Panel II Implementing the Settlement: The Role of the Monitor and Legal Oversight

The second panel of the day focused on the implementation and the regulation of the mortgage settlement. The panel featured Joseph Smith, the Mortgage Settlement Monitor; Josh Stein, the Associate Settlement Monitor; and David Huey, of the Washington Attorney General's office. The National Mortgage Settlement is a complex agreement which requires adherence to detailed servicing standards, regular reporting, and evaluation on a large number of metrics. In order to ensure compliance, the agreement called for the creation of a Monitor to oversee the administration of the settlement.

In order to be effective, it is essential that the Monitor maintain independence from the banks it oversees. Mr. Huey explained that the Attorneys General wanted the monitor with in-depth banking experience, but required an individual without professional ties to any of the large banks which were to be overseen. A conflict of interest on the part of the Monitor could have threatened the integrity of the settlement process. The pool of potential candidates was small and finding a Monitor proved to be a unique challenge. Fortunately, Mr. Smith’s distinguished background in the banking sector and long history of protecting consumer interests made him the ideal candidate for the Settlement Monitor.

Mr. Stein went on to explain the steps taken by the Monitor’s Office to ensure its continued independence. The monitor employs a professional firm without ties to the banks to oversee the administration of the reporting. The Monitor’s Office also employs secondary firms which monitor each bank individually. None of the secondary firms has professional contacts with the bank it oversees. In addition to the outside professional firms employed by the Monitor’s Office, the settlement created a number of internal reviewing bodies within the banks. The panelists were heartened by a recent report from an internal reviewing body which identified and rectified non-compliance with the bank. Having functioning review boards within the banks greatly increases the likelihood of compliance and improves relations between the banks and the Monitor’s Office.

The Monitor is in a unique position among banking regulators to disclose information to the public. Smith stressed the value of providing regular public reports on the status of the Settlement, saying “the citizens’ trust in the process is essential to success.” The latest report from the Monitor’s Office was released the day prior to the conference, indicating that the National Mortgage Settlement has resulted in $45.83 billion of consumer relief.