Joint State-Federal Mortgage Servicing Settlement FAQ

Q: What is a mortgage servicer and how do I know who services my loan?

A: A mortgage servicer administers mortgage loans, including collecting and recording payments from borrowers. A servicer also handles loan defaults and foreclosures, and may offer loss mitigation programs to assist delinquent borrowers.

The company that you make your monthly payment to is your mortgage servicer. Your mortgage servicer may or may not be a lending institution and may or may not own your loan. Many of the loans administered by servicers are owned by third-party investors.

This settlement involves the nation's five largest mortgage servicers, including Ally, Bank of America, Citi, JPMorgan Chase and Wells Fargo.

Loans owned by Fannie Mae or Freddie Mac are not impacted by this settlement. You may visit the following websites to learn if your loan is owned by either Fannie Mae or Freddie Mac:

- www.fanniemae.com/homeaffordable
- www.freddiemac.com/avoidforeclosure

Q: How does this settlement hold the banks accountable?

A: This is a settlement that primarily addresses the banks' servicing of loans, including their handling of foreclosures. One of the primary areas of attention was the practice known as "robo-signing" where the banks submitted foreclosure documents that were not properly reviewed or notarized. This settlement holds the banks accountable for their servicing violations through substantial financial penalties and extensive consumer relief.

This is the second largest civil settlement ever obtained by the state attorneys general. It's second only to the tobacco settlement that has spread payments to the states over 25 years. The settlement will cost the nation's five largest mortgage servicers, which control about 60 percent of the mortgage servicing market, an estimated $25 to $32 billion.

The settlement will require the banks to accomplish a massive undertaking – changing their broken system of servicing loans into one that is functional. The banks will reduce the principal on many of their loans – something that they have resisted for years – to allow homeowners to keep their homes. They will also refinance loans for "underwater" borrowers who have been unable to refinance due to negative equity.

They will pay billions of dollars to the states, and, most importantly, commit billions more to consumers.

The banks will be subject to a federal court order enforceable by a federal judge. In addition, a special independent monitor will have the authority to oversee the banks and require their compliance. Federal agencies and state attorneys general can enforce compliance if there are violations.

The agreement holds the banks accountable for their wrongdoing on robo-signing and mortgage servicing. This settlement does not seek to hold them responsible for all their wrongs over the past five years.

The agreement and its release preserve legal options for others to pursue. Governmental entities and private parties are aggressively pursuing securities cases against the banks. A joint federal-state task force has been formed to investigate and prosecute those responsible for the collapse of the mortgage lending and investment markets.

Q: Did you conduct an investigation?

A: Yes. The robo-signing investigation began in October of 2010, as an investigation into the alleged false affidavits submitted in foreclosure proceedings. Its scope soon broadened to encompass a long list of mortgage servicing issues, such as lost paperwork, and long delays and missed deadlines for loan modifications. Long before they announced their investigation, attorneys general and state banking regulators across the country fielded thousands of mortgage servicing complaints. Many states took part in mortgage-related working groups, launched foreclosure prevention efforts, and took action against subprime and predatory lenders. Attorneys general have probably had more front-line experience with mortgage servicing than any other governmental entity.

After the states began their investigation in this case, they partnered with the U.S. Justice Department, the Treasury Department, and the Department of Housing and Urban Development. Federal agencies provided the joint state-federal legal team with strong and detailed evidence concerning robo-signing and other servicing abuses. The state attorneys general also partnered with state banking commissioners who conducted thorough examinations of mortgage servicers under their jurisdiction. The level of cooperation among the states and between the states and federal government was unprecedented, and gave the joint state-federal negotiating team substantial leverage in this extraordinary settlement.

Q: Will this settlement fix the entire mortgage industry breakdown?

A: No. This is a mortgage servicing settlement that addresses only a portion of the mortgage lending system. However, the settlement's tough, new mortgage servicing standards will have a widespread impact on future mortgage loan servicing.

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

On January 27, 2012, 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.

Q: Why don't you sue the banks and try to get even more money?

A: Litigation takes time, it carries substantial risks, and it expends significant resources. While legal cases drag on, homeowners in desperate need of relief are left to watch and wait for an uncertain outcome.

Millions more homeowners will likely lose their homes long before the court battles end. The outcomes of litigation, win or lose, are anything but certain. Even if the cases were successful, it is unlikely that the recovery would exceed $25 billion and produce the major servicing reforms obtained in this settlement.

And a money judgment could not realistically include principal reduction requirements, refinancing for underwater borrowers, and many of the other significant components of this agreement.

Q: A majority of mortgages are unaffected by this settlement. When will you work to obtain relief for the vast majority of homeowners?

A: This settlement primarily affects mortgages that are owned and held by the nation's largest bank servicers. Those homeowners may receive benefits such as modifications, principal reductions or direct payments from lenders.

Two government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, control a majority of the nation's mortgage loans. GSE loans are not eligible for parts of this settlement because of positions their regulator, FHFA, has taken.

You may visit the following websites to learn if your loan is owned by either Fannie Mae or Freddie Mac:

> www.fanniemae.com/homeaffordable
> www.freddiemac.com/avoidforeclosure

Homeowners with GSE-controlled mortgages who won't directly benefit from settlement-related programs – that's most of us – will still see benefits through dropping foreclosures, stabilizing home values and significant new mortgage servicing standards and consumer protections.

This settlement, in addition to recent federal efforts to modify Freddie and Fannie loans, means that the majority of distressed borrowers might qualify for some level of help.

Q: What about those of us who keep making our mortgage payments?

A: Borrowers who are current in their payments but are "underwater" on their mortgages may qualify for refinancing relief under the settlement.

Beyond that, the mortgage servicers involved in this settlement broke the law, the conduct harmed borrowers, and this settlement addresses that conduct. If the mortgage servicers followed the law, many foreclosures likely could have been prevented. Foreclosure has a profound impact beyond the borrower and the creditor. A foreclosure affects homeowners, families, neighborhoods, communities, the housing market and our overall economy.

When a house is subject to foreclosure, it creates a ripple effect that lowers the value of nearby single-family homes and other properties. In 2009 the Center for Responsible Lending projected that homeowners living near foreclosed properties, on average, would lose $7,200 in property value, and projected a four-year increase in losses to $20,300 per household.

Foreclosures contribute to unstable family and social environments. They increase stress on homeowners, their families and their neighbors. These deteriorating, neglected properties and neighboring property value losses create neighborhood blight, cut a community's tax base, and can contribute to crime. Displaced homeowners put other stresses on communities, including the need for shelter and social services.

Foreclosures affect everyone and affect our economy – even those who play by the rules and pay their monthly mortgage on time.

Q: Why force banks to forgive large portions of peoples' loans?

A: The states and federal agencies established that the servicers have done wrong – through improper lending practices, improper foreclosures, etc. – and in response the banks have agreed to a settlement that helps many homeowners who have been hurt by misconduct in the marketplace.

Some banks have already acknowledged that principal reduction can be effective tool in stabilizing the housing market and have already been forgiving portions of some loans. The idea is to keep people in their homes. The banks lose, on average, about $60,000 on each foreclosure. It is a win-win proposition for the banks to give up some principal – instead of that $60,000 cost of each foreclosure – and allow people to remain in their homes. As a matter of pure economics, principal reduction is often better for the bank than the massive losses associated with foreclosure.

The huge number of foreclosures impacts all of us: our nest eggs erode, we may no longer borrow against our homes, and we can't sell them when we need to. Principal reduction is one of the tools we've negotiated to help keep more people in their homes and help stabilize the housing market — which helps all of us. It's true that principal forgiveness at this level is extraordinary. But so is the mortgage crisis, which affects families, our neighborhoods and our economy. Big problems require big solutions.

Q: Will investors in mortgage-backed securities ultimately pay for part of this settlement?

A: Participating banks own the vast majority of the mortgage loans that this settlement is expected to affect. The settlement could affect some investor-owned loans, depending on existing agreements servicers have with those investors.

When banks weigh which mortgage loans to modify as part of this settlement, they will do so based on first analyzing the costs and the benefits of minimizing their losses. If a loan modification, including principal reduction, is projected to cost the creditor or investor less than foreclosure, the creditor will earn more on that loan.

In other words, this settlement will not force investors to incur losses. That's because any loan modification tied to this settlement will result in more of a financial return for an investor than a foreclosure would.

Q: Will taxpayers ultimately pay for this settlement?

A: No, the settlement is not funded by taxpayers.

Q: Why are you releasing the banks from some claims?

A: The release of claims relinquishes particular state and federal claims on issues addressed by the settlement. The release is narrow and is limited to mortgage servicing and origination claims. States that sign on may still pursue other claims against the banks, such as securities and securitization claims. States could also sue financial institutions that are not part of the settlement.

States that opt not to sign the agreement are free to pursue their own legal actions. However, those states would give up all the funds designated specifically for their state and its citizens who were foreclosure victims. Homeowners of those states would also only qualify for a significantly reduced amount of loan modification and other benefits being distributed as part of the settlement's national programs.

The agreement does not affect any individual's rights. A consumer may still bring an individual action, be a part of a class action, or seek further review/relief from the Office of the Comptroller of the Currency (OCC).

Q: Does this immunize banks from prosecution?

A: No. There's no criminal immunity whatsoever. State attorneys general are using their civil law enforcement authority to fight for homeowners. They are not immunizing any individuals or institutions from prosecution. Criminal prosecutions are an entirely separate matter from a civil legal matter. This is a civil, not a criminal, settlement, and this settlement does not prevent state or federal prosecutions.

Q: How will this settlement protect consumers in the future?

A: The banks have agreed to major reforms in how they service mortgage loans. These new servicing standards require lenders and servicers to adhere to a long list of rights for those facing foreclosure. For example, borrowers will have the right to see all of their loan documents to make sure any potential foreclosure is legal; they will be given every opportunity to first modify their loan before facing foreclosure; lenders and servicers will be required to have an appropriate number of well-trained staff members to promptly respond to the needs of distressed borrowers; and finally, borrowers will have the right to deal with a reliable, single point of contact so they have access to a person from whom to obtain information throughout the process. This is very important because, throughout the foreclosure crisis, borrowers have lodged widespread complaints about their frustrations in trying to work with their lenders. They've complained about unresponsive employees, lost documents, and conflicting information.

Q: Why doesn't this settlement deal with the banks' conduct in securitizing loans?

A: This case began with robo-signing and was later expanded to foreclosure conduct and other mortgage servicing abuses. These are major, complex issues in themselves. What the state attorneys general have received in return for releasing claims on these matters is huge – billions in loan modifications and other benefits for borrowers who have been harmed as well as significant new protections for homeowners.

This case has focused on getting relief for homeowners, not for hedge fund investors. Expanding the reach to securities and securitization would have slowed the case considerably and massively increased the complexity of an already complex situation. It would have pitted the interests of homeowners against powerful investment funds, insurance companies and other private investors.

Nothing in this settlement prevents attorneys general or others from investigating, pursuing legal action, or seeking settlements related to securities.

Q: How can we be assured that the banks will comply with the new servicing standards?

A: This settlement is backed by a federal court order. State attorneys general and the U.S. Department of Justice can seek redress if the banks don't follow the settlement terms.

The settlement also includes an independent monitor. The monitor, who will work from a strict set of objective measuring standards, will oversee the carrying out of this agreement and will report to the states and federal agencies on the banks' compliance. There are significant penalties if the banks violate the court judgment. A court ordered settlement is very different from the voluntary, foreclosure prevention efforts that have been tried to date.

Q: How does this settlement affect members of the military?

A: The Servicemembers Civil Relief Act (SCRA) provides protections for active service members, including postponing or suspending certain civil obligations, such as mortgage payments and foreclosure. This settlement provides enhanced safeguards for military personnel that go beyond SCRA protections, including extending the window of protections for qualified service members, and not requiring service members to be delinquent to qualify for a short sale, loan modification, or other loss mitigation relief if the service member suffers financial hardship and is otherwise eligible for such loss mitigation.

Q: How will I know whether this settlement affects my situation?

A: Because of the complexity of the mortgage market and this agreement, which will be performed over a three year period, borrowers will not immediately know if they are eligible for relief. For loan modifications and refinance options, borrowers may be contacted directly by one of the five participating mortgage servicers. For payments to foreclosure victims, a settlement administrator designated by the attorneys general will send claim forms to eligible persons. Even if you are not contacted, if your loan is serviced by one of the five settling banks, you are encouraged to contact your servicer to see if you are eligible. They can be reached at the following numbers:

Bank of America: 877-488-7814
Citi: 866-272-4749
Chase: 866-372-6901
ALLY/GMAC: 800-766-4622
Wells Fargo: 1-800-288-3212

For more information on the proposed agreement:

http://hawaii.gov/ag
www.NationalForeclosureSettlement.com
www.HUD.gov
www.DOJ.gov