

Bank of America set to settle mortgages case for \$16bn-plus



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Kara Scannell and **Camilla Hall** in New York AUGUST 6 2014

[Bank of America](#) has reached an agreement in principle to pay more than \$16bn in cash and consumer relief to US authorities to resolve allegations of misselling mortgage-backed securities, people familiar with the matter said.

The bank will pay around \$9bn in cash and provide \$7bn in consumer relief, such as modifying home loans and refinancing mortgages, as part of the deal, these people say.

If finalised, it will be the Department of Justice's largest settlement with a single entity, exceeding the [\\$13bn pact that JPMorgan Chase](#) agreed last year.

So far this year banks have [paid more than \\$50bn](#) to resolve government investigations, exceeding the total collected in the whole of 2013.

The pact will involve several US agencies, including the Federal Deposit Insurance Corp, and state attorneys-general, people familiar with the matter said. Both sides were still hashing out the details of the consumer relief package and admissions the bank would make as part of the settlement agreement.

The tentative deal was struck last week following a phone call on Wednesday evening between Eric Holder, the US attorney-general, and Brian Moynihan, BofA's chief executive, these people said. The DoJ demanded BofA pay at least \$9bn in cash as part of the deal – an increase from the bank's offer of \$7bn.

During the Wednesday night call, Mr Holder relayed that the US attorney's office in New Jersey had a lawsuit ready to file against the bank should a deal not be reached, a person close to the matter said.

Mr Holder had previously rebuffed Mr Moynihan's request for a meeting, saying at the time that there was no serious offer on the table.

Since then BofA lawyers travelled to Washington to meet DoJ officials and subsequently raised their offer to \$14bn last Wednesday morning. Mr Holder and Mr Moynihan spoke that evening and the bank agreed to the higher penalty, this person said.



BofA, which has already paid \$9.5bn to resolve a similar lawsuit by the Federal Housing Finance Agency, last week was ordered by a US judge to pay \$1.3bn more to US authorities.

The judgment followed a trial which found [BofA's Countrywide unit liable of defrauding](#) Fannie Mae and Freddie Mac, the government-backed mortgage groups, by fast-tracking mortgages through a programme called "Hustle" without checking the borrowers' ability to repay the debt. The adverse judgment hastened BofA's decision to strike a deal rather than face the prospect of an unknown penalty following a trial, one person familiar with the matter said.

The Wall Street Journal first reported that a settlement was reached in principle.

BofA has built its [litigation reserves](#) this year ahead of a potential deal with the DoJ. The bank took a \$4bn legal charge in the second quarter and reported its first quarterly loss in almost three years in the first quarter after a \$6bn legal charge, partly reflecting some of the FHFA settlement and its ongoing talks with the DoJ.

Separately on Wednesday, BofA was given a green light for its capital plans from the Federal Reserve after its earlier [proposal](#) was blocked by the regulator, allowing the bank to increase its dividend for the first time since the financial crisis.

[BofA](#) increased its quarterly dividend from 1 cent to 5 cents, in line with its previous plan, but shelved a proposed [\\$4bn share buyback](#) programme. Shares in the bank rose 1 per cent to \$15.20 by close of trading in New York.

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