Obama administration brokers pro-bank mortgage fraud settlement

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The Obama administration announced on Thursday a settlement between five major banks and the federal and state governments over massive fraud relating to home foreclosures. The terms of the agreement are entirely favorable to the banks, while doing little or nothing to aid the millions of people who have been devastated by the collapse of the US housing market.

Government officials reported that the final deal is valued at about $25 billion spread out over a multi-year period. This is a paltry sum in relationship to the extent of the housing crisis, the profits of the banks and the scale of corporate criminality. However, only a small portion of this would come from direct financial sanctions on the banks.

Forty-nine of the 50 US states signed on to the settlement with the five banks—JPMorgan Chase, Wells Fargo, Citigroup, Bank of America (which bought mortgage firm Countrywide), and Ally Financial Inc. (formerly GMAC, the financial arm of General Motors). These five banks involved had net profits of $46 billion last year alone.

In exchange for the settlement, the banks will be released from liability for fraudulent and likely criminal activities. This includes "robo-signing," in which the banks had employees sign hundreds of thousands of legal foreclosure documents without any knowledge of the underlying mortgages. Banks were also involved in forging documents. The true extent of the illegal operations is not known, and keeping this information secret is one of the aims of the settlement.

Evidence of these actions first emerged in 2010. States launched investigations in response, and the Obama administration stepped in to package these investigations and lead them to a settlement favorable to the banks. Over the past several weeks, the administration has placed heavy pressure on several state holdouts to sign on to the deal.

Of particular importance for Bank of America is the fact that the settlement will end a lawsuit filed by Nevada and Arizona over allegations that the bank has been deceiving homeowners seeking to participate in a refinancing program.

Only about $5 billion of the settlement will take the form of direct payments, including, according to government officials, a payment of about $2,000 to some individuals who had their homes foreclosed between September 2008 and December 2011.

Despite the evidence of fraud, no one will get their home back. Since 2007, there have been some 4 million home foreclosures.

About $17 billion will come from the modification of existing loans, spaced over a three-year time period. Details are still emerging, but it is evident that decisions on what loans to modify will be left to the banks themselves. Many of the loans have already been packaged off and sold to investors ("securitized"), thus minimizing the impact on bank assets.

The $17 billion in loan modifications is a tiny fraction of the total negative equity (the value of loans in relation to the value of the underling houses) of $700 billion to $750 billion. The deal will affect less than 10 percent of US homeowners who are "under water."

An additional $3 billion is to come in the form of mortgage refinancing, again left to the discretion of the banks.

The banks will be tasked with self-reporting their actions. The industry and the state attorneys general selected North Carolina banking commissioner Joseph Smith to "oversee" the agreement and determine whether the banks are in compliance based on the bank reports. Smith is a former bank lawyer with close ties to the industry.

Markets reacted enthusiastically to the terms and bank stocks rose Thursday. The banks involved already have set aside funds that cover the amount of the agreement. Indeed, since many banks have written down the value of their existing loans, the agreement could have a positive net impact on their balance sheets.

"I wouldn't say it's a panacea for the housing industry," commented Barclays analyst Jason Goldberg, "but it is good for the banks to get this behind them."

Perversely, the deal will likely lead to a surge in home foreclosures, with banks now confident that they can proceed with business as usual. Bloomberg News commented, "Lenders slowed the pace of foreclosures as they negotiated with attorneys general in all 50 states for more than a year… With today's agreement, banks are likely to resume property seizures." Increased foreclosures will also lead to a further fall in home prices.

In hailing the deal, Obama said that it would "speed relief to the hardest-hit homeowners, end some of the most abusive practices of the mortgage industry, and begin to turn the page on an era of recklessness that has left so much damage in its wake."

In fact, as with every component of the administration's policy, the agreement will leave things entirely as they are, while giving a free pass to corporate criminals responsible for the economic crisis.