

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK

In the matter of the application of

U.S. BANK NATIONAL ASSOCIATION (as Trustee,  
 Securities Administrator, Paying Agent, and/or  
 Calculation Agent under various Pooling and Servicing  
 Agreements),

Petitioner,

for judicial instructions pursuant to CPLR Article 77.

Index No. 656028/2021

Justice Andrew S. Borrok  
 Part 53

**AFFIRMATION OF NIDHI  
 NINA YADAVA IN  
 SUPPORT OF FIRST  
 AMENDED PETITION AND  
 PROPOSED ORDER TO  
 SHOW CAUSE**

I, Nidhi Nina Yadava, an attorney admitted to practice in the courts of the State of New York, affirm the following under penalty of perjury, pursuant to [New York Civil Practice Law and Rule \(“CPLR”\) § 2106\(a\)](#):

1. I am a partner with Jones Day, counsel to U.S. Bank National Association, solely in its capacities as trustee, securities administrator, paying agent, and/or calculation agent (as named in such role or as successor to the named party, the “**Petitioner**”), in this matter.

2. I submit this affirmation in support of (i) the First Amended Petition (the “**Amended Petition**”), dated December 28, 2021, for the seventy-seven residential mortgage-backed securitization trusts identified in Exhibit A to the Amended Petition (including any individually designated loan groups therein, the “**Subject Trusts**”), and (ii) the proposed Order to Show Cause filed contemporaneously with the Amended Petition (as may be modified when entered by this Court, the “**Proposed Order to Show Cause**”).

3. Pursuant to [CPLR Section 7701](#), the Amended Petition seeks judicial instruction concerning the interpretation and application of certain provisions of the contracts governing the Subject Trusts (the “**Governing Agreements**”) with respect to issues regarding (i) the manner in

which distributions are calculated and applied under the waterfalls after the aggregate outstanding principal balances of the Class A, Class M, and/or Class B classes of certificates are reduced to zero, and (ii) the treatment of borrower payments of deferred or forborne principal, interest, and/or other amounts on mortgages that have been subject to servicer modifications in connection with a default or a reasonably foreseeable default (as determined by servicers), which is a subsidiary issue that has the potential to impact issue (i). The Amended Petition modifies the list of Subject Trusts to add “**SACO I 2005-10 (Grp. II)**” (as defined in the Amended Petition) thereto, and revises certain aspects of the original petition ([NYSCEF No. 1](#)) (the “**Original Petition**”). A redline comparing the Amended Petition to the Original Petition is attached as Exhibit 1 to this affirmation.

#### **SUPPLEMENTAL NOTICE PROGRAM**

4. With respect to the Subject Trusts other than SACO I 2005-10 (Grp. II), Petitioner has already provided notice pursuant to the notice program set forth in the Order to Show Cause entered on November 29, 2021 ([NYSCEF No. 30](#)) (the “**Original Order to Show Cause**”).

5. Under the Proposed Order to Show Cause, Petitioner now proposes a supplemental notice program (the “**Supplemental Notice Program**”) to put certificateholders and other potentially interested persons with respect to SACO I 2005-10 (Grp. II) (collectively, “**Potentially Interested Persons**”) on notice of the Amended Petition and this proceeding. Although there are currently no adverse parties of which Petitioner is aware, persons that may have a potential interest in the subject matter of the Amended Petition and this proceeding with respect to SACO I 2005-10 (Grp. II) include holders of certificates issued in connection with SACO I 2005-10 (Grp. II).

6. Under the Supplemental Notice Program, Petitioner would:

- (a) mail a copy of its notice concerning this proceeding, substantially in the form attached as Exhibit 2 hereto (the “**Supplemental Notice**”), by first

class certified mail, to certificateholders listed on the certificate registry for SACO I 2005-10 (Grp. II) as of the date of the commencement of this action;

- (b) provide the Supplemental Notice to The Depository Trust Company (“DTC”) to be posted to DTC’s online Legal Notice System (LENS) in accordance with its established procedures;
- (c) post the Supplemental Notice on the Petitioner’s investor reporting website with respect to SACO I 2005-10 (Grp. II); and
- (d) post the Supplemental Notice and all papers subsequently filed on the public docket in connection with this proceeding to a website created and maintained by Petitioner for this purpose.

### ESCROW

7. For the Subject Trusts covered in the Original Petition, the Original Order to Show Cause directed Petitioner to cause “**Post-Zero Balance Collections**”<sup>1</sup> (as defined in the Amended Petition) net of any expenses and other fees payable under the Governing Agreements (the “**Escrow Funds**”) to be maintained on deposit in escrow pursuant to an escrow agreement (“**Escrow Agreement**”) substantially in the form attached as [Exhibit 2](#) to the Affirmation Of Nidhi Nina Yadava In Support Of Petition and Order to Show Cause filed on October 18, 2021 ([NYSCEF No. 18](#)).

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<sup>1</sup> “**Deferred Principal Collections**” (as defined in the Amended Petition) may be included within Post-Zero Balance Collections, and thus certain Deferred Principal Collections may be included in escrowed funds. However, the Original Order to Show Cause does not direct Petitioner to hold in escrow any Deferred Principal Collections that do not constitute Post-Zero Balance Collections—*i.e.*, with respect to any Deferred Principal Collections where the Class A, M, and/or B classes are outstanding, Petitioner is continuing to apply and distribute such amounts consistent with its existing practices.

8. U.S. Bank National Association, solely in its individual, non-trustee capacity, is designated as the “**Escrow Agent**” under the Escrow Agreement.

9. The Escrow Agent will not receive any fees, interest, or other direct monetary benefit under the Escrow Agreement and neither will Petitioner or other parties involved in administration of the Subject Trusts covered in the Original Petition pursuant to the Governing Agreements.

10. The Original Order to Show Cause also directs Petitioner to use commercially reasonable efforts to cause the Escrow Funds to be invested and reinvested in a designated high quality money market fund, Morgan Stanley Institutional Liquidity Funds Treasury Securities Portfolio (Institutional Share Class) (ticker: MSUXX), with any earnings thereon to accrue to the benefit of certificateholders.

11. In light of the addition of SACO I 2005-10 (Grp. II) as a Subject Trust to the Amended Petition, the Proposed Order to Show Cause seeks an order directing Petitioner to escrow applicable funds for SACO I 2005-10 (Grp. II) pursuant to an amended and restated escrow agreement substantially in the form of the Escrow Agreement already approved, with respect to the other Subject Trusts, in the Court’s Original Order to Show Cause (the “**Amended and Restated Escrow Agreement**”). An order directing Petitioner to escrow applicable funds for SACO I 2005-10 (Grp. II) pursuant to the Amended and Restated Escrow Agreement is appropriate in this case to maintain the status quo and ensure that the funds are available to properly implement this Court’s instructions.

**NO PRIOR REQUEST AND EX PARTE ENTRY OF ORDER TO SHOW CAUSE**

12. No prior request or previous application for the relief sought herein has been made to this or any other Court concerning SACO I 2005-10 (Grp. II).

13. Petitioner is seeking entry of the Proposed Order to Show Cause on an ex parte basis to minimize disruption in the markets for certificates issued in connection with the Subject Trusts and to ensure that no Potentially Interested Person has an unfair advantage with respect to the questions and issues raised in the Amended Petition. This application is made in good faith and to promote the ends of justice.

\* \* \*

WHEREFORE, Petitioner respectfully requests that the Court enter the Proposed Order to Show Cause and grant the Petitioner such other, further and different relief as the Court considers just and proper.

Dated: December 28, 2021  
New York, New York

/s/ Nidhi Nina Yadava  
Nidhi Nina Yadava