Summary of National Mortgage Settlement

The national mortgage settlement has the following key components:

- **$5 billion in cash payments to state AGs and the federal government** that will be used for payments to foreclosed borrowers ($1.5 billion), and for other uses to be determined by each state's AG (with the intention but no requiements that those funds be used for foreclosure prevention activities such as housing counseling and legal services);

- **$20 billion in financial relief to borrowers** that are credited by formulas against the costs of activities that servicers provide, including at least $10 billion in credits for principal reduction loan modifications; and

- **Servicing reforms** governing the future activities of the 5 bank participants.

- **Limited Release of Claims:** The settlement releases state AG (and some bank regulator) claims only for servicing practices, robo-signing, foreclosure processing and origination practices. It also releases federal civil claims based on servicing of mortgage loans, originating mortgage loans, and servicing of loans of borrowers in bankruptcy. The settlement does not release criminal claims, securitization claims, other government claims or claims of individual borrowers.

- **Monitoring and Enforcement:** The terms of the settlement will be monitored and enforced by an independent monitor reporting to the AGs – the former North Carolina Commissioner of Banks, Joseph Smith – using a series of pre-determined metrics that will be reviewed quarterly. Failure to meet specified performance targets may result in substantial financial penalties.

I. Servicing Reforms

Implements real reforms in the mortgage servicing industry to end sloppy and fraudulent business practices, and will give more homeowners a chance to restructure or refinance out of unaffordable loans that are underwater. Reforms are based on recently-established GSE servicing standards and are intended to prohibit dual-tracking (pursuing foreclosure and loss mitigation activities simultaneously) and provide new standards for communicating with borrowers and other loss mitigation activities.

Key Provisions (other areas not included):

Ends Robo-signing: Requires accuracy, personal knowledge by signatories, no reliance on inaccurate affidavits, pleadings, notices of default, sale, etc., requires standards for training & supervision of those signing docs, and prohibits volume-based compensation incentives. In non-judicial states, servicer must review competent and reliable evidence to substantiate default and right to foreclose prior to referral to foreclosure.

Require Evidence Of Standing/Right To Foreclose: Servicer shall implement process to ensure that it or the foreclosing entity "has a documented enforceable interest in the promissory note and mortgage (or deed of trust) under applicable state law, or is otherwise a proper party to the foreclosure action." Moving party must set forth facts supporting right to foreclose in a communication to borrower, in pleadings or affidavits in court foreclosure proceedings, and where required in non-judicial proceedings. Before a loan is referred to non-judicial foreclosure, the servicer is required to ensure that it has reviewed competent and reliable evidence to substantiate the borrower's default and the right to foreclose.

Loss Mitigation Outreach: Notify all potentially eligible borrowers of loss mitigation options prior to foreclosure referral (but no obligation to solicit borrowers who are in bankruptcy). Requires use of HAMP (MHA Handbook 3.2) outreach efforts regardless of whether HAMP applies, requiring a minimum of four phone calls and two written notices over at least 30 calendar days. Within 5 business days after referral to foreclosure, servicer must send a "Post Referral to Foreclosure Solicitation Letter" letting borrower know s/he can still be considered for alternatives, etc.

Specific Loss Mitigation Requirements: Notify borrower of all options; dual track restrictions (per below). Includes language **"servicer shall offer a loan modification if it is NPV positive."** which appears to mandate loan modifications, rather than having them be voluntary on the part of the servicer if they meet the NPV test. Other requirements include: prompt conversion from HAMP trial to permanent modification and provide borrower with a loan modification denial with right to rebut. There are additional requirements that apply to proprietary modifications. First lien modifications should be designed to produce "sustainable modifications according to investor guidelines and previous results" and affordable payments. Second lien modifications shall be designed to be affordable. No fees may be charged to the borrower in applyingfor 1st or 2nd loan modifications.

> Independent Evaluation of First Lien Loan Mod Denials: An independent entity or another employee of the servicer (not involved with the particular modification) shall review every denial.
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> Denial Notice: A written notice with reasons for denial shall be sent (following independent review), and shall inform borrower that s/he has 30 days to provide evidence that the denial was erroneous. If denied b/c disallowed by investor, notice should disclose name of investor and summarize the reason. If failure of NPV, notice should include monthly gross income and property value used.

Appeal: 30 days for appeal unless reason for non-approval is (1) ineligible mortgage; (2) ineligible property; (3) not accepted by borrower; or (4) loan was previously modified.

Dual Track Restrictions: Time-limited restrictions on dual track problem, as follows:

Pre-foreclosure referral: If bank/servicer has not already referred a loan to foreclosure and it receives a complete loan modification application by day 120 of delinquency, then it must review and make a determination on a loan modification prior to referring the loan to foreclosure. No hard requirement that servicer not begin foreclosure before the 120 day mark. This provision allows and leaves open the possibility that servicers will move foreclosures after completing outreach requirements, but before receiving a substantially complete application. If borrower submits a substantially complete application by day 120 (missing only hardship documents), same protection for borrower who completes the application after an additional 10 days.

Post Foreclosure Referral: Some restrictions against the process moving towards foreclosure judgment or sale if the borrower submits a complete application after the referral to foreclosure, with various time restrictions depending on when the application is received by the servicer. However, the provisions do not appear to stop the foreclosure clock while a borrower is being considered for a modification after the foreclosure process has begun.

Short Sales: Acknowledge borrower's initial request for short sale w/in 10 days. Respond to specific short sale offer within 30 days.

Single Point of Contact (SPOC): Bank/servicer to establish a SPOC for communicating with the borrower. The SPOC will be expected to explain available options to borrowers, coordinate documents, inform borrower of status, ensure borrower is considered for all options and have access to those with ability to stop foreclosure proceedings).

Restrictions on fees: all default, foreclosure, bankruptcy fees must be bona fide, reasonable and disclosed; attorneys' fees may only be charged for work performed and shall not exceed reasonable and customary fees; no late fee while loan mod being considered, in trial or during short sale consideration; no unnecessary or duplicative fees; limits on other fees.

Force-placed insurance: Somewhat limited. No FPI unless needed; servicer must continue to pay insurance if escrowed but lapse in payment; disclosure requirements; shall not require insurance in excess of the greater of replacement value, last known amount of coverage or outstanding loan balance; servicer shall take reasonable efforts to work w/ borrower to continue or reestablish the existing policy if there is a lapse and payments are escrowed; commercially reasonable price. **Does not include**: any prohibition on use of affiliates except that insurance must be purchased for a "commercially reasonable price." Commercially reasonable pricing not part of monitored metrics.

Miscellaneous Other Issues Addressed:

- Requirements re accuracy and verification of borrower's account information
- Bankruptcy-related issues and requirements

- Third-Party Provider Oversight (by Servicers)
- Military Personnel Protections
- Blight
- Tenants' Rights

II. Monetary Relief

Under the terms of the agreement, the servicers are required to collectively dedicate $20 billion toward various forms of financial relief to borrowers. At least $10 billion will go toward reducing the principal on loans for borrowers who, as of the date of the settlement, are either delinquent or at imminent risk of default and owe more on their mortgages than their homes are worth.

At least $3 billion will go toward refinancing loans for borrowers who are current on their mortgages but who owe more on their mortgage than their homes are worth. Borrowers who meet basic criteria will be eligible for the refinancing, which will reduce interest rates for borrowers who are currently paying much higher rates or whose adjustable rate mortgages are due to soon rise to much higher rates.

Up to $7 billion will go towards other forms of relief, including forbearance of principal for unemployed borrowers, anti-blight programs, short sales and transitional assistance, benefits for service members who are forced to sell their home at a loss as a result of a Permanent Change in Station order, and other programs. Because, for certain types of relief, servicers will receive only partial credit for every dollar spent on some of the required activities, the settlement will provide direct benefits to borrowers in excess of $20 billion.

A. Relief for Robo-Signing: Borrowers Who Have Lost Their Homes to Foreclosure from 2008 through 2011 Will Be Eligible to Receive $1,800-$2,000

The Settlement establishes a $1.5 billion Borrower Payment Fund to provide cash payments to borrowers whose homes were lost to foreclosure between January 1, 2008 and December 31, 2011. Borrowers will receive up to $1,800-$2,000 per foreclosure. This is one of weakest parts of deal, since it will provide fixed penalty payments to borrowers, regardless of the extent of their financial harm.

These funds will be administered by a single Administrator working for the AGs. The Administrator will send eligible borrowers application forms. Although the precise details are not entirely clear yet, it appears that borrowers will have to meet and certify to certain criteria in order to qualify for this payment, indicating that their foreclosure proceeded without discussion of alternatives or with problems with their paperwork.

A separate process conduced by federal bank regulators, the OCC/Federal Reserve Independent Foreclosure Review, could provide more individualized review of financial harm associated with servicer errors leading to delays, wrongful denial of loan modifications and wrongful foreclosures. However, the breadth and quality of these reviews is questionable, given the early evidence from OCC to date.

B. Financial Relief for Current Homeowners

$20 billion will be dedicated to various forms of relief to borrowers. The $20 billion will be calculated by the banks getting varying credit percentages depending on the type and other quality of homeowner relief. Because servicers will in some cases receive only partial credit for each dollar of benefit provided (in areas other than refinancing), the actual dollar amount of relief provided to homeowners will be greater than $20 billion. By some estimates, the total dollar value of this financial relief to borrower could be as high as $35 billion.

i. Principal Reduction

The settlement calls for ramping up foreclosure prevention through large-scale use of loan modifications that lower loan balances for struggling homeowners. At least $10 billion of the $20 billion must come from principal reduction for borrowers with underwater mortgages. This focus on principal reduction could become a model for the rest of the market, especially Fannie Mae and Freddie Mac, which account for more than half of all mortgages.

First Lien Mortgage Modifications Standards:

- Modification payments should target a DTI of 31%
    - DTI requirements may be waived if loan is 180 days or more delinquent as long as payment are reduced by at least 20% and LTV no higher than 120%
- Modified LTV of not more than 120%
- Payments of interest & principal must be reduced by at least 10%

Certain Second Lien Modifications are Required: (1) When a successful first-lien proprietary, non-HAMP modification is completed by a participating servicer where there's a minimum 10% reduction in payment; income has been verified; unpaid principal balance (UPB) at or below applicable limits and post-modification DTI (1st lien only) of between 25% and 31%; or (2) If a participating servicer has completed a successful proprietary 1st lien mod and the 2nd lien loan amount is greater than $5,000 UPB w/ current monthly payment greater than $100, then servicer must follow specific requirements for modifying the second.

Crediting Formulas: Formulas have been established to provide different measures of credit per $1 of homeowner principal reduced, depending on the following factors:

(1) **Portfolio vs. non-portfolio loans**; loans serviced for others earn lower credits than those in a bank's portfolio.
(2) **LTV**: Reductions of principal greater than from greater to 175% to 175% LTV are substantially discounted
(3) **Converting existing forbearance:** Forgiveness of principal reductions for forbearance on an existing modification is discounted;
(4) **Earned forgiveness**: earned forgiveness for payments over a period of 3 years or less qualify, but are discounted;

(5) **1st vs. 2nd liens**: 2nd liens are discounted, with amount of discount tied to performance/delinquency status

Credit ranges from $1 credit for $1 payment (e.g., write-down of first lien portfolio loans having LTV of ≤ 175%) to $.10 credit for $1 payment (e.g., write-down of 2nd liens that are 180+ days delinquent).

1st and 2nd lien modifications are to account for a minimum of 60% of the overall fund (with some reductions acceptable if replaced by refinancing program credits)

Bank of America Principal Forgiveness Program: Bank of America has agreed to implement a special principal forgiveness program that will provide a broader range of delinquent borrowers with offers of deeper principal reduction than is required under the main principal reduction program. If fully implemented, this will offset $850 million in cash payments for Bank of America.

Bank of America will solicit all underwater owner-occupant borrowers meeting the following criteria: (1) first-lien mortgages 60 days or more delinquent as of January 31, 2012; (2) mortgage is serviced by BoA and is either part of a Countrywide securitization or is a BoA (or affiliate) portfolio loan; (4) borrower has DTI of 25% or greater; (5) mortgage is not guaranteed by FHA, VA, HUD or one of the GSEs; (6) the borrower has not previously defaulted on a modification with terms better than or equal to HAMP. Subject to a positive NPV test, BoA will offer loan modifications that include the capitalization of all delinquent interest and late fees and principal forgiveness necessary to reach 25% DTI (except that the LTV will not be reduced to less than 100%). If DTI remains above 31% after principal reduction, the interest rate will be reduced to a minimum of 2% for 5 years, and then (in accordance with HAMP), will increase 1% per year until the market rate (Freddie Mac's weekly Primary Mortgage Market Survey, or PMMS) in effect at the time the modification is reached, at which point the interest rate will be fixed. If the DTI remains above 31% even with the interest rate reduction, BoA will forbear principal in an amount necessary to achieve a DTI of 31%, but the combined impact of forgiveness and forbearance will not go lower than 70% LTV.

ii. Other Homeowner Assistance

Up to $7 billion is allocated for other forms of homeowner assistance, again with credited amounts varying depending on the specific activities. These options include:

- facilitation of short sales
- unemployed payment forbearance or forgiveness
- relocation assistance for homeowners facing foreclosure
- waiving of deficiency balances
- funding for remediation of blighted properties
- Servicemember short sale program

To ensure utilization of the more significant forms of relief (short sales, forbearance), the other categories are limited in terms of the maximum percentage of credit towards the fund that can be used for those purposes.

Enhanced borrower transitional funds (5% max): For payment over $1,500, $1 credit if paid by servicer; $.45 credit if paid by non-GSE investor

Short sales: different credit based on whether servicer makes payment to 2nd lienholder ($1 credit), servicer forgiveness of deficiency & lien release on 1st liens ($.45 credit), investor forgiveness of deficiency on 1st liens ($.20 credit), forgiveness & lien release on 2nd liens (varies by delinquency status)

Deficiency waivers (10% max): $.10 credit on 1st and 2nd liens

Forbearance for unemployed homeowners: $1 credit for forgiveness of arrearages; $.05 credit for facilitating a forbearance program

Anti-Blight (12% max): $.50 to $1 credit, depending on action taken.

iii. Refinancing Underwater Loans

$3 billion for refinancing of underwater loans. To be eligible, a borrower must be current on mortgage payments (no late payment w/in last 12 months; not in foreclosure last 24 months), have a loan to value ratio in excess of 100%, have a fixed rate loan (or an ARM or interest-only loan with an initial period of 5 years or more), no loan modification or bankruptcy in the past 24 months, and must have a current interest rate of at least 5.25% or PMMS + 100 basis points, whichever is greater. It is worth noting that the floor on interest rates under this program is well above today's market rate of around 4%. The refinanced rate must reduce interest by at least ¼ of a percentage point or reduce monthly payments by at least $100. FHA insured loans are not eligible for this refinancing incentive program.

New loan has to be fully amortizing; new rate can be for 5 years and then step up each year after that. Fees are limited to those under current HARP guidelines.

iv. Incentives and Penalties regarding Timing

Incentives for Timely Actions: Servicer will get an additional 25% credit for actions taken after announcement of settlement and within 12 months of settlement execution date. 75% of benefits must be distributed within the first 2 years of the effective date, with penalties (additional payments) for missing 2-year and 3-year deadlines for benefits.

Penalties for Untimely Actions: Servicer is required to complete 75% of its commitment within two years. If Servicer fails to meet commitments within three years of the start date, servicer shall pay 125% of the unmet commitment amount, but if it fails to meet the two-year and the three-year commitments, then the penalty will be 140%. 50% will be allocated to the United States and 50% to the States, in accordance with prior allocation.

III. Payments to State and Federal Government

$2.75 billion in payment to states and $750 million to federal government to repay lost public funds. State funds are intended but not specifically required to fund housing counseling, legal aid and similar purposes to be decided by each state's attorney general. The settlement provides some indication of how state AG's plan to use these funds. We are already seeing some states announcing that they will be diverting this money to purposes other than foreclosure relief, such as to fill budget gaps (WI, MO), or for general education.

The funds to the federal government will primarily be allocated to the FHA Capital Reserve Account, with some going to the Veterans Housing Benefit Program Fund and some to the Rural Housing Service.

IV. Scope of Release

Settlement releases civil claims by AGs & banking regulators related to:

- residential mortgage loan servicing;
- residential foreclosure practices;
- residential mortgage loan origination practices

Settlement releases federal claims based on conduct of the servicers in:

- servicing of mortgage loans;
- originating mortgage loans;
- servicing of loans of borrowers in bankruptcy

Settlement with state AGs and banking regulators does not release the following claims:

- Criminal liability
- Claims and defenses asserted by third parties, including individual mortgage loan borrowers on an individual or class action basis
- Claims related to the securitization of mortgage-backed securities (including claims that address loan servicing, foreclosure practices and/or loan origination practices, but only to the extent such claims are based on the offer, sale, or purchase of securities, or other conduct in connection with investors or purchasers in or of securities).
- Claims seeking injunctive or declaratory relief to clear a clouded title (even where it involves covered conduct)
- Claims against a trustee, custodian or an agent thereof relating to its own conduct in the pooling of residential mortgage loans in trusts, mortgage backed securities, collateralized debt obligations, collateralized loan obligations, or structured investment vehicles.
- Claims against Mortgage Electronic Registration Systems (MERS) or MERSCORP.
- Liability based on obligations arising out of the settlement.
- Claims by Oklahoma (which chose not to sign the settlement)
- Fair lending claims

- Origination claims by the federal government alleging harm caused when a bank failed to satisfy underwriting standards on a government-insured or government-guaranteed loan, with the exception of certain faulty origination practices by Bank of America on FHA-insured loans
- Claims of state, county and local pension or other governmental funds as investors
- Tax claims, including, but not limited to, claims relating to real estate transfer taxes.
- Claims of county recorders for fees relating to the recordation or registration process
- Disciplinary proceedings brought by state regulators against individual employees for violations of state law.
- Claims in specific pending state AG actions (as set forth in the release).
- Very particular claims for reimbursement to mortgage borrowers for certain unauthorized fees discovered as part of a compliance examination in Iowa, Nevada, New Hampshire, Ohio or Rhode Island for conduct 1/1/2011-1/1/2012.

Settlement does not release the following federal claims:

- Liability arising under Title 26 (tax code)
- Individuals for criminal liability
- Criminal liability for servicers
- Any federal liability for conduct other than the released conduct
- Any and all securities, securitization or investor-related claims (but claims against servicer in its capacity as servicer are released).
- RESPA § 2607 claims.
- Gramm-Leach-Bliley Act claims.
- Fair Housing Act claims.
- Proceedings brought by HUD to exclude individuals from any HUD program
- Federal environmental law claims
- Any liability or claims brought by FHFA, GSE's, FDIC, GNMA, CFPB (unless expressly released), NCUA, SEC, Maiden Lane LLC, Maiden Lane II LLC, Maiden Lane III LLC,FRB (and member institutions), OCC, USDA, VA, CFTC and Inspectors General.
- Certain claims against Countrywide, BoA, Landsafe Appraisal Services & LaSalle Bank, relating to certain claims raised in particular cases.[1]
- Any action by the appropriate Federal Banking Agency pursuant to 12 U.S.C. § 1818
- Liability based on obligations arising out of the settlement.
- Liability for under FIRREA for certain conduct, statements or omissions.

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[1] Includes certain claims raised in United States ex rel. [Under Seal] v. [Under Seal], No. 11 Civ. 4207 (S.D.N.Y.); United States ex rel. [Under Seal] v. [Under Seal], No. 12 Civ. 1422 (S.D.N.Y.), United States ex rel. [Under Seal] v. [Under Seal], Civ. No. 2:11-cv-00535-RLHRJJ (D. Nev.); United States ex rel. Szymoniak v. [Under Seal], Civ No. 0:10-cv-01465 (D.S.C.) or in United States ex rel. Szymoniak v. [Under Seal], Civ No. 3:10-cv-575 (W.D.N.C.); United States of America ex rel. Bibby et al. v. Wells Fargo Bank National Association, Inc. et al., C.A. No. 1:06-CV-0547-AT (N.D. Ga.).

- Claims by any private individual or entity for harm (except for any claim under 31 U.S.C. § 3730(b) [False Claims Act] that is subject to the release).

V. Enforcement

Monitoring Committee. Representatives from the state Attorneys General, the U.S. Department of Justice, and the U.S. Department of Housing and Urban Development shall monitor Servicer's compliance with this Consent Judgment (the "Monitoring Committee").

Monitoring and Enforcement: Compliance with the settlement will be overseen by Joseph A. Smith, who will serve as Monitor in enforcing the consent judgment. As North Carolina's banking commissioner since 2002, Smith oversaw implementation of a leading foreclosure-prevention program; he has also served as Chairman of the Conference of State Banks Supervisors and was President Obama's nominee to serve as Director of the Federal Housing Finance Agency. The Monitor will oversee implementation of the extensive servicing standards required by the settlement; impose penalties of up to $1 million per uncured violation (or up to $5 million for certain repeat violations); and publish regular public reports that identify any quarter in which the Servicer fell short of the standards imposed in the settlement. The settlement will be filed as a Consent Judgment in the United States District Court for the District of Columbia and remain in effect for three-and-a-half years.

The monitor will be assisted by both a professional accounting firm or firms and one or more attorneys or other professionals, and will have the responsibility to determine whether Servicer is in compliance with the Servicing Standards and Consumer Relief Requirements of the settlement. The Monitor shall establish annual budgets to be paid by the servicers.

Internal Quality Control. Servicers will designate an internal quality control group to perform compliance reviews each calendar quarter.

Metrics. Servicer's compliance with the Servicing Standards and total amounts of loan modification and other borrower relief activities shall be assessed via specific metrics.

Servicer Quarterly Reports. Following the end of each Quarter, Servicer will report the results of its Compliance Reviews for that Quarter to the Monitor. Servicers will also transmit a State Report to each state.

Monitor Reports. The Monitor shall report on Servicer's compliance with this Consent Judgment in periodic reports (first 3 reports will cover 2 quarters, and if no issues, every 4 quarters after that). Requirements that monitor confer with servicer and get feedback before issuing reports.

Potential Violations and Rights to Cure. Servicers will have an opportunity to cure a Potential Violation identified by the monitor, including by remediating any material harm to particular borrowers.

Consent Judgment. This Consent Judgment shall be filed in the U.S. District Court for the District of Columbia (the "Court") and shall be enforceable therein.

Enforcement. An enforcement action may be brought by any Party to this Consent Judgment or the Monitoring Committee. In the event of an action to enforce the obligations of Servicer and to seek remedies for an uncured Potential Violation (A "Potential Violation" occurs if a Quarterly Report indicates that Servicer has exceeded the Threshold Error Rate set for a Metric) for which Servicer's time to cure has expired, the sole relief available in such an action will be:

1. Equitable Relief. An order directing non-monetary equitable relief, including injunctive relief, directing specific performance under the terms of this Consent Judgment, or other non-monetary corrective action.
2. Civil Penalties. The Court may award as civil penalties an amount not more than $1 million per uncured Potential Violation; or, in the event of a second uncured Potential Violation of certain Metrics, where the final uncured Potential Violation involves widespread noncompliance with that Metric, the Court may award as civil penalties an amount not more than $5 million for the second uncured Potential Violation. (As noted above, there are separate penalties for missing the dollar targets/time frames for borrower relief).

Sunset. Lasts for three and one-half years from the date it is entered. Servicer's obligation to submit Quarterly Reports and the Monitor's review of the same shall continue for the six months following the Term, after which time Servicer shall have no further obligations under this Consent Judgment.

VI. Break-Down of Bank Obligations

Institution	Federal & State Payments (Incl. Foreclosure Restitution Fund)	Relief to Existing Borrowers
Ally	$110 million	$200 million
BoA	$3.24 billion	$8.58 billion
Citi	$415 million	$1.79 billion
Chase	$1.08 billion	$4.21 billion
Wells	$1.01 billion	$4.34 billion