

Summary of National Mortgage Settlement  
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On February 9, 2012, the Federal Government and Attorneys General from 49 States (all except Oklahoma) reached an agreement with the five largest mortgage servicers for \$25 billion in payments to resolve violations of state and federal law and to implement comprehensive new mortgage loan servicing standards. The five servicers are Ally Financial, Inc. (formerly GMAC), Bank of America, Citigroup, JP Morgan Chase, and Wells Fargo.

The Agreement does not preclude federal and state pursuit of criminal enforcement actions to this or other conduct by servicers, individual actions by borrowers, or claims against the MERS mortgage registration system. Based on the information available at this time, here is a brief summary of the Agreement, its impact on Massachusetts, and some outstanding questions.

**Summary of National Mortgage Settlement:**

The Agreement consists of two primary components: payment of \$25 billion by the servicers and agreement by the servicers to implement new mortgage servicing standards.

Servicer Payments:

1. The five servicers agreed to make a total of \$25 billion in payments, broken down as follows:
  - a. At least \$10 billion toward reducing loan principal for borrowers who, as of the date of the settlement, are delinquent or are at imminent risk of default, and owe more on their mortgages than their homes are worth;
  - b. Up to \$7 billion toward other forms of relief, including forbearance of principal for unemployed borrowers, anti-blight programs, short sales and transitional assistance, benefits for some service members, and other programs.
  - c. At least \$3 billion for refinancing loans for borrowers who are current but owe more on their mortgages than their homes are worth.
  - d. \$5 billion in payments to federal and state governments (\$750 million of this to the federal government and the balance to the states).
    - a. \$1.5 billion will be used to establish a Borrower Payment Fund to provide cash payments to borrowers whose homes were sold or taken in foreclosure between January 1, 2008 and December 31, 2011, and who meet other criteria.
    - b. \$3.5 billion will go to state and federal governments to be used to fund housing counselors, legal aid and other similar public programs determined by the state attorneys general.

2. Mortgage servicers are required to fulfill these obligations within three years: incentives are provided for relief provided within 12 months, and servicers must reach 75% of their targets within the first two years. Substantial cash penalties will be required for servicers that miss settlement targets and deadlines.

**New Mortgage Servicing Standards:**

1. The Agreement requires mortgage servicers to implement unprecedented changes in how they service mortgage loans, handle foreclosures, and ensure the accuracy of information provided in federal bankruptcy court:
  - a. Servicers are required to evaluate homeowners for other loss mitigation options first before foreclosure;
  - b. Banks are restricted from foreclosing while the homeowner is being considered for a loan modification;
  - c. The Agreement includes procedures and timelines for reviewing loan modification applications and gives homeowners the right to appeal denials.
  - d. Servicers will be required to create a single point of contact for borrowers seeking information about their loans and maintain adequate staff to handle calls.
  - e. The Agreement provides additional protection for service members, and in some cases calls for payment to service members (outside of the \$25 billion settlement fund).
2. Detailed Servicing Standard Highlights have been published:  
[http://www.atg.wa.gov/uploadedFiles/Home/About\\_the\\_Office/Cases/National Mortgage Settlement/Servicing%20Standards%20Highlights.pdf](http://www.atg.wa.gov/uploadedFiles/Home/About_the_Office/Cases/National_Mortgage_Settlement/Servicing%20Standards%20Highlights.pdf)
3. Compliance will be overseen by an independent monitor, who will oversee implementation of servicing standards, impose penalties, and publish regular reports that identify any quarter in which a servicer fell short of the standards imposed in the settlement.

**Impact on Massachusetts:**

According to the Massachusetts Attorney General's website, the National Mortgage Settlement will bring an estimated \$318 million in assistance to Massachusetts borrowers, broken down as follows:

- a. \$224 million to Massachusetts borrowers in benefits from loan modifications and other direct relief.
- b. \$32.7 million in refinanced loans to Massachusetts underwater borrowers.
- c. \$14.7 million to Massachusetts borrowers who lost their home to foreclosure during the specified period and suffered servicing abuse.

- d. \$46.5 million to the Commonwealth that will be used to assist homeowners.

**Outstanding Questions:**

Many questions remain, some of which will be answered as more information becomes available. Resolution of some of the questions may be subject to the Attorney General's interpretation, judgment, and priorities, particularly in utilizing the \$46.5 million coming directly to the Commonwealth from the five servicers. As such, various parties should have an opportunity to communicate their own interpretations and priorities to the Attorney General's office.

Here are a few of the questions that need resolution. There are many more.

1. The press release by the U.S. Justice Department stated that up to \$7 billion shall be made to other forms of relief, including forbearance of principal for unemployed borrowers, anti-blight programs, short sales and transitional assistance, benefits for some service members, and other programs. More definition is needed for these terms, especially "anti-blight programs" and "transitional assistance."
2. Much more detailed review is needed for the revised Servicing Standards, and how they will be implemented and enforced in Massachusetts.
3. Of the \$3.5 billion in direct payments to governments (of which MA will receive about \$46.5 million), the federal government will receive \$750 million. We need to identify what this money can be used for, and how it can benefit Massachusetts.
4. Over what time period will Massachusetts receive its direct payment of \$46.5 million?
5. The Justice Department's press release stated that \$3.5 billion will be provided to state and federal governments to fund housing counselors, legal aid and other public programs to be determined by the states' attorneys general. This will be the focus of much of the discussions between the MA Attorney General and other interested parties. Beyond discussing what assistance will be provided to prevent foreclosure, we need to determine whether a portion of these funds can be used for foreclosed property redevelopment; and if so, how much and in what ways.
6. What process with the AG use to allocate the funds? For foreclosure prevention, will the AG utilize the existing network of experienced nonprofit organizations that have been funded by the MA Division of Banks and other public sources?