State Attorneys General
State Banking Regulators
Mortgage Foreclosure Multistate Group

News Release

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State Attorneys General, Feds Reach $25 Billion Settlement with Five Largest Mortgage Servicers on Foreclosure Wrongs

Settlement provides homeowner relief & new protections, stops abuses

(WASHINGTON, D.C.) The nation's five largest mortgage servicers have agreed to a landmark $25 billion settlement with a coalition of state attorneys general and federal agencies. The settlement addresses past mortgage loan servicing and foreclosure abuses and fraud, provides substantial financial relief to borrowers harmed by bank fraud, and establishes significant new homeowner protections for the future.

This is the largest joint state-federal settlement in history and it is the result of a massive civil law enforcement investigation and initiative by state attorneys general, state banking regulators, and nearly a dozen federal agencies.

The joint state-federal group announced the agreement with the nation's five largest servicers: Bank of America Corporation, JPMorgan Chase & Co., Wells Fargo & Company, Citigroup, Inc., and Ally Financial, Inc. (formerly GMAC). Collectively, the five banks service nearly 60 percent of the nation's mortgages.

"Our goal has been to hold these banks accountable while providing urgently needed relief to homeowners who are struggling because of the banks' misconduct. This agreement does both," said Iowa Attorney General Tom Miller. "This agreement will help transform a badly broken system into one that protects borrowers."

"This agreement delivers real help to homeowners affected by the banks' dual tracking and other improper mortgage- and foreclosure-related processes," said Colorado Attorney General Suthers. "As a result of this settlement, the banks will end a series of problematic processes that put homeowners at a severe disadvantage during the foreclosure process. This settlement will not solve every problem with the housing market, but it goes a long way to helping homeowners in distress now and leveling the playing field for consumers."

Under the agreement, the five servicers have agreed to a $25 billion penalty under a joint state-national settlement structure:

- Servicers commit a minimum of $17 billion directly to borrowers through a series of national homeowner relief effort options, including principal reduction. Servicers will likely provide up to an estimated $32 billion in direct homeowner relief.
- Servicers commit $3 billion to an underwater mortgage refinancing program.
- Servicers pay $5 billion to the states and federal government ($4.25 billion to the states and $750 million to the federal government).
- Homeowners receive comprehensive new protections from new mortgage loan servicing and foreclosure standards.
- An independent monitor will ensure mortgage servicer compliance.
- States can pursue civil claims outside of the agreement including securitization claims as well as criminal cases.
- Borrowers and investors can pursue individual, institutional or class action cases regardless of agreement.

"This settlement is a big first step toward addressing the wrongs," said North Carolina Attorney General Roy Cooper. "Through a powerful agreement, backed by a federal court order and supervised by an independent monitor, we will ensure that servicers are fair with consumers."

"Our settlement holds America's largest banks accountable for harms homeowners suffered from shoddy loan servicing, illegal robo-signing and faulty foreclosure processing," McKenna said. "The settlement results from bipartisan cooperation among Democratic and Republican attorneys general partnering with two federal agencies. From the beginning, we have worked to help homeowners harmed by the banks' corner-cutting and to implement strict new loan servicing and foreclosure standards to prevent future harm."

"After many months of investigation and negotiation, I've concluded that this settlement accomplishes two major goals: it provides timely help for struggling homeowners, and it establishes new rules for mortgage servicing that will protect homeowners in the future," said Illinois Attorney General Lisa Madigan. "While the settlement is a big step forward in our efforts, it is not the end. In Illinois, we will continue to take strong legal action against lenders, banks, servicers and others who contributed to the housing and economic collapse."

"Never before have state attorneys general been able to enlist an independent monitor with the backing of a court order to ensure that nationally chartered banks are holding up to their end of the bargain," said Connecticut Attorney General George Jepsen. "As an independent monitor who has tremendous expertise in the financial sector, a history of looking out for consumers, and a great strategic approach, Joe Smith will look out for the interests of our states' homeowners."

A bipartisan negotiating team of state attorneys general negotiated on behalf of the states, and the U.S. Department of Justice (DOJ) and the U.S. Department of Housing and Urban Development (HUD) negotiated on behalf of the federal agencies.

DETAILS

\$17-\$32 Billion National Commitment to Foreclosure Relief Efforts
The servicers collectively agree to commit a minimum of $17 billion directly to borrowers through foreclosure relief effort options, including principal reduction for qualifying borrowers, short sales, anti-blight measures, and enhanced homeowner transition programs.

The principal reduction program will target homeowners who cannot afford their current payment but could make reasonable payments if the loan amount were reduced.

The servicers will receive credits for certain loss mitigation efforts, ranging from dollar-for-dollar credit to five cents on the dollar. In most instances, the servicers will receive less than 100 cents on the dollar credit in recognition of the losses already incurred on many of these loans, and the benefits the servicers receive from these loss mitigation efforts.

Because the vast majority of loss mitigation efforts earn less than 100 cents on the dollar, the servicers will be required to provide actual consumer benefits far in excess of $17 billion in order to earn $17 billion in credits. The best estimate is that the settlement will provide around $32 billion in direct benefits to borrowers through settlement-related credits.

Mortgage servicers have three years to reach loan modification targets and fulfill refinancing commitments. Servicers must reach 75 percent of their targets within the first two years. Servicers that miss settlement targets and deadlines will pay substantial cash penalties.

\$3 Billion National Commitment to Underwater Mortgage Refinancing Program
The servicers collectively agree to commit $3 billion to refinance “underwater” homes (when a homeowner owes more on a mortgage than a home’s current market value). To qualify, borrowers must be current on their mortgage payments on a mortgage owned by one of the five banks.

\$5 Billion Payment to States and Federal Government
The servicers' $4.25 billion payment to the states includes $1.5 billion for payments to borrowers who lost their home to foreclosure by one of the five servicers. The payment to borrowers addresses servicing and foreclosure abuses from January 1, 2008-December 31, 2011:

- Borrowers will not release any liability in exchange for a payment.
- Borrowers will complete a simple application and screening process.
- Borrowers who believe they were harmed beyond the payment may also seek an independent foreclosure review from the U.S. Office of the Comptroller of the Currency (OCC), regardless of whether they request the payment.
- Borrowers who accept a payment do not forfeit their right to pursue an individual action or class action case against a servicer.

$750 million of the state-federal payment will go to the federal government to resolve federal claims.

New Mortgage Loan Servicing and Foreclosure Standards

Mortgage servicers agree to make unprecedented changes in how they service mortgage loans and handle foreclosures. With the backing of a federal court order and the oversight of an independent monitor, this agreement creates dozens of new consumer protections, making the servicing process substantially more transparent. The protections range from requiring a single point of contact for borrowers, establishing case review and paperwork processing requirements and deadlines, and restricting practices such as “dual tracking” (when banks pursue a loan modification while simultaneously pursuing a foreclosure).

The agreement will also provide enhanced protections for service members that go beyond the Servicemembers Civil Relief Act (SCRA).

Independent Monitor to Ensure Compliance

For the first time, state attorneys general will establish an independent monitor over federally chartered banks for purposes of overseeing the terms of this agreement and ensuring its success. The participating states, federal agencies, and the servicers have agreed that Joseph A. Smith, Jr., will serve as the independent monitor.

Smith most recently served as the North Carolina Commissioner of Banks, a position he held since 2002. Smith was regarded for his outstanding oversight and supervision of banks and thrifts, as well as mortgage brokers, mortgage companies and other consumer finance entities. He helped shut down payday lenders in North Carolina and also instituted the state’s Home Foreclosure Prevention Project, which helped thousands of homeowners find alternatives to foreclosure. Smith is also the former Chairman of the Conference of State Banks Supervisors (CSBS).

Government and Borrowers Preserve Other Claims

- The release does not grant any immunity from criminal offenses or affect criminal prosecutions.
- The release does not include claims relating to securitizations of mortgage loans.
- The release does not include the Mortgage Electronic Registration Systems (MERSCORP, Inc.), a privately held company that operates an electronic registry designed to track ownership of mortgage loans and servicing rights.
- State attorneys general and the federal agencies signing onto this agreement agree to release the servicers only from servicing, foreclosure and origination liability claims (note that many origination claims are now time barred by statutes of limitation).
- This agreement does not prevent homeowners or investors from pursuing individual, institutional or class action civil cases against the servicers.

SCOPE OF SETTLEMENT

This enforcement action targets one segment of the nation’s vast and complex mortgage market, though the new servicing standards will apply to all mortgage loans serviced by the settling banks.

The settlement mostly impacts the Held for Investment (HFI) market, which encompasses loans held by the banks that service the loans. The mortgages, penalties and financial commitments associated with this settlement are funded primarily by the banks, not third-party investors. HUD estimates that HFI mortgages comprise 20 percent of the U.S. mortgage market.

The servicing standards will apply to all mortgage loans serviced by the settling banks.

BACKGROUND

Years before robo-signing issues emerged publicly in 2010, state attorneys general addressed mortgage servicing and foreclosure issues on behalf of consumers. In 2007 a coalition of 35 attorneys general and state banking examiners launched a cooperative effort, called the State Foreclosure Prevention Working Group. The group collected and analyzed foreclosure data, and implemented successful foreclosure response and prevention efforts. Since 2007, state attorneys general have launched their own initiatives, including consumer foreclosure hotlines, assigning consumer protection staff to field thousands of servicing and foreclosure complaints, and prosecuting mortgage fraud cases.

The current and much larger multistate effort began on October 13, 2010, when state attorneys general announced the formation of a 50-state Mortgage Foreclosure Multistate Group. The multistate group, led by a committee of state attorneys general and state banking regulators, began investigating procedural defects involving documents and signed affidavits submitted in support of foreclosure, including the widespread signing of documents without verifying their accuracy, which came to be known as "robo-signing."

The states soon linked their efforts with several federal agencies. The U.S. Department of Justice (DOJ) led the federal aspects of the investigation and settlement negotiations, working closely with the U.S. Department of Housing and Urban Development (HUD), and the U.S. Department of the Treasury. Several federal agencies provided extensive investigative information to the joint federal-state effort, in addition to the information that the state attorneys general and state banking regulators amassed throughout the country.

THE FUTURE

The final agreement, through a consent judgment, will be filed in U.S. District Court in Washington, D.C., and will have the authority of a court order.

States that do not participate forego collecting state payments, including payments to borrowers. Non-participating states also receive only partial benefits from the national components of the agreement, including the underwater refinancing initiative and principal reduction commitments for borrowers.

Once the agreement is finalized, the joint state and federal coalition will pursue similar settlement agreements with smaller mortgage servicers, beginning with nine additional servicers that reached agreements last year with the Office of the Comptroller of the Currency (OCC) to address their foreclosure practices.

States that sign onto the agreement are not restricted from investigating and pursuing many other mortgage-related issues, including securities-related and securitization cases, criminal cases, and other matters connected to the mortgage crisis.

On January 27 U.S. Attorney General Eric Holder along with Housing and Urban Development (HUD) Secretary Shaun Donovan, Securities and Exchange Commission (SEC) Director of Enforcement Robert Khuzami and New York Attorney General Eric Schneiderman announced the formation of the Residential Mortgage-Backed Securities Working Group. The working group will investigate those responsible for misconduct contributing to the financial crisis through the pooling and sale of residential mortgage-backed securities.

For more information about the mortgage servicing settlement, go to:

- www.NationaMortgageSettlement.com
- Contact your state attorney general. To find your state attorney general's website, go to www.NAAG.org and click on "The Attorneys General."
- www.HUD.gov
- www.DOJ.gov

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