

## States, mortgage lenders in talks over fund for borrowers in foreclosure mess

Video



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Nov. 16 (Bloomberg) -- New York City Comptroller John Liu discusses his request, on behalf of the city's Pension Funds, to directors at Bank of America Corp., Wells Fargo & Co., JPMorgan Chase & Co. and Citigroup Inc. to conduct independent audits of their banks' mortgage and foreclosure practices. Liu speaks with Carol Massar on Bloomberg Television's "In the Loop With Betty Liu." (Source: Bloomberg)

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State attorneys general and the country's biggest lenders are negotiating to create a nationwide fund to compensate borrowers who can prove they lost their home in an improper [foreclosure](#), state and industry officials said.

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The fund would present a solution for both sides, helping banks avoid lengthy and costly court challenges from homeowners and aiding state investigators in their efforts to seek relief for homeowners who were wronged, the officials said.

Discussions are continuing over the size of the fund, who would administer it and what kind of proof homeowners would have to present to get access to the money. But there is a consensus between the lenders and state officials that some sort of financial remedy is necessary to avoid the turmoil that could result from homeowner challenges.

Any settlement between the banks and attorneys general almost certainly would force lenders to put more resources into modifying the loans of homeowners who missed their payments, rather than rushing toward foreclosures, state officials said. The banks could also be barred from foreclosing on homeowners while simultaneously negotiating mortgage modifications.

The fund, the first of its kind in the mortgage industry, would mirror victim-compensation efforts set up in recent years in response to the BP oil spill in the Gulf of Mexico, the shootings at Virginia Tech and the terrorist attacks of Sept. 11, 2001. Those were all administered by a specially appointed czar, [Kenneth Feinberg](#), who had the tough task of figuring out what each victim should receive.

[Iowa Attorney General Tom Miller](#), who is leading a joint, [50-state investigation](#), declined to comment Tuesday on the specifics of the group's negotiations with the banks but said that hammering out details could delay a final agreement for a few months.

Miller said that's because the remedies being discussed go far beyond the problem of "[robo-signing](#)" and into [deeper problems](#) facing the mortgage servicing industry.

"We want to be more creative and figure out a way to make the system better," Miller said in an interview. "For instance, rather than having them pay a huge amount of fines, much of that money [could instead] go to adequate resources to make this work."

A quick settlement may be the best solution for the industry, homeowners and state and federal investigators, given the uncertainty the foreclosure mess has cast on the health of the banks and, more broadly, the housing market, officials said.

"It is in everyone's best interest to get this settled and behind us," [Bank of America](#) chief executive Brian Moynihan said Tuesday at a financial services conference in New York.

## **Biggest firms targeted**

The attorneys general have been negotiating with each bank separately but pressing for similar terms. The state officials have been focusing on the three largest servicers - Bank of America, [J.P. Morgan Chase](#) and Wells Fargo - hoping agreements with those companies will serve as a model for others.

Each side sees a fund for distressed homeowners working differently. Among the most contentious issues, besides how much each lender would contribute, are the time period to be included and who would decide which homeowners deserved access to the fund.

Another unresolved issue is whether banks will reduce the principal for borrowers whose homes have dropped dramatically in value over the past few years. The financial industry last year fought against legislation that would allow bankruptcy judges to order such modifications.

Even as they acknowledged some problems in their foreclosure processes, executives from the biggest banks have argued that they are properly seizing homes from borrowers who missed payments. But the courts are still grappling with whether the sloppy or forged paperwork in many foreclosures amounted to fraud and whether those cases should be thrown out.

At a hearing of the Senate banking committee Tuesday, Chairman [Christopher J. Dodd](#) (D-Conn.) took banks to the task.

"Many in the industry were too quick to call these problems 'technical' and to insist that nobody is losing a home to foreclosure without cause," Dodd said.

He called all parties involved to work together to "finally put an end to the housing crisis."

"Even the industry now acknowledges that the current mortgage-servicing business model is broken and is simply not equipped to deal with the current crisis," Dodd said.

Added Sen. [Jon Tester](#) (D-Mont.): "I'm going to remain very concerned about the scope of this problem, the impact it could have on our financial system and on the housing market. . . . It strikes me that some of the biggest servicers have been a little bit glib about [the] potential magnitude of these risks."

## **Frustration at hearing**

The frustration wasn't confined to the dais. As David Lowman, chief executive of Chase Home Lending, delivered prepared remarks saying how serious his company is taking the foreclosure issues, how executives "regret the errors in our affidavit process" and have "worked hard to correct these issues," a protestor in the audience rose and shouted, "That's a lie! That's a lie!"

Another unfurled a banner reading "Dave Lowman lies."

One senator after another recounted tales of homeowners expressing their frustration with the mortgage-modification process. Many have been confused by the fact that even as they try to negotiate modifications with servicers, the foreclosure cases pending against them continue unabated.

Miller, the Iowa attorney general, said Tuesday that the multi-state probe would seek to end such practices. He added that he and his staff in Des Moines had met twice with officials from Bank of America and that such negotiations would continue with that firm and others, such as J.P. Morgan Chase and Ally Financial, that have admitted serious foreclosure paperwork problems.

"There's still a long ways to go, and still a lot of things to find out and a lot of discussions to have," Miller said. "But as I've said just about every time I've talked about this, the goal once we got in this mess is: How can we come out of this mess better off than when we started?"

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