

Dollars to Date: The California Mortgage Agreement

THE SECOND REPORT OF THE CALIFORNIA MONITOR

November 19, 2012

CALIFORNIA MONITOR

A PROGRAM OF THE CALIFORNIA ATTORNEY GENERAL

www.californiamonitor.org

CALIFORNIA MONITOR

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Summary

In March 2012, California Attorney General Kamala D. Harris negotiated a special agreement for California as part of the National Mortgage Settlement. The California Agreement is a promise from the state's three largest mortgage servicers—Bank of America, JP Morgan Chase, and Wells Fargo—to do at least \$12 billion of homeowner assistance. Bank of America alone committed to more than 67% of the \$12 billion total.

The table below provides the dollars of relief promised, the relief reported to date, and the number of California families helped, as of September 30, 2012. These numbers reflect reported amount of credit under the terms of the California Agreement, which includes incentive bonuses for first-lien principal reductions. These data were provided to me by each mortgage company and will be audited by the National Monitor.

This report makes a preliminary assessment of the impact of the California Agreement, but I caution that the mix of relief is changing rapidly. Banks are accelerating relief under new programs for first-lien and second-lien principal reductions, even as short sales continue to occur when underwater borrowers sell their homes. As of September 30, an additional \$1.6 billion in first-lien principal reductions were underway with borrowers making trial payments. Even today, in mid-November, much of this relief has been made permanent. The December 31, 2012 data will likely show this impact.

RELIEF UNDER THE CALIFORNIA AGREEMENT

Dollars of Relief Promised (in billions)	\$8.10	\$1.95	\$1.95	\$12.0
Relief to Date (in billions)	\$4.95	\$---*	\$1.14	\$8.73
California Families Helped to Date	36,065	15,541	10,272	61,878

* JPMorgan Chase reported to the California Monitor that it has completed \$2.64 billion in creditable activity in California. The table does not provide that number because of an anomaly identified by the California Monitor. I have notified Chase and the National Monitor, and I will be following up on my concern.

I offer a detailed look at Bank of America's activities: what it has done, how it has done it, and where it has delivered relief; this analysis is based on its response to my written request for data on California relief. I give a brief summary for JPMorgan Chase and Wells Fargo. These banks have not provided sufficient information for me to make a comparable, detailed analysis of their efforts in California. I continue to seek additional information from them.

BANK OF AMERICA RELIEF AS OF SEPTEMBER 30

- California received 41.6% of relief delivered nationwide by Bank of America under the National Mortgage Settlement.
- Based on current data, I anticipate that Bank of America will exceed its \$8.1 billion promise to Californians on or before March 2013, just one year after the National Mortgage Settlement began.

- Bank of America’s total completed relief for principal reductions/forgiveness/extinguishments for first mortgages and second mortgages is \$1.37 billion. An additional \$1.2 billion in first-mortgage principal reductions is in progress to borrowers who are already making reduced payments under three-month trial periods. Additional second-mortgage extinguishments are also in progress.
- Bank of America extinguished \$744 million of second mortgage debt owed by approximately 10,000 California families. These debts are permanently forgiven in their entirety and reported “paid in full” to credit bureaus.
- Nearly one-third of relief by Bank of America under the California Agreement occurred in the 12 counties with the highest foreclosure rates in the last year.

Delivering loan modifications remains a difficult process. The California Monitor has created a program with Bank of America to reach out to families who have not responded to offers to reduce their first mortgages. Bank of America is mailing this additional solicitation, which is provided in English and Spanish, directly to homeowners at its own expense. Bank of America also has announced that it will continue Settlement relief programs even after it meets its obligations under the California Agreement and National Mortgage Settlement.

My office continues to work hard on initiatives that increase eligibility opportunities for California’s families. Recently, I successfully worked with Bank of America and Wells Fargo to make first-lien principal reductions available to homeowners whose loans are serviced by one mortgage company and owned by the other. My work on this issue was a direct result of Californians reaching out to my office to describe their situations.

Very truly yours,



Katherine Porter

This report reflects the views of the California Monitor Program. It does not necessarily reflect the views of the California Attorney General or the California Department of Justice.

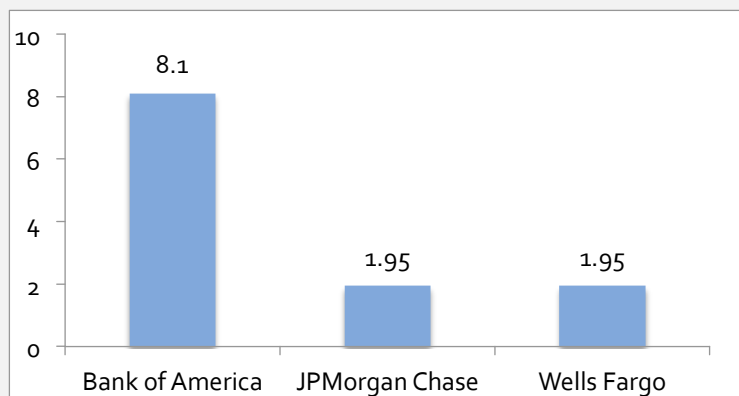
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The California Agreement: \$12 Billion of Relief

FIGURE 1.

DOLLARS PROMISED UNDER THE CALIFORNIA AGREEMENT (IN BILLIONS)



The National Mortgage Settlement provides relief nationwide. Attorney General Kamala D. Harris signed that Settlement but also negotiated a separate California Agreement. The California Agreement reflects the widespread and ongoing struggles of California families and communities to cope with the foreclosure crisis. In the California Agreement, Bank of America, JPMorgan Chase, and Wells Fargo promised to deliver a total of \$12 billion of relief to California families.

The \$12 billion can come from different types of homeowner relief. The mortgage companies may receive credit for first-lien principal reductions, second-lien modifications or extinguishments, and forgiving debt to

facilitate short sales or deeds-in-lieu of foreclosure. The California Agreement offers additional credit for first-lien principal reductions completed during the first year of the Settlement (March 1, 2013). A copy of the California Agreement is available at www.californiamonitor.org.

JPMORGAN CHASE: A MODEST IMPACT

Chase reports that it has exceeded its \$1.95 billion obligation under the California Agreement. While Chase has issued a press release announcing it has completed its obligations to California, the auditing process is not complete. Completeness will be determined by the National Monitor, Joseph A. Smith.

Chase's reported relief raises two concerns. First, Chase's activity includes over 10,000 California families leaving their homes through the short sale process. Short sales make up 73% of the approximately \$2.2 billion of completed relief in California that Chase reports. Second, Chase has been less effective at completing first-lien principal reductions in the 12 California counties hardest hit by the foreclosure crisis, as compared to other counties. Chase completed first-lien principal reductions for 39% of borrowers who received an approved loan modification offer in the hardest-hit counties. In the other counties, Chase completed first-lien principal reductions for 52% of the borrowers who received an approved loan modification offer.

While Chase reports that it has completed its relief in California as of September 30, 2012, it also disclosed that 68,442 Chase customers in California are more than 30 days delinquent on their mortgages. Of this group, 28,583 Chase customers were in the foreclosure process. The California Monitor has requested data from Chase to understand the options that may be available to these families, including under the National Mortgage Settlement programs.

WELLS FARGO: WORKING TOWARD \$1.95 BILLION OF RELIEF

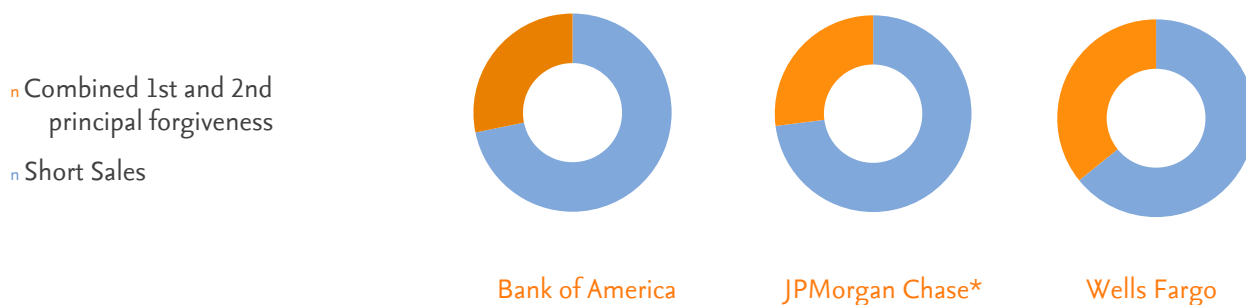
Wells Fargo services the largest number of mortgage loans in California. Among the three mortgage companies that signed the California Agreement, it has helped the fewest number of borrowers to date. Unlike Chase, however, Wells Fargo is still working to meet its \$1.95 billion commitment to Californians. The California Monitor will provide an update on Wells Fargo's additional progress in the future months.

Wells Fargo has helped 10,272 California families to date; Chase has helped 51% more borrowers than Wells Fargo; Bank of America has helped 251% homeowners more than Wells Fargo.

As of September 30, 2012, Wells Fargo reports that it has completed approximately 59% of its obligation. Wells Fargo has completed 3,081 first-lien modifications, with an average reduction in principal balance of \$110,903. It has completed second-lien modifications for 174 borrowers. Short sales are currently a smaller fraction of Wells Fargo's relief as compared to the two other companies that signed the California Agreement (*see below*). As Bank of America and Wells Fargo continue to make progress toward their obligations, the fraction of relief that is short sales may change.

FIGURE 2.

A COMPARISON OF RELIEF DELIVERED BY THE THREE SERVICERS WHO SIGNED THE CALIFORNIA AGREEMENT (AS OF SEPTEMBER 30, 2012)



* Chase asserts it has satisfied the California Agreement. Relief activities are ongoing for Bank of America and Wells Fargo. I expect for these two companies that the amount of loan forgiveness in proportion to short sales will continue to increase.

BANK OF AMERICA: AN \$8.1 BILLION PROMISE

The remainder of this report provides a detailed evaluation of Bank of America's activities under the California Agreement. I am able to make this robust analysis for Bank of America because it made a timely and complete response to my request for data on California relief. This transparency gives the public an understanding of where and how Bank of America is doing its work.

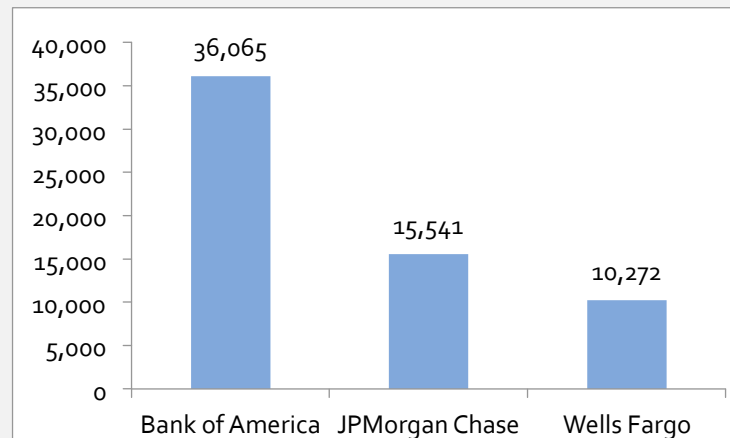
Bank of America has mailed tens of thousands of solicitation letters to homeowners who are eligible to reduce what they owe on their first mortgages. When it receives a homeowner response to these mailings, Bank of America is required to review a homeowner's eligibility for relief under the Settlement. As of September 30, 2012, Bank America approved first-

lien principal reductions for 9,771 California families. While some of these offers are pending or were not accepted by homeowners, 78% percent of these families (7,660 out of the 9,771) have made at least one trial payment.

For more than half of these families (2,226), Bank of America has completed significant principal reductions. Bank of America's first-lien principal reductions average \$210,105 per homeowner. This number is significantly higher than the average first-lien principal reductions completed by Chase (\$166,448) and Wells Fargo (\$110,903).

FIGURE 3.

BORROWERS ASSISTED UNDER THE CALIFORNIA AGREEMENT AS OF SEPTEMBER 30, 2012



Note: The numbers graphed above represent the sum of the number of borrowers who received completed first-lien principal forgiveness, completed forgiveness of pre-March 1, 2012 forbearance, completed second-lien modifications/extinguishments, completed short sales, and deeds-in-lieu of foreclosure.

BANK OF AMERICA'S FIRST-LIEN MODIFICATIONS: SAVING HOMES FROM FORECLOSURE

The remaining families (1,391) had loan modifications before the Settlement's March 1 effective date. These modified loans included a principal forbearance component. Principal forbearance temporarily reduces a homeowner's monthly mortgage payment by a certain amount, but the homeowner may ultimately remain responsible for paying any principal that remains unpaid as of the loan's maturity date. Since March 1, Bank of America has completely forgiven these principal forbearance amounts. This relief totals \$106 million.

DEBRA'S STORY

Debra is disabled, and she lives on a fixed income. After becoming ill in May 2009, she lost her job of thirteen years. With a significantly reduced income, Debra struggled to make her mortgage payments and fell several months behind. Facing the possibility of foreclosure, Debra looked for a way to stay in her Los Angeles home. In September 2012, Bank of America offered Debra a loan modification under the National Mortgage Settlement. Debra is now making a \$600 monthly payment as part of a trial period plan that includes a principal reduction of over \$130,000.

As part of its first-lien activities, Bank of America promised to reach out to certain borrowers. The eligibility criteria that apply to these homeowners are publicly available in Exhibit I to the Bank of America Consent Judgment (available online at www.californiamonitor.org). The Settlement requires Bank of America to make multiple efforts to contact these eligible borrowers. Unless an earlier effort is successful, Bank of America must call each homeowner at least four times and send at least

two mailings. The Settlement contains extensive detail on these requirements, such as mandating that the phone calls are made at different times of day and that at least one mailing is sent by certified mail.

The California Monitor Program has developed a new solicitation for homeowners who have not responded to Bank of America's required mailings. Bank of America is mailing this additional solicitation, which is provided in English and Spanish, directly to homeowners at its own expense.

BANK OF AMERICA'S SECOND-LIEN RELIEF: MOVING HOMEOWNERS TOWARDS EQUITY

Under the California Agreement, the mortgage companies may receive credit for two different activities on second mortgages. A *second-lien modification* gives homeowners the chance to reduce the amount they owe on their second mortgages. A second-lien modification often occurs in conjunction with a first-lien modification, either under the Settlement or a federal program. A *second-lien extinguishment* eliminates a homeowner's second mortgage. This means that the home is no longer encumbered by the second mortgage. Extinguishment of a second lien also eliminates the underlying debt, reducing the account balance to zero.

While modifications and extinguishments are different types of relief, they share benefits. In both instances, the amount of mortgage debt is reduced. This helps improve the borrower's equity position, bringing total mortgage debt closer to, and in some instances equal to or below, the home's value. This means that going forward, as these homeowners make mortgage payments, they will accumulate equity and build wealth.

As of September 30, approximately 10,000 California families have received a second-lien modification or extinguishment from Bank of America. This relief totals \$794 million. The vast majority of this assistance is in the form of second-lien

BANK OF AMERICA'S SECOND-LIEN EXTINGUISHMENT PROGRAM

- BANK OF AMERICA RELEASES THE LIEN ON THE PROPERTY. THIS ELIMINATES THE SECOND MORTGAGE.
- BANK OF AMERICA REDUCES THE ACCOUNT BALANCE TO \$0.00, ERASING THE DEBT.
- BANK OF AMERICA REPORTS THE ACCOUNT AS "PAID IN FULL" AND "CLOSED" TO THE CREDIT BUREAUS.

extinguishments. Bank of America reports \$744 million in second-lien debt has been wiped out entirely in California.

The second-lien extinguishment program has a unique structure. Bank of America sends borrowers a one-page letter describing the program. If homeowners want to eliminate their second mortgages, they do not need to do anything in response to the mailing. If

homeowners do not want this relief, they must contact Bank of America within 30 days of the date of the letter. Participation rates in this program are extremely high.

Bank of America's second-lien activities have the potential to improve borrowers' financial situations. Because Bank of America reports the account as "paid in full" and "closed" to the credit bureaus, borrowers may receive a significant boost to their credit profiles. This also means future borrowing may be easier because their total debt is lower.

For homeowners in bankruptcy, second-lien extinguishment means immediate debt relief. While chapter 13 bankruptcy can offer borrowers certain protections, borrowers in chapter 13 must make payments for three to five years before they can eliminate a second mortgage or limit their financial responsibility for mortgage debt. If Bank of America extinguishes these borrowers' second mortgages, however, they may no longer need chapter 13 bankruptcy to address their mortgage debt and can dismiss their case. Borrowers in chapter 7 bankruptcy also benefit from Bank of America's second-lien extinguishment program. Chapter 7 bankruptcy leaves mortgages unaffected.

R.G.'s STORY

R.G. was struggling to pay her bills, including her monthly mortgage payment. In February 2012, she filed chapter 13 bankruptcy with the assistance of a lawyer. At the time, her Bellflower home was significantly underwater. She owed about \$165,000.00 more than her home was worth. In October 2012, Bank of America forgave her second mortgage in the amount of nearly \$140,000.00. R.G. is now much closer to having equity in her home and can focus her bankruptcy on addressing her other debts.

This means that, even if a borrower has filed chapter 7 bankruptcy, a creditor may still foreclose on its mortgage and repossess property. When Bank of America extinguishes a borrower's second mortgage, the borrower no longer faces this risk and no longer needs to make any payments on the debt.

BANK OF AMERICA'S SHORT SALES: TRANSITION IN THE MARKET

Bank of America can seek credit under the California Agreement for forgiving deficiencies to facilitate short sales. Short sales occur when homeowners sell their homes for less than the amount of the mortgage debt. The resulting amount owed, often called a deficiency, is forgiven when a mortgage company approves a short sale. Bank of America receives credit for these activities based on the amount of the forgiven deficiency balance.

REMINDER

Bank of America provided the data I feature in this report in response to my requests for information that shows it is delivering on the promises it made to Californians. These numbers are not audited. Each quarter, the National Monitor will determine the amount of consumer relief that the mortgage companies, including Bank of America, have earned towards their obligations under the California Agreement. The National Monitor will also determine any credit bonus due or any payment owed under the Agreement.

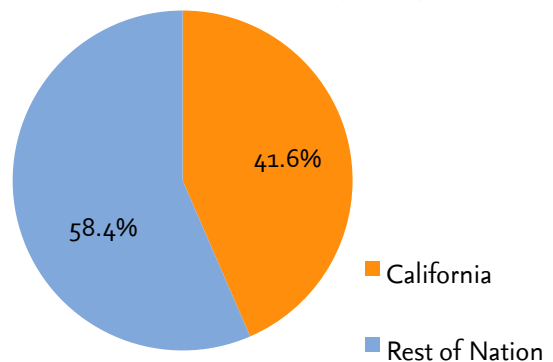
As of June 30, 2012 Bank of America had completed 14,157 short sales in California. As of September 30, Bank of America had increased that total to 22,095 short sales in the state. Combined with data on in its first-lien modification offers, these numbers show that while Bank of America has continued to offer short sales as an alternative for California homeowners, it has significantly increased the number of first-lien principal reductions it offers to borrowers. Although California families who leave their homes will continue to pursue short sales, Bank of America has given many more families the opportunity to stay in their homes with a first-lien modification.

The California Agreement: Speeding Relief to Struggling Homeowners

Attorney General Kamala D. Harris negotiated the California Agreement so that Californians would receive substantial, immediate relief under the National Mortgage Settlement.

As of September 30, Bank of America has delivered a total of \$11.7 billion in Settlement relief nationwide. Of this amount, \$4.9 billion has benefitted California families. Based on these data, California families have received approximately 41.6% of the total Settlement relief Bank of America has delivered nationwide (*see right*).

FIGURE 4.
BANK OF AMERICA'S CONSUMER
RELIEF DOLLARS



INCENTIVES IN THE AGREEMENT

The California Agreement offers incentives to the mortgage companies, including Bank of America, to deliver relief to California families and to do so quickly.

Under the California Agreement, the mortgage companies receive additional credit for delivering relief to homeowners living in the 12 hardest-hit California counties (see right)¹ and doing so within the first year of the Settlement. From March 1, 2012 to March 1, 2013, when a mortgage company performs a first-lien principal reduction for a homeowner who lives in one of the hardest-hit California counties, it will receive an additional 25% credit towards its obligations under the California Agreement. This means that during the first year, a mortgage company will receive \$1.25 in credit under the California Agreement for each \$1.00 of relief it delivers to a California homeowner living in one of the 12 hardest-hit counties.

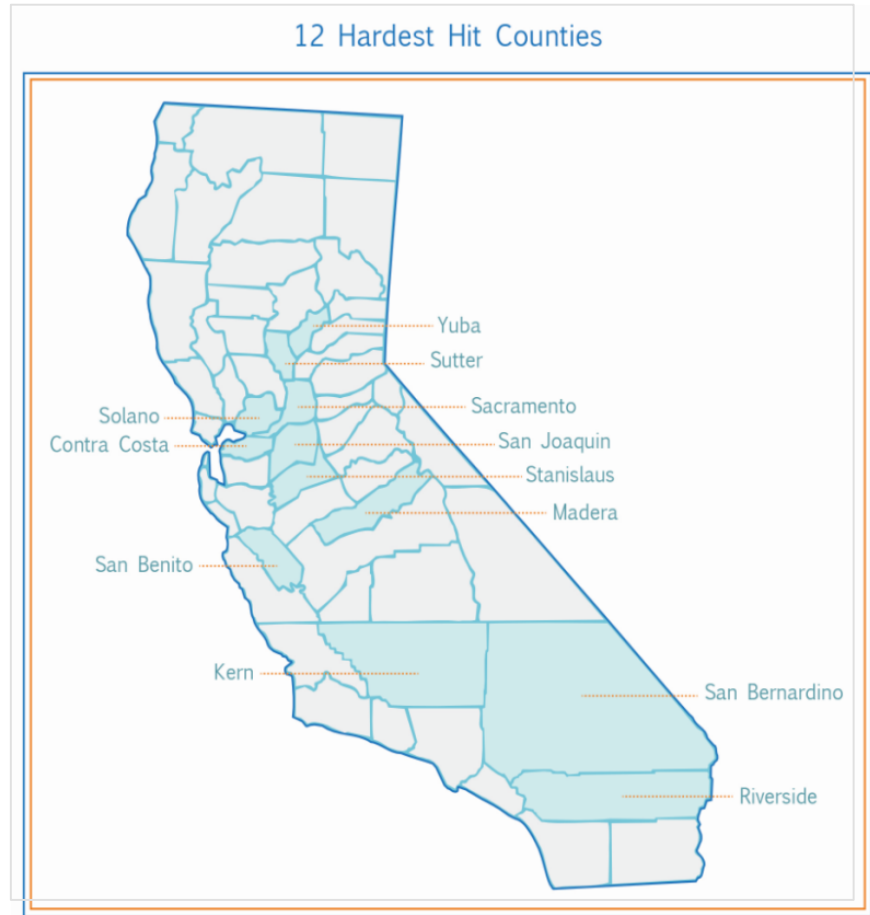


FIGURE 5.

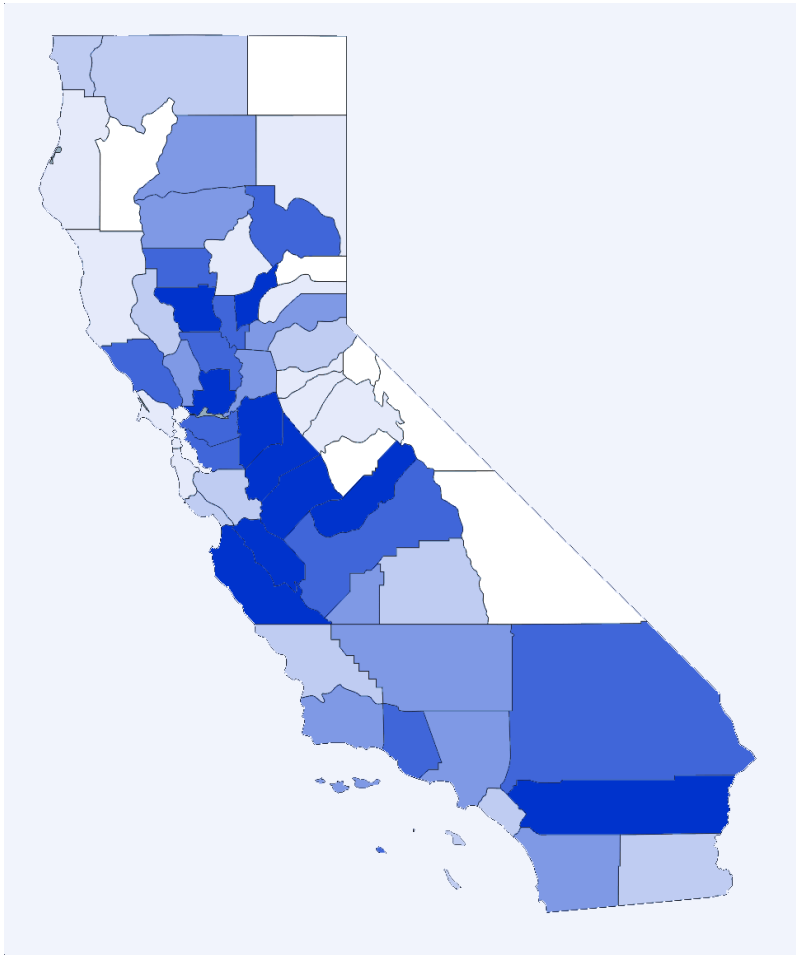
The California Agreement also offers the mortgage companies additional credit for completing first-lien principal reductions for California families who do not live in one of the hardest-hit counties and for doing so within the first year of the Settlement. Between March 1, 2012 and March 1, 2013, a mortgage company that performs a first-lien principal reduction for a homeowner living in any other California county will receive an additional 15% credit towards its obligations under the California Agreement. In other words, during the first year, every \$1.00 of relief that reaches a California homeowner who lives outside the hardest-hit counties counts as \$1.15 in credit.

After the first year of the California Agreement, the mortgage companies will lose these incentives, and they will receive credit for any relief they deliver on a dollar-for-dollar basis only.

The California Agreement also requires the banks to fulfill 75% of their obligations by March 1, 2014 and 100% of their obligations by March 1, 2015. The mortgage companies must pay steep penalties to California if they fail to reach these targets.

¹ Contra Costa, Kern, Madera, Riverside, Sacramento, San Benito, San Bernardino, San Joaquin, Solano, Stanislaus, Sutter, and Yuba counties are the 12 hardest-hit California counties. These counties suffered the highest annual foreclosure rates in the state based on the number of notices of default filed last year.

RELIEF IN THE 12 HARDEST-HIT COUNTIES



Of the 9,771 first-lien modification offers Bank of America has made to Californians, 3,817 have gone to homeowners living in one of the 12 hardest-hit counties. The remaining 5,954 first-lien modification offers were made to families living in other areas of the state. Bank of America has completed over \$180 million in first-lien principal reductions to California families living in one of the 12 hardest-hit counties and over \$280 million in first-lien principal reductions to California homeowners living in the other California counties. California homeowners in the 12 hardest-hit counties have received more than one-third of the Settlement relief delivered statewide, both in terms of the number of California families helped and the dollar amounts of relief delivered. In fact, after Los Angeles County, easily the most populous county in California, Riverside and San Bernardino Counties have received the most relief (see Figure 7 below).

FIGURE 6.
STATEWIDE DISTRIBUTION OF BANK OF AMERICA FIRST-LIEN PRINCIPAL REDUCTIONS
This map of California reflects the proportions of relief delivered by county. Darker areas indicate a higher proportion.

FIGURE 7.
TOP TEN CALIFORNIA COUNTIES RECEIVING FIRST-LIEN OFFERS FROM BANK OF AMERICA
(DARKER ROWS INDICATE ONE OF THE 12 HARDEST-HIT COUNTIES)

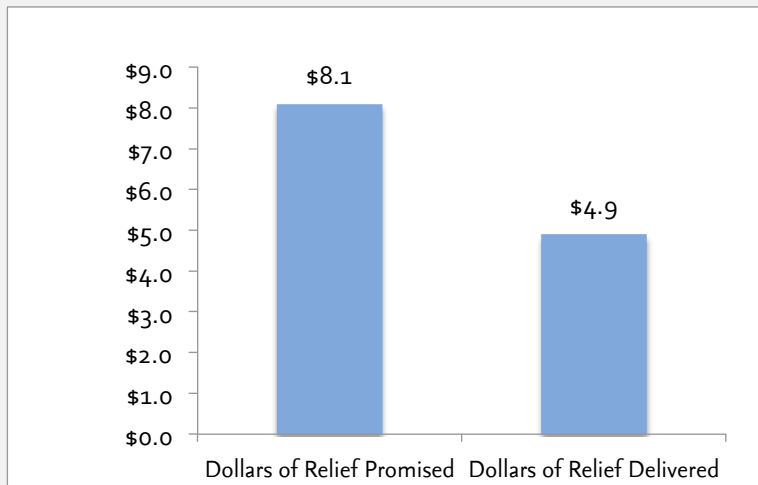
COUNTY	DOLLARS	LOANS
LOS ANGELES	\$533,713,293	2,452
RIVERSIDE	\$225,692,259	1,046
SAN BERNARDINO	\$163,121,641	867
SAN DIEGO	\$151,684,563	713
ORANGE	\$128,350,708	554
CONTRA COSTA	\$105,548,518	497
SACRAMENTO	\$100,663,036	385
ALAMEDA	\$94,111,516	359
SAN JOAQUIN	\$68,569,238	284
VENTURA	\$63,166,422	267

PROJECTIONS ON BANK OF AMERICA'S FUTURE WORK

Bank of America is on pace to exceed its obligations under the California Agreement well in advance of the two- and three-year targets set out in the Agreement.

FIGURE 8.

BANK OF AMERICA'S PROGRESS UNDER THE CALIFORNIA AGREEMENT (IN BILLIONS)



includes a breakdown of all delivered relief.

As of September 30, 2012 Bank of America reports that it has delivered a total of \$4.9 billion of relief (*see left*). If it continues to deliver relief as it has, it will meet its obligations under the California Agreement near or just after the end of the year. I anticipate that Bank of America will not only have fulfilled its obligations within that time frame, but it will have exceeded its obligations under the California Agreement by March 2013. Its activities are translating to substantial relief for tens of thousands of California families.

When all three mortgage companies have fulfilled their obligations under the California Agreement, the California Monitor Program will provide a comprehensive report that

Expanding Relief: The California Monitor Program

Attorney General Kamala D. Harris agreed to the separate California Agreement to help address California's serious foreclosure crisis. The structure of the Agreement aimed to encourage mortgage companies to speed relief to California families, particularly those living in the hardest-hit communities.

The California Monitor Program works to ensure that mortgage companies are fulfilling the California Agreement. Its work also includes legal analysis of the Settlement, assisting homeowners, and conducting outreach throughout the state.

CO-BRANDING: HELPING HOMEOWNERS CONSIDER OPPORTUNITY

One example of the California Monitor's work is a new program that reaches out to homeowners who may be eligible for Settlement relief, but have not responded to Bank of America's mailings and phone calls. The California Monitor has created a mailing, provided in English and Spanish, which Bank of America will send to borrowers who have the chance to reduce what they owe on their first mortgages. This is an additional mailing beyond what is required by the National Mortgage Settlement. Its costs are being paid by Bank of America.

The California Monitor Program will continue to work with Bank of America as it develops other ways to ensure its customers have the opportunity to take advantage of the programs the Settlement makes available to them.

BROADENING SETTLEMENT ELIGIBILITY

While the National Mortgage Settlement gives the settling servicers some discretion to develop and implement consumer relief within their dollar obligations, the California Monitor Programs has worked tirelessly to make sure Settlement relief stretches as far as it can.

In the first weeks of the Settlement, the California Monitor learned that borrowers whose loans were owned by one settling bank and serviced by another settling bank were being treated as ineligible for first-lien principal reductions. For these families, the only Settlement relief appeared to be selling their homes via a short sale. The California Monitor raised this issue with Bank of America and Wells Fargo in an effort to increase the Settlement relief options available to these homeowners. The California Monitor successfully negotiated a solution. Recently, Bank of America and Wells Fargo agreed to consider homeowners in this situation for first-lien principal reductions under the Settlement. These California families now have one more tool to help them afford their mortgages and stay in their homes.

NEED HELP? SEND YOUR STORY.

Homeowners may submit requests for help through two methods: the California Attorney General's Public Inquiry Unit, online at [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL) or directly to the California Monitor Program, by email at CAMONITOR@DOJ.CA.GOV.

Propietarios de viviendas pueden presentar una queja a la Oficina del Procurador General de California en [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL) o por correo electrónico directamente al Programa del Monitor de California a CAMONITOR@DOJ.CA.GOV.

房主可以通过两种方式提交请求：上网到加州总检察长的谘询 [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL) 或直接通过电子邮件到加州监控程序 CAMONITOR@DOJ.CA.GOV.

Nếu quý vị cần giúp đỡ với nợ nhà, hãy liên lạc với chúng tôi tại California Attorney General's Public Inquiry Unit, [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL), hoặc gửi email đến CAMONITOR@DOJ.CA.GOV.

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