



Short Sale Update

Continuing Education Course

Autograph Your Work With Excellence!"

The Next Chapter for Short Sales

Short Sales - A loss mitigation technique barely on the radar screen five years ago now is holding out hope that servicers can start moving their logjams of delinquent mortgages down the river and start resuming more normal operations.

Servicers have a long list of concerns on their minds these days: upholding portfolio quality, reducing operating costs, gaining efficiencies, mitigating fraud, remaining compliant, avoiding negative media exposure. And that just gets you through lunch time.

As an added challenge, servicers face new and demanding issues every day that have the ability to prevent them from simply doing their job. New rules, laws and regulations are being implemented monthly.

Titanium HRCs can assist by understanding the ins and outs of the short sale process, your individual client's procedures and policies in the processing one and being prepared to working with selling agents and their buyers.

Will Short Sales Dominate 2012?

Lenders are approving more aggressively priced short sales, which in turn is resulting in more successful short sale transactions."

Short sales are going to be an industry concern for the next decade. Since we know the problem is not going away soon, what can the industry do to improve the success rate of short sale transactions while compressing the time required completing the transactions?

During this session real estate professionals will identify why short sales are taking longer to complete and how the industry can adapt to improve the success rates and time required to close a short sale.

Protecting Your Business

Laws

Federal laws are those laws that are passed by the federal government and enforced by the US Government Agencies. State laws are those that are passed and enforced by the state. They cannot contradict the Federal laws and apply only to the specific state. The state enforcement agencies also have a duty to insure that Federal laws are not being broken as well. States can only add to and complement Federal laws -- they cannot pass amendments that restrict or change a federal law. Federal law has no control over state affairs.

Definitions and Terms

Short Sale - In marketing a short sale, you are advertising the discount of an existing mortgage due to a hardship.



Deception is explained in the FTC's Deception Policy Statement of 1984. It provides that "...an act is deceptive if:

- There is a representation, omission of information or practice that is likely to mislead consumers acting reasonably under the circumstances
- That representation, omission, or practice in material facts to consumers

A "**Mortgage Credit Product**" is defined as "...any form of credit that is secured by real property or a dwelling and that is offered or extended to a consumer primarily for personal, family or household purposes."

"**Dwelling**" is means "a residential structure that contains one to four units, whether or not the structure is attached to real property." This also includes a condominium, cooperative unit, mobile home, manufactured home, or trailer.

S.A.F.E. ACT **The Secure and Fair Enforcement for Mortgage Licensing Act Of 2008**

<http://mortgage.nationwidelicencingsystem.org>

Effective January 1, 2010, The SAFE Act mandates increased federal regulation of the mortgage lending industry, enhanced licensing requirements, and professional liability for mortgage loan originators (MLOs) who fail to comply. The definition of "acting as a mortgage broker" will include negotiating the terms or conditions of an existing mortgage loan on behalf of a borrower.

In response to the foreclosure epidemic and the global economic crisis that erupted in 2008, devastating the real estate markets and forcing banking institutions to cut lending or even close their doors, Congress passed legislation to establish more government oversight of individual mortgage loan originators, with the outcome of increased consumer protection. Primarily, the law set forth objectives for a Nationwide Mortgage Licensing System (NMLS) for the residential mortgage industry. The SAFE Act requires that all residential mortgage loan originators must be either federally registered or state-licensed.

A mortgage loan originator employed by a federally insured depository institution or any credit union or an owned and controlled subsidiary that is federally supervised must be federally registered. All other mortgage loan originators, without exception, must be state licensed.

All state licensed and federally registered mortgage loan originators must be registered with the NMLS, which is maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

Locate Your State Finance Regulator

50 State Contact List

- www.fincen.gov/financial_institutions/.../msbstatecontactsfinal.pdf



Federal Trade Commission Mortgage Assistance Relief Services (MARS) Rule

This MAP Rule does not apply to commercial mortgages or commercial real property.

Effective January 31, 2011

At a time when many Americans are struggling to pay their mortgages, peddlers of so-call mortgage relief services have taken hundreds of millions of dollars from hundreds of thousands of homeowners without ever delivering promised results. Homeowners will be protected today.

Is Your Business Covered By The MARS Rule?

The MARS Rule defines "mortgage assistance relief service" as a service, plan, or program that is represented, expressly or by implication, to help homeowners prevent or postpone foreclosure or help them get other kinds of relief, like loan modifications, forbearance agreements, **short sales**, deeds-in-lieu of foreclosure, or extensions of time to cure defaults or reinstate loans.

The Rule applies whether you work directly with consumers' lenders or servicers to get mortgage relief or you offer services to help consumers do it on their own (for example, by conducting a "forensic audit", gather information for the mortgage service or other review of consumers' loan documents).

The MARS Rule applies to mortgage brokers, **real estate agents**, lenders, servicers, accountants, financial planners, and attorneys. Even if you don't provide mortgage assistance relief services, you still may have obligations under the Rule.

It's illegal to provide "substantial assistance" to someone if you know – or consciously avoid knowing – that they're violating the Rule. What amounts to substantial assistance depends on the facts. Activities like procuring leads (the contact information of potential customers) for MARS providers, helping a MARS provider with its back-room operations, reviewing customer files, processing customers' payments, or contacting customers' servicers are just a few examples.

If you work with MARS providers, review their policies, procedures, and operations to make sure they're complying with the Rule because willful ignorance on your part simply isn't a defense.

The **Federal Trade Commission** will now prohibit third-party companies from charging upfront fees for foreclosure rescue, i.e. **short sales** and modification services until homeowners have a written offer from their lender or servicer that their request for a workout plan has been acceptable.

This Rule also requires disclose of key information to consumers to protect them from being misled and to help them make better informed financial decisions.

Two Required Disclosures

- Ads meant for a general audience
- Communications with prospective customers, i.e. sellers, buyers



Disclosures for Ads Meant For a General Audience

The Rule requires certain disclosures in what it calls "general commercial communications" – that is, advertising meant for a general audience, like ads on TV, radio, or the Internet. In those ads, you must clearly and prominently disclose two key disclosures and must be presented together in these words:

1. "(Name of your company) is not associated with the government, and our service is not approved by the government or your lender;" and
2. "Even if you accept this offer and use our service, your lender may not agree to change your loan."

Disclosures for Communications with Prospective Customers

Additional disclosures in any "consumer-specific commercial communication" – that is, a letter, phone call, email, text, or the like, directed at a specific person you're soliciting for your service. In every communication you have with prospective customers, the Rule requires that you clearly and prominently disclose three key facts, in these words:

1. "You may stop doing business with us at any time. You may accept or reject the offer of mortgage assistance we obtain from your lender (or servicer). If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us (insert amount or method for calculating the amount) for our services."
2. "(Name of your company) is not associated with the government, and our service is not approved by the government or your lender;" and
3. "Even if you accept this offer and use our service, your lender may not agree to change your loan."

The two disclosures must be presented together. The Rule has specific requirements for presenting these disclosures to prospective customers.

Under the Rule, it's illegal to misrepresent, either expressly or by implication, any "material aspect" of your services. That includes any information that's likely to affect a consumer's decision to use your service or choose one service over another.

In addition, if you make claims about the benefits, performance, or effectiveness of your services, your statements must be truthful and you must have competent and reliable evidence to back them up.

So, for example, if you make claims about how many of your customers you have helped save their home foreclosure, your claims must accurately reflect the results you've achieved for previous customers. If you don't have solid proof to back up that claim, your claim is considered deceptive.

In addition, the Rule bars companies from telling consumers to stop communicating with their lenders or servicers and requires you to keep certain records, i.e. advertising, promotional material, sales records, communications with the customer, sales records and agreements for at least two years from the date the document is created, generated, or received.



MARS Real Estate Policy

On July 15, 2011, the Federal Trade Commission (“FTC”) announced it has decided not to enforce most provisions of its Mortgage Assistance Relief Services (“MARS”) Rule against real estate professionals who are acting in their licensed capacity while assisting sellers to obtain a short sale for their residence. The FTC will still enforce the Rule against real estate professionals who make misrepresentations during the course of obtaining a short sale for their clients.

Until further notice, the Commission will forbear from taking any enforcement action for violation of the MARS Rule against a real estate professional who provides “any service, plan, or program”, offered or provided to the consumer in exchange for consideration, that is represented, expressly or by implication, to assist or attempt to assist the consumer in:

- Negotiating
- Obtaining
- Arranging ... a short sale of a dwelling.

Any contact between a real estate licensee and a lender about a short sale will likely constitute a "negotiation" within the meaning of the MARS rule and will mean that the real estate professional will need to make the disclosures required by the Rule.

Since the MARS Rule itself remains in place, and obligations and responsibilities remain, it is wise to discuss the application of the MARS rule to your own business practices with your own legal counsel.

To file a complaint in English or Spanish, visit the FTC’s online www.ftc.gov or call 1-877-FTC-HELP (1-877-382-4357).

Resources

- <http://business.ftc.gov/documents/bus76-mortgage-assistance-relief-services-rule>
- ftc.gov/MoneyMatters

Federal Trade Commission Mortgage Acts and Practices Advertising Rule - MAP Final Rule

Truth-in-Advertising

The FTC's mission is to protect consumers from fraudulent or deceptive claims that mislead consumers, and from harmful business practices that undermine the competitive process.

The Consumer Financial Protection Bureau, the FTC and the individual States’ attorneys general are all responsible for the enforcement of the MAP Rule.

Whether a business is an established global brand or a start-up, effective advertising and marketing can be the key to its success.



All businesses have a legal responsibility to ensure that their advertising is truthful and not deceptive. And no matter where an ad appears – on the Internet, on the radio or television, in newspapers and magazines, in the mail, or on billboards or buses – the same truth-in-advertising standard applies.

What truth-in-advertising rules apply to advertisers? Under the Federal Trade Commission Act

- Advertising must be truthful and non-deceptive
- Advertisers must have evidence to back up their claims
- Advertisements cannot be unfair

FTC MAP Rule

Effective August 19, 2011 the Federal Trade Commission (“FTC”) issued the Mortgage Acts and Practices (“MAP”) Rule which bans deceptive claims and practices that may occur with regard to mortgage (Short Sale) advertising or other types of commercial communications.

What Are Commercial Communications?

Any written or oral statement, illustration, or depiction, whether in English or any other language, that is designed to effect a sale or create interest in purchasing goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, on hold script, upsell script, and training materials provided to telemarketing firms, program-length commercial (‘infomercial’), the Internet, cellular network, or any other medium. Promotional materials and items and Web pages are included in the term ‘commercial communication.’”

Communication is not ‘commercial’ unless it ‘is designed to effect or create interest in purchasing goods or services. Therefore a statement that is purely informational and is not designed to effect or create interest in purchasing goods or services would not be covered by the Rule.

While the FTC’s rationale seems straightforward, usually any type of information provided to a consumer by an agent or broker could cause that consumer to purchase goods and services, i.e., purchase a specific mortgage credit product through a lender or mortgage broker recommended or introduced to the consumer by the broker or agent. The more the broker or agent become involved in assisting a consumer with a residential mortgage product, (Short Sale) the more he or she runs the risk of being in violation of the MAP Rule.

It is imperative that a broker or agent carefully review any commercial communication, i.e. marketing material before it is made, or have their attorney review same, and should also consider using a proper disclaimer as recommended by the FTC in its Rule.

In addition, if you or your offices maintain a mortgage calculator on your website or handout the latest rates publically posted by your three favorite lenders or consistently recommended mortgage broker, and provide to consumers lists of the mortgage products and the current rates last offered by such lenders, you will fall under the new MAP Rule. Failure to comply has severe consequences.



The **Rule** imposes requirements on those that provide information about mortgage credit products to consumers by prohibiting misrepresentations during these communications and also imposing recordkeeping requirements. The Rule is to protect the consumer from misinformation about loans and loan costs and the Rule will apply when a real estate professional provides information about a specific mortgage product (Short Sale) to a consumer. It covers both oral and written communications which must be saved by the salesperson/broker for 2 years and should contain disclosures.

Without exception, all entities within the FTC's jurisdiction that advertise mortgages, including mortgage lenders, brokers, and servicers; real estate agents and brokers; advertising agencies; home builders; lead generators; rate aggregators; and others fall under the auspices of the Final Rule.

While the FTC and other state and federal agencies have promulgated separate rules that prohibit false or misleading advertising, none of the other statutes or regulations duplicates "the specificity and breadth of practices and diversity of entities covered in the Final Rule."

NAR Model Disclaimer Language for MAP Advertising

Although the rule does not specifically impose an affirmative disclosure requirement, based on FTC commentary accompanying the rule in the Federal Register, the National Association of REALTORS® ("NAR") recommends that "real estate professionals should always include a disclaimer when providing information to consumers about the terms of a mortgage credit product, as a properly crafted disclaimer can protect against later misrepresentation claims." NAR has provided the following model MAP disclaimer:

Disclaimer 1 - NAR - Only members of NAR may use the disclaimer referenced below.

This communication is provided to you for informational purposes only and should not be relied upon by you. (*Name of brokerage*) is not a mortgage lender and so you should contact (*Entity providing mortgage product(s) identifier*) directly to learn more about its mortgage products and your eligibility for such products.

NAR advises that the disclaimer be provided in text at least as large as the body text and be placed in a location so that the disclaimer is readily apparent to the consumer receiving the mortgage information. See: www.realtor.org/letterlw.nsf/pages/0811maprule?OpenDocument&Login

If a real estate agent or broker is making a communication or is providing other services beyond transmitting very general mortgage information, you will need to tailor your disclaimer to specifically cover those particular services.

The MAP rule provides that it is a violation for "any person to obtain, or attempt to obtain, a waiver from any consumer of any protection provided by or any right of the consumer under this part."



Disclaimer Option 2

(Insert name of brokerage firm, broker or agent as applicable) is not a mortgage lender or mortgage broker and therefore, you should contact *(Insert name of the entity providing the mortgage products(s) identifier)* directly to learn more about its mortgage products and your eligibility for such products or you should contact any other lender or mortgage broker directly for any such information.

What Are the Recordkeeping Requirements? The rule requires that the following documents be kept:

“For a period of twenty-four months from the last date the person made or disseminated the applicable commercial communication regarding any term of any mortgage credit product, the following evidence of compliance with this part.”

1. Copies of all materially different commercial communications as well as sales scripts, training materials, and marketing materials, regarding any term of any mortgage credit product, that the person made or disseminated during the relevant time period
2. Documents describing or evidencing all mortgage credit products available to consumers during the time period in which the person made or disseminated each commercial communication regarding any term of any mortgage credit product, including but not limited to the names and terms of each such mortgage credit product available to consumers
3. Documents describing or evidencing all additional products or services (such as credit insurance or credit disability insurance) that are or may be offered or provided with the mortgage credit products available to consumers during the time period in which the person made or disseminated each commercial communication regarding any term of any mortgage credit product, including but not limited to the names and terms of each such additional product or service available to consumers.”

In order to comply with this section, the real estate professional should put all covered statements into writing and include the statements in each consumer’s file (paper or electronic) with the brokerage. This record system should become part of the brokerage’s overall record retention program.

To read the entire MAP Rule, go to: <http://www.ftc.gov/os/fedreg/2011/07/110719mortgagead-finalrule.pdf>. (Note: The actual rule begins on page 20 after the FTC commentary.) For more general information on advertising policies, call the FTC's Division of Advertising Practices at 202-326-3090.

Note: *This information is of a general nature and may not be updated or revised for accuracy as statutory or case law changes following the date of first publication. Further, this information is not intended as definitive legal advice and you should not act upon it without seeking independent legal counsel*



What penalties can be imposed against a company that runs a false or deceptive ad?

The MAP Rule could subject a person to civil penalties of up to \$16,000 per day per violation. The courts would have discretion as to the severity of the penalty depending upon the scope of the violation. Any violation under the MAP Rule could potentially be devastating to a violator. The MAP Rule presents a very real concern for all entities and persons disseminating the type of covered mortgage information and real estate professionals need to ensure that they strictly adhere to its provisions.

Other remedies that the FTC or the courts can impose:

- Cease and desist orders. These legally-binding orders require companies to stop running the deceptive ad or engaging in the deceptive practice, to have substantiation for claims in future ads, to report periodically to FTC staff about the substantiation they have for claims in new ads
- Corrective advertising, disclosures and other informational remedies. Advertisers have been required to take out new ads to correct the misinformation conveyed in the original ad, notify purchasers about deceptive claims in ads, include specific disclosures in future ads, or provide other information to consumers.

Home Affordable Foreclosure Alternative Program (HAFA)

HAFA, the Home Affordable Foreclosures Alternative program, is a program from the US Treasury Department that went into effect April 5, 2010. The HAMP and HAFA program has been extended through 2013. If you write a contract on 12/31/13, it has to close by 9/30/2014 for it to qualify for the HAFA program.

HAFA simplifies and streamlines the use of short sale and deed-in-lieu options for homeowners.

To be eligible for HAFA, homeowners must first apply for a loan modification through the Home Affordable Modification Program, or HAMP. Owners who do not qualify for a loan modification or miss payments during the initial loan modification period qualify for HAFA.

The HAFA guidelines apply to lenders who voluntarily participate in the HAMP program. The Department of Housing and Urban Development says more than 100 servicers have signed up to participate in HAMP, covering more than 89 percent of mortgage debt outstanding in the country.

HAFA is not a “home-saving program.” It is more of a “foreclosure avoidance” and “credit rescue” program, and the main way it helps is by providing powerful financial incentives for both banks and homeowners to instead choose the path of a short sale or deed-in-lieu. Through HAFA, homeowners can avoid the lasting damage of a foreclosure on their credit score.

Freddie Mac and Fannie Mae HAFA Update

- Servicers must verify that the homeowner is occupying the property as a primary residence, and it is not abandoned, condemned, or vacant (without an applicable exception)
- Homeowners who may be in foreclosure, in pending litigation involving the mortgage, or who are in active bankruptcy may be eligible for this initiative
- The borrower must be facing financial hardship



- Homeowners must be able to convey a clear, marketable title to the mortgaged property
- A homeowner may be required to make monthly payments while a short sale or DIL is pending but the payment may not exceed 31% of the borrower's gross monthly income
- The homeowner is entitled to \$3,000 to assist with relocation expenses and may not require the borrower to apply this incentive to obtain the release of junior liens or non-real estate title impediments
- The homeowner may be required to contribute cash or execute a note to mitigate losses if a review of the borrower's financial condition indicates that he/she is able to do so
- Property must be free of other liens (including homeowner's association liens) other than liens that Fannie Mae will allow to be settled from the sales proceeds
- Homeowners must have cash reserves less than the greater of \$5,000 or three times their current monthly mortgage payment

Freddie Mac

- Homeowners must be more than 60 days delinquent

Effective June 15, 2012

The GSEs' new short sale timelines require servicers to make a decision within 30 days of receiving either an offer on a property under the companies' traditional short sale programs or a completed Borrower Response Package (BRP) requesting short sale consideration, whether it's through the federal government's Home Affordable Foreclosure Alternative (HAFA) program or a GSE program.

If more than 30 days are needed, servicers must provide the borrower with weekly status updates and come to a decision no later than 60 days from the date the BRP or offer was received. According to the GSEs, this 30-day add-on will provide some leeway for servicers who may need more time to obtain a broker price opinion (BPO) or a private mortgage insurer's approval for a short sale. All decisions must be made within 60 days.

In the event a servicer makes a counteroffer, the borrower is expected to respond within five business days. The servicer must then respond within 10 business days of receiving the borrower's response.

If the homeowner actively markets the property, but is unable to sell it within the agreed-upon marketing period or the *HAFA Short Sale Agreement* is terminated prior to its expiration, a servicer must then immediately consider a DIL. With a DIL, the homeowner voluntarily transfers the property to their lender in full satisfaction of the entire first lien mortgage debt, provided that the homeowner can deliver clear and marketable title.

Fannie Mae will also take legal action to recoup the outstanding mortgage debt from homeowners who strategically default on their loans in jurisdictions that allow for deficiency judgments.

HAFA Related Servicer Support

- FHA National Servicing Center - Email: hsg-lossmit@hud.gov, 877-622-8525
- Non-GSE HAMP - Email: Support - support@hmpadmin.com, 866-939-4469
- Fannie Mae HAMP - Email: servicing_solutions@fanniemae.com, 888-326-6435



- Fannie Mae - KnowYourOptions.com
- Fannie Mae - <https://www.efanniemae.com/sf/servicing/hafa>
- Fannie Mae HAFA Q&A - <https://www.efanniemae.com/sf/servicing/hafa>
- Fannie Mae Work Out Fact Sheet - <https://www.efanniemae.com/sf/servicing/pdf/loanworkoutfactsheet.pdf#nameddest=HAFA>
- Freddie Mac – HAFA Program Fact Sheet - http://www.freddiemac.com/singlefamily/service/docs/hafa_bulletin_fact_sheet.pdf
- Freddie Mac – MHAP Fact Sheet - http://www.freddiemac.com/singlefamily/service/mha_modification.html
- Freddie Mac HAMP - Email: homeowner_outreach@freddieMac.com, 800-373-3343
- Veterans Administration, <http://www.vba.va.gov/VBA/>,
<http://www.va.gov/HOMELESS/NationalCallCenter.asp>, 877- 827-3702

Revised HAFA Guidelines – Obama Administration

Friday, March 9th 2012, the Obama Administration announced major updates to the Home Affordable Foreclosure Alternative (HAFA) program. Created in 2009, HAFA is a government-sponsored (US Treasury) initiative assisting all Home Affordable Modification Program (HAMP) eligible homeowners in avoiding foreclosure through the short sales process and deed-in-lieu program. These new HAFA updates will be effective as of June 1, 2012.

Updates to the HAFA Program Include

- The removal of occupancy requirements. Previously, HAFA required homeowners to have lived in the property within the last 12 months
- \$3,000 relocation incentives will be limited to properties occupied by an owner or non-borrowers if occupying the property (tenants, parents, relatives) at the time of the SSA, Alternative RASS or DIL Agreement is executed and who will be required to vacate the property as a result of the short sale or DIL. Vacant properties not eligible.
- Tenants will be eligible only for the \$3,000. Any money available from additional incentive payout opportunities must be paid to the borrower. The HUD-1 must reflect the breakdown.
- The homeowner will be responsible for requesting and managing the tenant relocation assistance, including submitting required proof of occupancy and other documentation.
- Mortgage payments will be allowed to exceed 31% of the homeowner's gross monthly income. This update will allow a homeowner to stay current on his or her mortgage and still qualify, minimizing the overall impact to their credit profile
- Secondary lienholders may receive up to a maximum of \$8,500, up from \$6,000 previously.
- And one of the most dramatic changes: The Credit Bureau Reporting will be Account Status Code 13 (paid or closed account/zero balance) or Code 65 (account paid in full/a foreclosure was started), as applicable.
- Will require lenders to review and respond to short sale requests within 30 days and make a final decision within 60 days. The lender is also required to provide weekly status updates to the homeowner if the offer is still under review after 30 days.



With these updates, a homeowner can be current on their mortgage, qualify for HAFA, continue to make their payments, and execute a short sale with minimum impact on their credit. Servicers can now accept a full payment, if the homeowner requests to make a full contractual payment in order to stay current on the loan.

VA Short Sale

The short sale process for a home with a mortgage backed by a VA loan is similar to that of a traditional short sale but does contain several important distinctions.

The VA calls its short sale program a “compromise sale.” If a veteran owes more on the home than what it’s worth and sells the home, the VA will pay the remaining balance of the mortgage and closing costs. This is the most significant difference between the traditional short sale and the compromise sale: the lender receives the full balance owed by the veteran.

Additionally, as of January 2011, the veteran is entitled to \$1,500 for relocation assistance. If the veteran has any significant assets, the VA may require that they be sold or cashed in to help offset the mortgage deficiency.

The VA will review the veteran’s situation, looking for the following criteria:

- The home must be sold for current market value
- Closing costs must be “reasonable and customary”
- The compromise sale will be less costly for the VA than foreclosure
- The veteran’s financial situation
- The date of mortgage origination – if the loan was taken out on or before December 31, 1989, the lender must agree to write off the portion of the debt above the maximum guarantee
- The home has no other liens

For sellers who close a short sale after June 30, 2012, if the seller is a member of the military with Permanent Change Orders, Fannie Mae will allow the seller to remain current.



Federal Government & Attorneys
General Reach Landmark Settlement with Major Banks
Mortgage Servicer Settlement
<http://nationalmortgagesettlement.com>



February 9, 2012

After many months of negotiation, 49 state attorneys general and the federal government have reached agreement on a historic joint state-federal settlement with the country's five largest loan servicers; Ally/GMAC, Bank of America, Citi, JPMorgan Chase and Wells Fargo.

The settlement will provide as much as \$25 billion in relief to distressed borrowers and direct payments to states and the federal government. It's the largest multistate settlement since the Tobacco Settlement in 1998.

The agreement settles state and federal investigations finding that the country's five largest loan servicers routinely signed foreclosure related documents outside the presence of a notary public and without really knowing whether the facts they contained were correct. Both of these practices violate the law. The settlement provides benefits to borrowers whose loans are owned by the settling banks as well as to many of the borrowers whose loans they service.

State Attorneys General who signed the Joint State-Federal Mortgage Settlement by State

- <http://www.nationalmortgagesettlement.com/states>

Attorney Generals Oversight Authority

- Commit a minimum of \$17 billion directly to borrowers through a series of relief effort options including principal reduction
- Up to \$3 billion in refinancing for "underwater" homeowners who are current on their mortgages but owe more than their homes' current market value.
- 1.5 billion in payments to homeowners who lost their homes to foreclosure between Jan. 1, 2008 and Dec. 31, 2011. These recipients will have to complete a simple form, and they will not have to drop any legal claims they may have.
- There will be \$4.2 billion paid directly to the states and \$750 million to the federal government for civil penalties
- A comprehensive set of new standards will be implemented to protect homeowners from future abuses and an independent monitor will be appointed to ensure servicer compliance
- Nothing in the agreement grants any immunity from criminal offenses and will not affect criminal prosecutions
- The agreement does not prevent homeowners or investors from pursuing individual, institutional or class action civil cases
- The Agreement **does not prevent state and federal authorities** from pursuing criminal enforcement actions nor does it prevent any claims by any individual borrowers who wish to bring their own lawsuits
- This agreement will span a three year period

In addition, the settlement creates a **Monitor** whose job it is to oversee the servicers and ensure their compliance with the consent judgments.

The participating banks must file regular reports with the Monitor to detail their compliance. Based on these reports as well as his independent oversight, the Monitor will make his own reports to the courts and the participants on a semi-annual basis.



Contact – Website

- **Ally/GMAC** - www.gmacmortgage.com/finform/hhstart.htm
- **Bank of America** - http://homeloanhelp.bankofamerica.com/en/index.html?cm_sp=CRE-Mortgage-Refi- - Home%20Loan%20Assistance%20Q3- -MR16000S_marketing%20strip_%20ooo-123_hp_lahUmbrella-o
- **Citi** - www.citimortgage.com/Mortgage/displayHomeOwnerAssistance.do?page=overview
- **JPMorgan Chase** - www.chase.com/chf/mortgage/keeping-your-home
- **Wells Fargo** - www.wellsfargo.com/homeassist

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:

- <http://www.fanniemae.com/loanlookup>
- <http://www.freddiemac.com/mymortgage>

New Servicing Standards

Servicers are agreeing to implement extensive new servicing standards, designed to correct the kinds of conduct that harmed consumers during recent years.

- Stop many past foreclosure abuses, such as robo-signing, improper documentation and lost paperwork through new mortgage servicing standards
- Require strict oversight of foreclosure processing, including of third-party vendors
- Impose new standards to ensure the accuracy of information provided in federal bankruptcy court, including pre-filing reviews of certain documents
- Make foreclosure a last resort, by requiring servicers to evaluate homeowners for other loan mitigation options first
- Restrict banks from foreclosing while the homeowner is being considered for a loan modification
- Set procedures and timelines for reviewing loan modification applications, and give homeowners the right to appeal denials
- Create a single point of contact for borrowers seeking information about their loans and adequate staff to handle calls

Benefits to Servicemembers and Veterans

The settlement contains a number of provisions designed both to protect Servicemembers' rights under the law and to provide them significant additional benefits.

Wrongful Foreclosures

To resolve allegations of liability that have not previously been settled, Chase, Citi, Wells Fargo, and Ally have agreed to conduct a full review, overseen by the Department of Justice's Civil Rights Division, to determine whether any Servicemembers were foreclosed on in violation of the Servicemembers Civil Relief Act (SCRA) since January 1, 2006.



Ally, Citi, Wells Fargo will be required to provide any Servicemember who was a victim of a wrongful foreclosure as a result of a violation of the SCRA with a payment equal to the Servicemember's lost equity, plus interest, and an additional \$116,785 or an amount provided for the same violation under the review conducted by the banking regulators, whichever is higher.

Independent Foreclosure Review

As part of a consent order with federal bank regulators, the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS) (independent bureaus of the U.S. Department of the Treasury), and the Board of Governors of the Federal Reserve System, fourteen mortgage servicers and their affiliates are identifying customers who were part of a foreclosure action on their primary residence during the period of January 1, 2009 to December 31, 2010. Approximately \$1.5 billion of the settlement funds will be allocated to compensation to borrowers who were improperly foreclosed on will be eligible for a uniform payment, which will be approximately \$2000 per borrower depending on level of response.

The Independent Foreclosure Review is providing homeowners the opportunity to request an independent review of their foreclosure process. If the review finds that financial injury occurred because of errors or other problems during their home foreclosure process, the customer may receive compensation or other remedy.

All Requests for Review Forms must be submitted online or postmarked no later than December 31, 2012 and you must have been a customer of one of the mortgage servicers listed below. Select your mortgage servicer:

<ul style="list-style-type: none">• America's Servicing Co.• Aurora Loan Services• BAC Home Loans Servicing• Bank of America• Beneficial• Chase• Citibank• CitiFinancial• CitiMortgage	<ul style="list-style-type: none">• Countrywide• EMC• EverBank/EverHome Mortgage Company• Financial Freedom• GMAC Mortgage• HFC• HSBC• IndyMac Mortgage Services• MetLife Bank	<ul style="list-style-type: none">• National City Mortgage• PNC Mortgage• Sovereign Bank• SunTrust Mortgage• U.S. Bank• Wachovia• Washington Mutual• Wells Fargo• Wilshire Credit Corporation
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Report Client Issues

If you are an attorney, caseworker, counselor or other professional helping consumers with their mortgages, please fill out this form to report your client's mortgage servicing issue.

By sharing your client's information, you will help the Monitor better understand how servicers are treating their customers across the country.

If a number of consumers are experiencing similar problems with a particular servicer, this may represent a pattern or practice in violation of the agreement. With this information, the Monitor can better enforce the mortgage servicing standards outlined in the agreement.

Please note that the Monitor cannot intervene with the servicer on behalf of your individual client. The national mortgage settlement charged the Monitor with ensuring that the servicers comply with the agreement; it did not task the Monitor with resolving individual complaints.



- <https://www.mortgageoversight.com/report-client-issues>
- Laura Brewer, 919-508-7821

Bank of America



Bank of America Principal Reduction Program Part I and Part II

March 12, 2012 - Bank of America has agreed to provide mortgage relief, including partial loan forgiveness, to more than 200,000 borrowers. More information: 877-488-7814 – 800-669-6607

Bank of America has committed to make mortgage principal reductions as part of the \$1 billion side deal to the \$25 billion loan servicing settlement.

Eligible borrowers could see their mortgage reduced to current value of their home with reductions of as much as \$150,000 anticipated. Why? It reduces the penalty amount BOA owes to Housing & Urban Development by \$850 million. The penalties were part of the nationwide mortgage loan servicing settlement.

Bank of America has implemented an earned principal forgiveness approach to modifying certain loans eligible for its National Homeownership Retention Program (NHRP).

The plan is designed for homeowners who are past due on their mortgage payments and owe considerably more on their loan than the current value of their home, when the loan is being considered for modification through the government's Home Affordable Modification Program (HAMP).

How it Works

In order to be eligible for principal forgiveness:

- You must be at least 60 days late on your home loan payments on January 21, 2012
- Monthly mortgage payments (PITI) must be more than 25 percent of the borrower's monthly before-tax income
- The house must be worth less than the balance on the mortgage
- The first-lien mortgage loan needs to be owned by Bank of America or serviced for others who have given the bank permission to reduce principal if necessary on troubled loans
- Loans owned, insured or guaranteed by Fannie Mae, Freddie Mac, the Federal Housing Administration and Veterans Affairs loans are not eligible for the program

Part II Enhancement under the National Homeownership Retention Program

The program is limited to homeowners who got a sub-prime mortgage, option ARM or 2-1 Hybrid ARM loan through Countrywide before January 1, 2009. The program specifically excludes Fannie Mae and Freddie Mac loans, as well as FHA loans.

- The program is only for owner-occupied properties
- The loan must be underwater by at least 20 percent



- The loan must be 60 days or more past due or in imminent danger of default, i.e. the interest rate is about to reset and the homeowner is unable to afford the new payment

Short Sale Relocation Assistance Program

For a limited time, BOA will be offering enhanced relocation assistance payments in which qualified homeowners who initiate a short sale without an offer could be eligible to receive \$2,500 - \$30,000 in relocation assistance and owe no more on their mortgage with the sale of their property.

Bank of America Short Sale Specialist – 866-880-1232

Notes:

Thank You for Attending Today's Class!

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