A.G. Schneiderman-Led State & Federal Working Group Announces $5 Billion Settlement With Goldman Sachs

Settlement Includes $670 Million For New Yorkers, Including $190 Million In Cash And $480 Million In Consumer Relief Committed To Mortgage Assistance, Principal Forgiveness, And Affordable Housing Programs

New York Has Now Received $5.3 Billion In Cash And Consumer Relief From National Mortgage Settlement And Residential Mortgage-Backed Securities Working Group Settlements Combined Since 2012

Schneiderman: Since 2012, My Number One Priority Has Been Getting New York Families The Resources They Need To Help Rebuild

NEW YORK – Attorney General Eric T. Schneiderman today joined members of the state and federal working group he co-chairs to announce a $5 billion settlement with Goldman Sachs over the bank's deceptive practices leading up to the financial crisis. The settlement includes $670 million – $480 million worth of creditable consumer relief and $190 million in cash – that will be allocated to New York State. The resolution requires Goldman Sachs to provide significant community-level relief to New Yorkers, including resources that will facilitate a significant expansion of the New York State Mortgage Assistance Program enabling distressed homeowners to restructure their debt, as well as first-lien principal forgiveness, and funds to spur the construction of more affordable housing. Additional resources will be dedicated to helping communities transform their code enforcement systems, and invest in land banks and land trusts.

The settlement was negotiated through the Residential Mortgage-Backed Securities Working Group, a joint state and federal working group formed in 2012 to share resources and continue investigating wrongdoing in the mortgage-backed securities market prior to the financial crisis.

New York has now received $5.33 billion in cash and consumer relief from the National Mortgage Settlement (NMS) and all five Residential Mortgage-Backed Securities Working Group settlements (RMBS). The combined $3.2 billion in cash and consumer relief from RMBS settlements is more than any other state.

"Since 2012, my number one priority has been getting New Yorkers the resources they need to rebuild," **Attorney General Schneiderman** said. "These dollars will immediately go to work funding proven programs and services to help New Yorkers keep their homes and rebuild their communities. We've witnessed the incredible impact these programs and services can have in helping communities recover from the financial crisis. This settlement, like those before it, ensures that these critical programs—such as

mortgage assistance, principal forgiveness, and code enforcement—will continue to get funded well into the future, and will be paid for by the institutions responsible for the financial crisis."

The settlement includes an agreed-upon statement of facts that describes how Goldman Sachs made multiple representations to RMBS investors about the quality of the mortgage loans it securitized and sold to investors, its process for screening out questionable loans, and its process for qualifying loan originators. Contrary to those representations, Goldman Sachs securitized and sold RMBS backed by large numbers of loans from originators whose mortgage loans contained material defects.

In the statement of facts, Goldman Sachs acknowledges that it securitized thousands of Alt-A, and subprime mortgage loans and sold the resulting residential mortgage-backed securities ("RMBS") to investors for tens of billions of dollars. During the course of its due diligence process, Goldman Sachs received pertinent information indicating that significant percentages of the loans reviewed did not conform to the representations it made to investors. Goldman also received and failed to disclose negative information that it obtained regarding the originators' business practices. Indeed, Goldman's due diligence vendors provided Goldman with reports reflecting that the vendors had graded significant numbers and percentages of sampled loans as EV3s, *i.e.,* not in compliance with originator underwriting guidelines. In certain circumstances, Goldman reevaluated loan grades and directed that such loans be waived into the pools to be purchased or securitized.

Even when the percentage of problematic loans in pools sampled by it vendors indicated that the unsampled portions of the pools likely contained additional such loans, Goldman typically did not increase the size of the sample or review the unsampled portions of the pools to identify and eliminate any additional such loans. In many cases, 80 percent or more of the loans in the loan pools Goldman purchased and securitized were not sampled for credit and compliance due diligence. Nevertheless, Goldman approved various offerings for securitization without requiring further due diligence to determine whether the remaining loans in the deal contained defects. A Goldman employee overseeing due diligence for a particular loan pool noted that the pool included loans originated with "[e]xtremely aggressive underwriting" and "large program exceptions made without compensating factors." Despite this observation, Goldman did not review the remaining portion of the pool, and subsequently securitized thousands of loans from the pool.

Goldman made statements to investors in offering documents and in certain other marketing materials regarding its process for reviewing and approving originators, yet it failed to disclose to investors negative information it obtained about mortgage loan originators and its practice of securitizing loans from suspended originators.

Beginning in mid-2006, Goldman recognized that Fremont, a "key originator, was experiencing an increasing level of early payment defaults ("EPDs") (i.e., loans for which the borrowers had failed to make one or more of their first payments). Goldman was aware that EPDs were a sign of originators' bad credit decisions and could be indicators of potential borrower fraud. However, Goldman did not put Fremont on its "no bid" list and continued to purchase loan pools from Fremont during the period Fremont's EPD

claims remained unpaid. Moreover, Goldman "[u]ndertook a significant marketing effort" to tell investors about what Goldman called Fremont's "commitment to loan quality over volume" and "significant enhancements to Fremont underwriting guidelines." Likewise, Goldman identified issues with Countrywide's origination practices. Goldman's head of due diligence, when presented with a "very bullish" equity report on Countrywide, another large originator, exclaimed "[i]f they only knew . . . . . ."

Attorney General Schneiderman was elected in 2010 and took office in 2011, when the five largest mortgage servicing banks, 49 state attorneys general, and the federal government were on the verge of agreeing to a settlement that would have released the banks – including Bank of America – from liability for virtually all misconduct related to the financial crisis. Attorney General Schneiderman refused to agree to such sweeping immunity for the banks. As a result, Attorney General Schneiderman secured a settlement that preserved a wide range of claims for further investigation and prosecution. In his 2012 State of the Union address, President Obama announced the formation of the RMBS Working Group. The collaboration brought together the Department of Justice (DOJ), other federal entities, and several state law enforcement officials – co-chaired by Attorney General Schneiderman – to investigate those responsible for misconduct contributing to the financial crisis through the pooling and sale of residential mortgage-backed securities.

Under today's settlement, Goldman Sachs will be required to provide a minimum of $480 million in creditable consumer relief directly to struggling families and communities across the state. The settlement includes a menu of options for consumer relief to be provided, and different categories of relief are credited at different rates toward the bank's $480 million obligation, including at least:

- $220 million for debt restructuring
- $30 million for land banks and land trusts
- $30 million for code enforcement
- $150 million for first-lien principal reduction
- $50 million for the creation and preservation of affordable rental housing

In addition to the settlement with Goldman Sachs, the RMBS working group has reached settlements with four other major financial institutions since 2012:

- J.P. Morgan Chase: $13 Billion
- Bank of America: $16.6 Billion
- Citibank: $7 Billion

- Morgan Stanley: $3.2 Billion

The National Mortgage Settlement (NMS), reached with the five largest national mortgage servicers, has provided $51 billion in consumer relief and cash nationwide. The combined amount of cash and consumer relief that has been returned to New York as a result of all the RMBS and NMS deals is $1.481 billion in cash and $3.857 in consumer relief, for a total of $5.338 billion. This matter was led by Senior Enforcement Counsel for Economic Justice Steven Glassman and Assistant Attorneys General Desiree Cummings and Kenneth Haim, both of the Investor Protection Bureau.

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