

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

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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.
ANSWER OF THE RELIANCE
PARTIES TO THE AMENDED
PETITION
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Pursuant to this Court’s order to show cause dated November 16, 2021, Respondents
Reliance Standard Life Insurance Company, Safety National Casualty Corporation, Stephen
Finkelstein, and NAV LLC (collectively, the “Reliance Parties” or the “Respondents”), by and
through their undersigned counsel, respectfully submit this Answer to the First Amended Petition
(the “Petition”) of U.S. Bank National Association (the “Trustee”), filed December 28, 2021.1
Respondents hold certificates issued by 11 of the Subject Trusts at issue in this proceeding, see
Exhibit 1, and they intend to appear with respect to those trusts.2

The Petition seeks judicial instruction with respect to two issues: (1) “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 (the

1 The Trustee’s original Petition was filed on October 18, 2021, but was subsequently amended.

2 Capitalized terms not defined herein have the meanings given to such terms in the Petition.

‘Primary Classes’) are reduced to zero,” (the “Zero-Balance Issue”), and (2) “the treatment of borrower payments of deferred or forborne principal, interest, and/or other amounts on mortgages that have been subject to servicer modifications,” (the “Deferred Principal Issue”).

([Petition](#) ¶ 2.)

With respect to the Deferred Principal Issue, the Trustee acknowledges that the amounts of loan principal that were deferred at the time of loan modifications (the “Deferred Principal Amounts”) were treated as losses “even though most of the Governing Agreements do not expressly call for treating Deferred Principal Amounts as losses.” ([Petition](#) ¶ 13.) However, the Trustee further states that Deferred Principal Amounts that are later collected by the Subject Trusts (“Deferred Principal Collections”) do not qualify as Subsequent Recoveries under most of the trusts’ Governing Agreements; thus, the Trustee claims that it is not appropriate to write up the certificate balances of the Primary Classes upon receipt of Deferred Principal Collections. ([Id.](#) ¶ 17.) Respondents take the position that the Trustee’s historical practices with respect to the Deferred Principal Issue are incorrect and that the write-downs that have previously been applied to the Primary Classes’ certificate balances on account of Deferred Principal Amounts must be reversed, irrespective of whether Deferred Principal Collections qualify as Subsequent Recoveries.

With respect to the Zero-Balance Issue, the Respondents incorporate by reference the arguments made in the Answer of the Olifant Funds and Taconic Funds to the Amended Petition.

The Trustee acknowledges that its historical practices with respect to the Zero-Balance Issue and the Deferred Principal Issue have generally been inconsistent with the positions taken by Respondents herein. Because its historical practices are incorrect, the Trustee is not entitled to relief in the form of a court order approving of its historical practices with respect to these

issues. (See *id.* ¶¶ 112–14, 124–25, 152.) Rather, the Court should direct the Trustee to administer the Subject Trusts in accordance with Respondents’ positions, as set forth above, and to correct any prior misapplications of the trusts’ Governing Agreements. Respondents wish to be heard on these issues and reserve the right to participate in the briefing, discovery, and/or the Final Hearing concerning these issues.

Date: January 18, 2022

**PATTERSON BELKNAP WEBB &
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