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Settlement Expected on Past Abuses in Home Loans

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Banking regulators are close to a $10 billion settlement with 14 banks that would end the government's efforts to hold lenders responsible for foreclosure abuses like faulty paperwork and excessive fees that may have led to evictions, according to people with knowledge of the discussions.

Under the settlement, a significant amount of the money, $3.75 billion, would go to people who have already lost their homes, making it potentially more generous to former homeowners than a broad-reaching pact in February between state attorneys general and five large banks. That set aside $1.5 billion in cash relief for Americans.

Most of the relief in both agreements is meant for people who are struggling to stay in their homes and need the banks to reduce their payments or lower the amount of principal they owe.

The $10 billion pact would be the latest in a series of settlements that regulators and law enforcement officials have reached with banks to hold them accountable for their role in the 2008 financial crisis that sent the housing market into the deepest slump since the Great Depression. As of early 2012, four million Americans had been foreclosed upon since the beginning of 2007, and a huge amount of abandoned homes swamped many states, including California, Florida and Arizona.

Federal agencies like the Securities and Exchange Commission and the Justice Department are continuing to pursue the banks for their packaging and sale of troubled mortgage securities that imploded during the financial crisis.

Housing advocates were largely unaware of the latest rounds of secret talks, which have been occurring for roughly a month. But some have criticized the government for not dealing more harshly with bankers in light of their lax standards for making loans and packaging them as investments, as well as their problems with modifying troubled loans and processing foreclosures.

A deal could be reached by the end of the week between the 14 banks and the nation's top banking regulators, led by the Office of the Comptroller of the Currency, four people with knowledge of the negotiations said. It was unclear how many current and former homeowners would receive money or when it would be distributed.

Told on Sunday night of the imminent settlement, Lynn Drysdale, a lawyer at Jacksonville Area Legal Aid and a former co-chairwoman of the National Association of Consumer Advocates, said: "It's certainly a victory for consumers and could help entire neighborhoods. But the devil, as they say, is in the details, and for those people who have had to totally uproot their lives because of eviction it may still not be enough."

In recent weeks within the upper echelons of the comptroller's office, pressure was mounting to negotiate a banner settlement with the banks, according to people with knowledge of the matter. The reason was that some within the agency had started to realize that a mandatory review of millions of bank loans was not yielding meaningful examples of the banks' wrongfully evicting homeowners who were current on their payments or making partial payments, according to the people.

Representative of banking regulators did not return calls for comment on Sunday.

The biggest action against the banks for foreclosure-related abuses has been the $26 billion settlement between the five largest mortgage servicers and the state attorneys general, Justice Department and the Department of Housing and Urban Development after allegations arose in 2010 that bank employees were churning daily through hundreds of documents used in foreclosure proceedings without properly reviewing them for accuracy.

The same banks in that settlement — JPMorgan Chase, Bank of America, Wells Fargo, Citigroup and Ally Financial — are included in the current negotiations.

Under the terms of the settlement being negotiated, $6 billion would come from banks to be used for relief for homeowners, including reducing their principal, helping them refinance and donating abandoned homes, the people said.

The proposed settlement would also halt a separate sweeping review of more than four million loan files that the comptroller's office and the Federal Reserve required the banks undertake as part of a consent order in April 2011.

Under the terms of the order, the 14 banks had to hire independent consultants to pore through the loan records to determine whether the banks illegally charged fees, forced homeowners to take out costly insurance or miscalculated loan payment amounts. Consultants initially estimated that each loan would take about eight hours, at a cost of up to $250 an hour, to go through.

The costs of the reviews have ballooned, though, according to people with knowledge of the reviews, in part because each loan file is taking up to 20 hours to review. Since its inception, the reviews have cost the banks about $1.5 billion, according to those people.

Pressure to reach a settlement with the banks has been building, particularly within the Office of the Comptroller of the Currency, amid widespread frustration that the banks' mandatory review of loan files was arduous and expensive, and would not yield promised relief to homeowners, according to five former and current banking regulators.

In private meetings with top bank executives, these people said, regulators have admitted that the reviews had gone awry. At one point this month, an official from the comptroller's office said the agency had "miscalculated" the scope and requirements of the reviews, according to the people with knowledge of the negotiations.

When the settlement discussions heated up this month, some banking executives said they felt they would be vindicated by the regulators. These executives said that they had raised objections to the reviews early on, but those concerns were largely dismissed by regulatory officials, according to the people with knowledge of the negotiations.

Instead, officials from the comptroller's office, these people said, have used the loan reviews as a negotiating tool, telling banks that they can either sign on to a large settlement or be forced to pay billions over several more years until the consultants finish the reviews.

When regulators approached the banks to broach a settlement this month, they met first with Wells Fargo and proposed that the banks pay $15 billion, according to the people familiar with the discussions. After negotiations, though, the regulators agreed to $10 billion.

All of the 14 banks are expected to sign on.