

Attorney General Eric T. Schneiderman

[Translate to Another Language](#)

[Home](#) » [Media Center](#) » [Press Releases](#) » [August 21st 2014](#)

A.G. Schneiderman-Led State & Federal Working Group Announces Record-Breaking \$16.65 Billion Settlement With Bank Of America

RMBS Task Force, Co-Chaired By Schneiderman, Secures Settlement That Includes \$800 Million For New Yorkers, Including, For The First Time, Relief For Borrowers With FHA-Insured Loans

Settlement Addresses Misconduct That Contributed To The 2008 Financial Crisis

Schneiderman: "Today's Settlement Is A Major Victory In The Fight To Hold Those Who Caused The Financial Crisis Accountable"

NEW YORK – Attorney General Eric T. Schneiderman today joined members of a state and federal working group he co-chairs to announce a \$16.65 billion settlement with Bank of America. The settlement is the largest in U.S. history with a single institution, surpassing the \$13 billion settlement with JPMorgan Chase that was secured by the same state and federal working group last November. The settlement includes \$800 million – \$300 million in cash, and a minimum of \$500 million worth of consumer relief – that will be allocated to New York State. As part of today's settlement, Bank of America acknowledged it made serious misrepresentations to the public – including the investing public – arising out of the packaging, marketing, sale and issuance of residential mortgage-backed securities (RMBS) by Bank of America, as well as by Countrywide Financial and Merrill Lynch, institutions that Bank of America acquired in 2008. The resolution also requires Bank of America to provide relief to underwater homeowners, distressed borrowers, and affected communities through a variety of means, including relief that for the first time will assist certain homeowners with mortgages insured by the Federal Housing Administration (FHA) who were ineligible for relief under previous settlements.

The settlement requires Bank of America to pay \$9.65 billion in hard dollars and provide \$7 billion in consumer relief. New York State will receive at least \$800 million: \$300 million in cash and a minimum of \$500 million in consumer relief for struggling New Yorkers. 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. Attorney General Schneiderman co-chairs the RMBS working group.

"Since my first day in office, one of my top priorities has been to pursue accountability for the misconduct that led to the crash of the housing market and the collapse of the American economy," said **Attorney General Schneiderman**. "This historic settlement builds upon our work bringing relief to families around the country and across New York who were hurt by the housing crisis, and is exactly what our working group was created to do. The frauds detailed in Bank of America's statement of facts harmed countless of New York homeowners and investors. Today's result is a major victory in the fight to hold those who caused the financial crisis accountable."

The settlement includes an agreed-upon statement of facts that describes how Bank of America, Merrill Lynch and Countrywide made representations to RMBS investors about the quality of the mortgage loans they securitized and sold to investors. Contrary to those representations, the firms securitized and sold RMBS with underlying mortgage loans that they knew had material defects. Bank of America also made representations to

New York City Press Office: (212) 416-8060

Albany Press Office: (518) 473-5525

nyag.pressoffice@ag.ny.gov



A.G. Schneiderman Announces Funding To Equip SUNY Campus Police With Life-Saving Heroin Antidote



A.G. Schneiderman Announces Funding To Equip Hundreds Of Officers In The Hudson Valley And Westchester With Bulletproof Vests



Press Releases

> 2014

- > [January](#)
- > [February](#)
- > [March](#)
- > [April](#)
- > [May](#)
- > [June](#)
- > [July](#)

> 2013

- > [January](#)
- > [February](#)
- > [March](#)

the FHA, an agency within the U.S. Department of Housing and Urban Development, about the quality of FHA-insured loans that Bank of America originated and underwrote. Contrary to those representations, Bank of America originated and underwrote FHA-insured mortgages that were not eligible for FHA insurance. Bank of America and Countrywide also made representations and warranties to Fannie Mae and Freddie Mac about mortgages they originated and sold to those Government Sponsored Entities (GSE's). Contrary to those representations and warranties, many of those mortgages were defective or otherwise ineligible for sale to GSE's.

As the statement of facts explains, on a number of occasions, Merrill Lynch employees learned that significant percentages of the mortgage loans reviewed by a third party due diligence firm had material defects. Significant numbers of loans—50% in at least one pool—that were found in due diligence not to have been originated in compliance with applicable laws and regulations, not to be in compliance with applicable underwriting guidelines and lacking sufficient offsetting compensating factors, and loans with files missing one or more key pieces of documentation were nevertheless waived into the purchase pool for securitization and sale to investors. In an internal email that discussed due diligence on one particular pool of loans, a consultant in Merrill Lynch's due diligence department wrote: “[h]ow much time do you want me to spend looking at these [loans] if [the co-head of Merrill Lynch's RMBS business] is going to keep them regardless of issues? . . . Makes you wonder why we have due diligence performed other than making sure the loan closed.” A report by one of Merrill Lynch's due diligence vendors found that from the first quarter of 2006 through the second quarter of 2007, 4,009 loans that were part of loan pool samples reviewed by the vendor were not in compliance with underwriting guidelines or applicable laws and regulations, and were waived in to purchase pools by Merrill Lynch. This conduct, along with similar conduct by other banks that bundled defective and toxic loans into securities and misled investors who purchased those securities, contributed to the financial crisis.

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. The negotiations for settlement, which were led by Associate Attorney General Tony West of DOJ, were part of the RMBS Working Group.

Under the settlement, Bank of America will be required to provide a minimum of \$500 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 \$500 million obligation. The agreement also requires Bank of America to provide minimum amounts of creditable relief under certain priority categories in New York. The Consumer Relief Credit Menu, available [here](#), details the how each category of relief will be credited and the minimum amounts for each category where applicable.

The most significant priority on the Consumer Relief Credit Menu is a change that will allow first lien principal reductions for certain types of FHA-insured mortgages. Borrowers with these types of loans have previously been excluded from getting the benefits of principal reduction under past settlements, despite the fact that a significant number of distressed loans fall into this category. According to data collected by the Office of the Attorney General, roughly 23% of all distressed loans in New York have FHA insurance, and FHA-insured loans represent the largest portion of Bank of America's remaining distressed loan portfolio in New York.

Attorney General Schneiderman made it a high priority to extend principal forgiveness

- › April
- › May
- › June
- › July
- › August
- › September
- › October
- › November
- › December

› 2012

- › January
- › February
- › March
- › April
- › May
- › June
- › July
- › August
- › September
- › October
- › November
- › December

› 2011

- › January
- › February
- › March
- › April
- › May
- › June
- › July
- › August
- › September
- › October
- › November
- › December

Archived

- › 2010
- › 2009
- › 2008
- › 2007
- › 2006
- › 2005
- › 2004
- › 2003
- › 2002
- › 2001

to FHA-insured mortgages in negotiations with Bank of America, and their inclusion in this settlement represents a huge step forward in Attorney General Schneiderman's ongoing commitment to helping families move past the foreclosure crisis.

➤ 2000

➤ 1999

➤ 1998

"Empire Justice Center is very pleased that the settlement with Bank of America provides for principal balance reductions on FHA-insured loans," said **Kirsten Keefe, Senior Attorney at the Empire Justice Center**. "This is a critical component that has not been included in prior bank settlements. It has left homeowners with FHA loans at a disadvantage when trying to negotiate with their bank to save their homes. We thank Attorney General Schneiderman for making this a priority in the Bank of America Settlement."

Bank of America will provide a minimum of \$60 million in first lien principal reductions in New York, including the FHA-insured portfolio. Other New York-specific minimum requirements for consumer relief under this settlement include:

- A minimum value of \$20 million in donations, including cash and contributions of vacant and abandoned properties to land banks, units of local government and other nonprofits. Bank of America estimates that this will help address as many as 300 vacant properties—also known as zombie properties—across the state of New York.
- The bank must also earn at least \$35 million in credits for making cash donations to legal service providers, housing counseling agencies, land banks and other community development nonprofits. These relief options are a direct compliment to the investment Attorney General Schneiderman has made to these types of programs over the past three years, including more than \$60 million in funding to support a network of housing counseling and legal service provider across the state under the Homeowner Protection Program (HOPP), which has provided free, high-quality services to more than 30,000 homeowners since launching in 2012.
- Bank of America must also provide \$125 million in credits to create and preserve hundreds of units of affordable rental housing across New York State. This initiative is particularly critical in New York, where affordable rental housing is scarce and many families are struggling to find decent and affordable alternatives to homeownership following the economic crisis.

New York City Mayor Bill DeBlasio said, "We're in the midst of an affordability crisis hitting New Yorkers from the very poor to those once solidly middle class. We are deeply grateful to the Attorney General for securing a historic settlement that will make a real difference for families struggling across the city and state. We are pushing hard to build and preserve an unprecedented amount of affordable housing to meet this crisis, and the Attorney General's continued advocacy is proving vitally important in supporting that effort."

"When the federal government bailed out 'too big to fail' banks, nearly every New Yorker felt the economic impact that followed. As Chair of the Council's Housing and Buildings Committee, I am pleased Attorney General Eric Holder has held Bank of America responsible with this settlement, which in part expands income-targeted housing throughout the five boroughs. Individual people—not corporations—should be the only entity considered 'too big to fail,' and today's announcement bring us closer to that goal," said **Council Member Jumaane D. Williams (D-Brooklyn), Deputy Leader and Chair of the Council's Housing and Buildings Committee**.

"We applaud AG Schneiderman's efforts to hold the too-big-to-fail banks accountable to lower income communities," said **Josh Zinner, Co-Director of New Economy Project**. "We are hopeful that this settlement will provide relief to people and communities that have been hardest hit by predatory lending and high rates of foreclosure."

Compliance with the settlement will be overseen by an independent monitor who will be responsible for ensuring that targets under the settlement are met and that quarterly reporting requirements, which will measure how relief is being allocated at a Census Tract level, are made available to the public.

This matter was led by former Deputy Attorney General for Economic Justice Virginia Chavez Romano, Chief of the Investor Protection Bureau Chad Johnson, Senior Enforcement Counsel for Economic Justice Steven Glassman, and Assistant Attorneys

General in the Investor Protection Bureau Hannah Flamenbaum and Melissa Gable.

A copy of today's global settlement can be viewed [here](#).

[Español](#)

Executive	Criminal Justice	Economic Justice	Social Justice	State Counsel	Administration
Community and Intergovernmental Affairs FOIL Press Regional Offices Solicitor General Criminal Appeals and Opinions Conviction Review Bureau	Criminal Enforcement & Financial Crimes Bureau Organized Crime Task Force Medicaid Fraud Control Unit Public Integrity Bureau Investigations Bureau Taxpayer Protection Bureau	Antitrust Bureau Consumer Frauds Bureau Internet Bureau Investor Protection Bureau Real Estate Finance Bureau	Charities Bureau Civil Rights Bureau Environmental Protection Bureau Health Care Bureau Labor Bureau Tobacco Compliance Bureau	Civil Recoveries Bureau Claims Bureau Litigation Bureau Real Property Bureau Sex Offender Management Bureau	Budget & Fiscal Management Bureau Legal Recruitment Human Resources

WWW.AG.NY.GOV

[Home](#) | [Contact Us](#) | [Privacy Policy](#) | [Disclaimer](#)

© 2012 NEW YORK STATE ATTORNEY GENERAL. All Rights Reserved.