WALL STREET JOURNAL

Bank of America to Pay $17 Billion in Justice Department Settlement

Deal With Justice Department Could Be Announced as Early as Thursday

By Christina Rexrode and Devlin Barrett
Updated Aug. 20, 2014 2:47 pm ET

Bank of America Corp. BAC **+3.47%** ▲ is set to pay a record settlement of nearly $17 billion over its mortgage lending as early as Thursday, according to people familiar with the matter, capping a legal odyssey that has dogged it since the depths of the financial crisis.

The deal will resolve a government investigation that stems largely from the bank's purchases of Merrill Lynch & Co. and Countrywide Financial Corp. as they teetered in the housing crisis. More than $1 billion of the payout from the Charlotte, N.C., bank could go to a handful of states, according to a person familiar with the deal.

Bank of America is set to pay a record settlement of nearly $17 billion over its mortgage lending.
GETTY IMAGES

The settlement amount is the largest ever reached between the U.S. and a single company, and is approximately equal to the bank's total profit for the past three years. Bank of America has spent more than $60 billion on legal woes stemming from the financial crisis, and the latest settlement would push the tab to close to $80 billion.

The settlement could provide a turning point for Bank of America: Chief Executive Brian Moynihan, who has spent much of his 4½ years as CEO wading through litigation, has told investors and analysts this is the last of the big, lingering financial-crisis problems.

In negotiations with the Justice Department, the bank's lawyers argued the firm was being unreasonably punished for the actions of Merrill and Countrywide, which together issued most of the questionable mortgage securities at the center of the probe. But prosecutors pushed back, saying the bank had benefited from Merrill and bought Countrywide without any government prodding. The bank also lobbied unsuccessfully to pay most of the settlement in consumer aid to homeowners, which would be less burdensome on the company's bottom line.

More than $9 billion of the settlement is expected to be in cash.

Separately on Wednesday, federal prosecutors in Los Angeles prepared to file civil charges against former Countrywide CEO Angelo Mozilo and other former Countrywide executives, according to a person familiar with the situation. Mr. Mozilo previously settled a civil suit with the Securities and Exchange Commission over accusations he misled investors about the quality of the company's loans as the mortgage crisis approached. The development was reported earlier Wednesday by Bloomberg News.

Mr. Mozilo's lawyer, David Siegel, declined to comment on whether a lawsuit might be pending. But, he said, "There is no sound or fair basis, in law or in fact, to pursue any claims against Angelo Mozilo."

Among the big beneficiaries of the expected Bank of America settlement are a handful of states that are poised to walk away with more than $1 billion in total. The states could include California, Delaware, Illinois, Kentucky, Maryland and New York, according to people familiar with the matter.

That follows hefty payouts to five states from the Justice Department's $13 billion settlement with J.P. Morgan Chase & Co. last year, and its $7 billion settlement with Citigroup Inc. in July. J.P. Morgan and Citigroup, in their settlements with the Justice Department, agreed to statements of facts describing how the banks had knowingly misled investors in the sale of mortgage securities.

Most of those states have directed the money to refunding public pensions that lost money on mortgage securities they bought from those two banks. Some, including Massachusetts and New York, also earmarked money for consumer relief or for the state's general budget.

New York, which didn't suffer big losses from mortgage securities in its public pensions, is using most of its $613 million from the J.P. Morgan settlement for "housing and related purposes," according to the New York state division of budget. New York Attorney General

Eric Schneiderman directed that the $92 million from the Citigroup settlement be used for specific housing-assistance programs, such as housing counselors, as well as law-enforcement efforts to fight financial fraud.

The five states involved in the J.P. Morgan and Citigroup deals—New York, California, Delaware, Illinois and Massachusetts—all had investigations pending against the banks when the global settlements were announced. New York, which secured more than twice as much as any other state in the J.P. Morgan settlement, had sued that bank the year before over mortgage securities sold by Bear Stearns Cos., which J.P. Morgan bought in 2008.

The five attorneys general, all Democrats, played prominent roles in negotiations for the $25 billion national mortgage settlement in 2012, in which Ally Financial Inc., Bank of America, Citigroup, J.P. Morgan and Wells Fargo & Co. paid to settle charges that they wrongfully foreclosed on some homeowners. The banks didn't admit wrongdoing.

Massachusetts Attorney General Martha Coakley, for example, sued the five banks on her own a couple of months before the national mortgage settlement. California Attorney General Kamala Harris walked away from the talks during the final months, coming back only when negotiators agreed to commit a larger portion to her state.

Some observers say there should be more transparency around how states are awarded cash from the bank settlements. "Nobody appointed any of these public officials as Solomon to make decisions," said Dennis Kelleher, CEO of a financial-reform nonprofit called Better Markets Inc., which sued the Justice Department over its J.P. Morgan settlement and alleged that the government should have disclosed more information about how it reached the $13 billion figure. "Everybody is left to take their word for it."

The Justice Department has filed a motion to dismiss the Better Markets suit.

New York, unlike the other four states involved in the J.P. Morgan and Citigroup settlements, didn't have public pensions that had suffered significant losses on mortgage securities sold by those banks. But the New York attorney general did have a powerful tool: the Martin Act, a state securities law that requires only that prosecutors prove that fraud took place, not that a company intended to defraud investors.

Money for the states is often one of the last details to be hammered out as the Justice Department negotiates the settlements with the banks.

Together, the five states secured about $1 billion from the J.P. Morgan settlement. In the Citigroup settlement, those states got far less, about $300 million.

PREVIOUSLY

- **Bank of America Near $16 Billion to $17 Billion Settlement**
- Bank of America to Pay $650 Million to AIG in Mortgage Disputes
- BofA in Talks to Pay at Least $12 Billion Over Probes
- Behind $12 Billion Deal: The Short Answer
- Talks Renew Spotlight on Tax Deductions
- BofA Takes a Mortgage Mulligan

Write to Christina Rexrode at christina.rexrode@wsj.com and Devlin Barrett at devlin.barrett@wsj.com