

Banks will pay \$8.5 billion for foreclosure abuse

Pact settles federal complaints of wrongful ousting of homeowners; some advocates cite raw deal for consumers.

By Daniel Wagner, Associated Press

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WASHINGTON (AP) — Ten major banks agreed Monday to pay \$8.5 billion to settle federal complaints that they wrongfully foreclosed on homeowners who should have been allowed to stay in their homes.

The banks, which include JPMorgan Chase, Bank of America and Wells Fargo, will pay billions to homeowners to end a review process of foreclosure files that was required under a 2011 enforcement action. The review was ordered because banks mishandled people's paperwork and skipped required steps in the foreclosure process.

The settlement was announced jointly by the Office of the Comptroller of the Currency and the Federal Reserve.

Separately, Bank of America agreed Monday to pay \$11.6 billion to government-backed mortgage financier Fannie Mae to settle claims related to mortgages that soured during the housing crash.

The agreements are the banks' latest step toward eliminating hundreds of billions of dollars in potential liabilities related to the housing crisis that crested in 2008. When they release fourth-quarter earnings later this month, the banks hope to reassure investors that they are making progress toward addressing those so-called legacy claims.

But advocates say the foreclosure deal allows banks to escape responsibility for damages that might have cost them much more. Regulators are settling at too low a price and possibly at the expense of the consumer, they say.

"This was supposed to be about compensating homeowners for the harm they suffered," said Diane Thompson, a lawyer with the National Consumer Law Center. The payout guidelines already allowed wronged homeowners less compensation than the actual damages to them, she said.

Under the settlement, people who were wrongfully foreclosed on could receive from \$1,000 up to \$125,000. Failing to offer someone a loan modification would be considered a lighter offense; unfairly seizing and selling a person's home would entitle that person to the biggest payment, according to guidelines released last summer by the OCC.

The agreement covers up to 3.8 million people who were in foreclosure in 2009 and 2010. All will receive some amount of compensation. That's an average of \$2,237 per homeowner, although the payouts are expected to vary widely.

About \$3.3 billion would be direct payments to borrowers, regulators said. Another \$5.2 billion would pay for other assistance including loan modifications.

The companies involved in the settlement also include: Citigroup, MetLife Bank, PNC Financial Services, Sovereign, SunTrust, U.S. Bank and Aurora. The 2011 action also included GMAC Mortgage, HSBC Finance Corp. and EMC Mortgage Corp.

The deal "represents a significant change in direction" from the original, 2011 agreements, Comptroller of the Currency Thomas Curry said in a statement.

Banks and consumer advocates had complained that the loan-by-loan reviews required under the 2011 order were time consuming and costly without reaching many homeowners. Banks were paying large sums to consultants who were reviewing the files. Some questioned the independence of those consultants, who often ruled against homeowners.

Curry said the new deal meets the original objectives "by ensuring that consumers are the ones who will benefit, and that they will benefit more quickly and in a more direct manner."

"It has become clear that carrying the process through to its conclusion would divert money away from the impacted homeowners and also needlessly delay the dispensation of compensation to affected borrowers," Curry said.

Thompson agreed that the earlier review process was deeply flawed and said the move toward direct payments is a positive development. But she said

the deal will only work if it includes strong oversight and transparency provisions.

"It's another get out of jail free card for the banks," said Thompson. "It caps their liability at a total number that's less than they thought they were going to pay going in."

Citigroup said in a statement that the bank is "pleased to have the matter resolved" and believes the agreement "will provide benefits for homeowners." Citi expects to record a charge of \$305 million in the fourth quarter of 2012 to cover its cash payment under the settlement. The bank expects that existing reserves will cover its \$500 million share of the non-cash foreclosure aid.

Bank of America CEO Brian Moynihan said the agreements were "a significant step" in resolving the bank's remaining legacy mortgage issues while streamlining the company and reducing future expenses.

Leaders of a House oversight panel asked regulators for a briefing on the proposed settlement on Friday. Regulators refused to brief Congress before announcing the deal publicly.

Maryland Congressman Elijah Cummings, the top Democrat on the House Committee on Oversight and Government Reform, said in a statement that he was "deeply disappointed" in the regulators' actions.

"I have serious concerns that this settlement may allow banks to skirt what they owe and sweep past abuses under the rug without determining the full harm borrowers have suffered," Cummings said. He said regulators have failed to answer key questions about how the settlement was reached, who will get the money and what will happen to others who were harmed by these banks but were not included in the settlement.

The settlement is separate from a \$25 billion settlement between 49 state attorneys general, federal regulators and five banks: Ally, formerly known as GMAC; Bank of America; Citigroup; JPMorgan Chase and Wells Fargo.