requirements for qualification as a REIT include various restrictions on ownership of the Company s stock, requirements concerning distribution of taxable income and certain restrictions on the nature of assets and sources of income. A REIT must distribute at least 90% of its taxable income to its stockholders of which 85% plus any undistributed amounts from the prior year must be distributed within the taxable year in order to avoid the imposition of an excise tax. The remaining balance may extend until timely filing of the Company s tax return in the subsequent taxable year. Qualifying distributions of taxable income are deductible by a REIT in computing taxable income.

NYMC changed its tax status upon completion of the IPO from a non-taxable limited liability company to a taxable REIT subsidiary and therefore subsequent to the IPO, is subject to corporate Federal income taxes. Accordingly, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax base upon the change in

tax status. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected

to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

Earnings Per Share Basic earnings per share excludes dilution and is computed by dividing net income available to common stockholders by the weighted-average number of shares of common stock outstanding for the period. Diluted earnings per share reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock or resulted in the issuance of common stock that then shared in the earnings of the Company.

2. Investment Securities Available For Sale

Investment securities available for sale consist of the following as of September 30, 2005 and December 31, 2004:

	September 30, 2005	December 31, 2004
Amortized cost	$ 808,154,513	$ 1,207,715,175
Gross unrealized gains		150,682
Gross unrealized losses	(11,075,220)	(3,121,143)
Fair value	$ 797,079,293	$ 1,204,744,714

None of the securities with unrealized losses have been in a loss position for more than one year. The Company has the intent and believes it has the ability to hold such inves