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## Countrywide Will Settle a Bias Suit

By [CHARLIE SAVAGE](#)

WASHINGTON — The Justice Department on Wednesday announced the largest residential fair-lending [settlement in history](#), saying that [Bank of America](#) had agreed to pay \$335 million to settle allegations that its [Countrywide Financial](#) unit discriminated against black and Hispanic borrowers during the housing boom.

[Attorney General Eric H. Holder Jr.](#) said the settlement showed that the Justice Department would “vigorously pursue those who would take advantage of certain Americans because of their race, national origin, gender or disability,” adding: “Such conduct undercuts the notion of a level playing field for all consumers. It betrays the promise of equal opportunity that is enshrined in our Constitution and our legal framework.”

[The settlement](#) is subject to approval by a federal judge in California; according to the proposed consent order filed Wednesday, Countrywide denied all of the department’s allegations.

[Dan Frahm](#), a Bank of America spokesman, stressed that the allegations were focused on Countrywide’s conduct from the years 2004 to 2008, before Bank of America purchased it.

[“We are committed to fair and equal treatment of all our customers, and will continue to focus on doing what’s right for our customers, clients and communities,”](#) he said. “We discontinued Countrywide products and practices that were not in keeping with our commitment and will continue to resolve and put behind us the remaining Countrywide issues.”

[The problems](#) stemmed from a Countrywide policy that gave loan officers and brokers the discretion to alter the terms for which a particular applicant qualified without setting up any system to comply with fair-lending rules, the department said. Lending data showed that Countrywide ended up charging Hispanics and African-Americans more, on average, than white applicants with similar credit histories.

[In 2007](#), for example, Countrywide employees charged Hispanic applicants in Los Angeles an average of \$545 more in fees for a \$200,000 loan than they charged non-Hispanic white applicants with similar credit histories. Independent brokers processing applications for a Countrywide loan charged Hispanics \$1,195 more, the department said.

[Lisa Madigan](#), the attorney general of Illinois, which in 2010 had sued Bank of America over Countrywide’s lending practices, also settled that case on Wednesday as part of the deal.

“Chances are, the victims had no idea they were being victimized,” said Thomas E. Perez, the Justice Department’s assistant attorney general for civil rights. “It was discrimination with a smile.”

In addition, from 2004 to 2007 — the peak of Wall Street firms’ demand for subprime loans that they purchased, bundled and resold as securities, a major cause of the ensuing financial crisis — Countrywide allowed its brokers and employees to steer applicants who qualified for regular mortgages into a riskier and more expensive subprime loan.

The odds of a minority applicant being steered into such a loan were more than twice as high as those for a non-Hispanic white borrower with a similar credit rating, the department said. About two-thirds of the victims were Hispanic and one-third were black, the department said.

If a judge approves the settlement, victims will receive between several hundred and several thousand dollars, with larger amounts going to those who were steered into subprime mortgages despite qualifying for regular loans.

The settlement dwarfed previous fair-lending cases. The largest on record until Wednesday, Mr. Perez said, was a \$6.1 million settlement in March 2010 related to two [subsidiaries of A.I.G.](#)

Under federal civil rights laws — including the Fair Housing and Equal Credit Opportunity acts — a lending practice is illegal if it has a disparate impact on minority borrowers. Against the backdrop of the foreclosure crisis, the Obama administration has made a major effort to step up the laws’ enforcement.

In early 2010, the division [created a unit](#) to focus exclusively on banks and mortgage brokers suspected of discriminating against minority mortgage applicants, a type of litigation that requires extensive and complex analysis of data.

Working with bank regulatory agencies and the Department of Housing and Urban Development, the unit has reached settlements or filed complaints in 10 cases accusing a lender of engaging in a pattern or practice of discrimination.

The Federal Reserve first detected statistical discrepancies in the loans Countrywide was making and referred the matter to the Justice Department in early 2007, according to a [court filing](#) disclosed in 2010 as part of a [civil fraud case](#) brought by the Securities and Exchange Commission against Angelo R. Mozilo, the former chief executive of Countrywide.

With its aggressive pursuit of growth in the home lending market, Countrywide became a symbol of the excesses and collapse of the housing boom. After accumulating \$200 billion in assets, it nearly fell into bankruptcy. As the financial crisis began to mount, it was taken over by Bank of America for \$2.8 billion.

The acquisition, regarded as one of the worst deals ever, has already cost the bank tens of billions of dollars in losses. Investor uncertainty about future losses is a prime reason that its stock has lost roughly two-thirds of its value over the last two years.

While Wednesday's settlement put one legal headache behind the bank, the second-largest in the United States by assets, it still faces legal challenges on a host of other fronts. Besides an effort by investors to force it to buy back billions of dollars in defaulted mortgages, Bank of America and other large servicers are negotiating with state attorneys general to settle an investigation into improper foreclosure practices. That settlement could cost the largest servicers more than \$20 billion.

The remnants of Countrywide and its mortgage servicing unit [agreed in June 2010](#) to pay \$108 million to settle federal charges that the company charged highly inflated sums to customers struggling to hang on to their homes. The settlement resolved the biggest mortgage-servicing case ever brought by the Federal Trade Commission with one of its largest overall judgments. The money was to be used to reimburse homeowners who were charged excessive fees.

In August 2010, the company agreed to pay \$600 million to [settle shareholder lawsuits](#) over its mortgage losses.

Nelson D. Schwartz contributed reporting from New York.