

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

In the matter of the application of

THE BANK OF NEW YORK MELLON, in
Its Capacity as Trustee for 278 Residential
Mortgage-Backed Securitization Trusts

Petitioner,

For Judicial Instructions under CPLR Article 77
Concerning the Proper Pass-Through Rate
Calculation for CWALT Interest Only Senior
Certificates.

Index No. 150738/2019

Cohen, J.

**NOTICE OF [PROPOSED]
PARTIAL SEVERANCE
ORDER AND PARTIAL
FINAL JUDGMENT**

TO THE HONORABLE JOEL M. COHEN:

The undersigned certificateholders (the “Undersigned”) jointly move for the entry of judgment issuing a judicial instruction to Petitioner concerning the proper method for calculating the Pass-Through Rate, which is used to determine the amounts distributed to holders of the Class X, interest-only certificates (“IO Certificates”), for 170 of the residential mortgage-backed securitization trusts at issue in this CPLR Article 77 proceeding, which are identified in exhibits to the proposed judgment attached to this Notice. As there is no triable issue of fact as to the trusts that are the subject of the proposed judgment, the Undersigned respectfully urge the Court to enter the proposed judgment without further delay. The Undersigned have conferred with the Petitioner, which has confirmed that it can implement the proposed judgment and has no objection to it.

Dated: New York, NY
June 16, 2021

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EXHIBIT A

At IAS Part 3 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York on the ____ day of ____, 2021

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

In the matter of the application of

THE BANK OF NEW YORK MELLON, in
Its Capacity as Trustee for 278 Residential
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Petitioner,

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Index No. 150738/2019

Cohen, J.

**[PROPOSED] PARTIAL
SEVERANCE ORDER
AND PARTIAL FINAL
JUDGMENT**

WHEREAS, the Petitioner commenced this proceeding under CPLR Article 77 by filing a petition (the “Petition”) seeking judicial instructions concerning the proper method to calculate the Pass-Through Rate, which is used to determine the amounts distributed to holders of the Class X, interest-only certificates (“IO Certificates”) for 278 residential mortgage-backed securities trusts identified in Exhibit A to the Petition (the “Subject Trusts”); and

WHEREAS, all capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Petition; and

WHEREAS, under the Order to Show Cause dated February 1, 2019 (the “Show Cause Order”), the Court directed the Petitioner to provide notice of proceeding pursuant to the notice program described in the Show Cause Order (the “Notice Program”); and

WHEREAS, Petitioner complied with the Notice Program; and

WHEREAS, the Notice Program directed that interested persons respond to the Petition on or before March 8, 2019; and

WHEREAS, under the Order to Provide Supplemental Notice dated May 22, 2019 (the “Supplemental Notice Order”), the Court directed the Petitioner to provide supplemental notice of the Computation Method Issue (as defined in the May 22, 2019 Supplemental Notice) pursuant to the notice program described in the Supplemental Notice Order (the “Supplemental Notice Program”); and

WHEREAS, Petitioner complied with the Supplemental Notice Program; and

WHEREAS, the Supplemental Notice Program directed that interested persons respond to the Petition on or before June 14, 2019; and

WHEREAS, BlackRock Financial Management, Inc., the Federal Home Loan Bank of Atlanta, Goldman Sachs Asset Management L.P., Kore Advisors, L.P., and Pacific Investment Management Company LLC (collectively, the “Institutional Investors”); American General Life Insurance Company, American Home Assurance Company, American International Reinsurance Company, Lexington Insurance Company, National Union Fire Insurance Company of Pittsburgh, The United States Life Insurance Company, and the Variable Annuity Life Insurance Company (collectively, the “AIG Parties”); Tilden Park Investment Master Fund LP, Tilden Park Management I LLC, and Tilden Park Capital Management LP (collectively, “Tilden Park”); and the Federal Home Loan Bank of San Francisco (“FHLB”) have asserted an interest in the Subject Trusts identified in Exhibit A hereto (the “Undisputed Trusts”)¹; and

¹ MFA Financial, Inc., MFA Securities Holdings, LLC, and MFA Securitization Holdings, LLC (collectively, the “MFA Parties”) appeared with respect to certain trusts on April 17, 2019. The MFA Parties subsequently withdrew their appearances on June 24, 2019.

WHEREAS, the Institutional Investors, the AIG Parties, Tilden Park, and FHLB are the only investor parties who have appeared with respect to the Undisputed Trusts; and

WHEREAS, the Institutional Investors, the AIG Parties, Tilden Park, and FHLB agree and consent to this Partial Severance Order and Partial Final Judgment (this “Order”), which resolves the issues for which judicial instructions were sought concerning the proper method for calculating the amounts distributed to IO Certificates for the Undisputed Trusts; and

WHEREAS, the Institutional Investors, the AIG Parties, Tilden Park, FHLB, and Silian Ventures LLC (“Silian”) have asserted an interest in the Subject Trusts identified in Exhibit B hereto (the “Settlement Trusts”); and

WHEREAS, the Institutional Investors, the AIG Parties, Tilden Park, FHLB, and Silian are the only investor parties who have appeared with respect to the Settlement Trusts; and

WHEREAS, on May 29, 2020, this Court entered a Decision and Order (the “Decision”); and

WHEREAS, on June 29, 2020, Silian filed a notice of appeal from this Court’s Decision; and

WHEREAS, on July 9, 2020, the AIG Parties and Tilden Park filed a notice of cross-appeal from this Court’s Decision; and

WHEREAS, the Institutional Investors and FHLB did not appeal this Court’s Decision; and

WHEREAS, the AIG Parties, Tilden Park, and Silian have entered into a settlement agreement (the “Settlement Agreement”) resolving their disputes with respect to the Settlement Trusts, whereby Silian will withdraw its appeal of this Court’s Decision with respect to the Settlement Trusts and the Undisputed Trusts, and the AIG Parties and Tilden Park will withdraw

their cross-appeal of the Decision with respect to the Settlement Trusts and the Undisputed Trusts;²
and

WHEREAS, the AIG Parties, Tilden Park, Silian, the Institutional Investors, and FHLB agree and consent to this Order, which resolves the issues for which judicial instructions were sought concerning the proper method for calculating the amounts distributed to IO Certificates for the Settlement Trusts; and

NOW, THEREFORE, on the motion of the Institutional Investors, the AIG Parties, Tilden Park, FHLB, Silian, and Petitioner, it is hereby:

ORDERED, ADJUDGED and DECREED that Petitioner shall calculate the Pass-Through Rate for the IO Certificates of the Undisputed Trusts and the Settlement Trusts in accordance with the terms of this Court's Decision, irrespective of the outcome of any appeal of that Decision, as such appeal will concern Subject Trusts other than the Undisputed Trusts and the Settlement Trusts; and it is further

ORDERED, ADJUDGED and DECREED that the terms of this Order and the Court's Decision shall not impact any aspects of the administration of the Undisputed Trusts or the Settlement Trusts not expressly addressed in this Order or the Court's Decision; and it is further

ORDERED, ADJUDGED and DECREED that this Order is not applicable to, shall be without prejudice to, and shall have no precedential effect on any argument of any party concerning the proper method for calculating the Pass-Through Rate for the IO Certificates with respect to any trusts other than the Undisputed Trusts and Settlement Trusts, and does not seek to alter, amend, or otherwise disturb the Decision's findings on the Subject Trusts, all of which remain subject to the Decision; and it is further

ORDERED, ADJUDGED and DECREED that certificateholders, noteholders, and any other parties claiming rights or interests in any of the Undisputed Trusts or Settlement Trusts are barred from asserting claims against the Petitioner with respect to any conduct taken to implement and comply with the terms of this Order and with respect to the proper method for calculating the Pass-Through Rate for the IO Certificates of the Undisputed Trusts or the Settlement Trusts, so long as such conduct is performed in accordance with the terms of this Order and this Court's Decision; and it is further

ORDERED that the Clerk of New York County be, and hereby is, directed to enter this Order forthwith and without delay.

Dated: New York, New York

_____, 2021

Hon. Joel M. Cohen, J.S.C.

Judgment signed and entered this _____ day of _____ 2021.

Clerk of New York County

EXHIBIT A

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|-----|---------------|-----|-----------------|
| 1. | CWHL 2002-18 | 41. | CWHL 2005-23 |
| 2. | CWHL 2002-19 | 42. | CWHL 2005-24 |
| 3. | CWHL 2002-34 | 43. | CWHL 2005-25 |
| 4. | CWHL 2002-39 | 44. | CWHL 2005-26 |
| 5. | CWHL 2003-12 | 45. | CWHL 2005-28 |
| 6. | CWHL 2003-15 | 46. | CWHL 2005-29 |
| 7. | CWHL 2003-32 | 47. | CWHL 2005-R1 |
| 8. | CWHL 2003-44 | 48. | CWHL 2005-R2 |
| 9. | CWHL 2003-48 | 49. | CWHL 2006-12 |
| 10. | CWHL 2003-59 | 50. | CWHL 2006-14 |
| 11. | CWHL 2003-J12 | 51. | CWHL 2006-15 |
| 12. | CWHL 2003-J14 | 52. | CWHL 2006-20 |
| 13. | CWHL 2003-R3 | 53. | CWHL 2007-3 |
| 14. | CWHL 2003-R4 | 54. | CWHL 2007-14 |
| 15. | CWHL 2004-3 | 55. | CWHL 2007-J2 |
| 16. | CWHL 2004-4 | 56. | CWHL 2007-J3 |
| 17. | CWHL 2004-5 | 57. | CWHL 1998-12 |
| 18. | CWHL 2004-8 | 58. | CWALT 2004-J3 |
| 19. | CWHL 2004-9 | 59. | CWALT 2004-2CB |
| 20. | CWHL 2004-10 | 60. | CWALT 2004-3T1 |
| 21. | CWHL 2004-13 | 61. | CWALT 2004-4CB |
| 22. | CWHL 2004-18 | 62. | CWALT 2004-5CB |
| 23. | CWHL 2004-19 | 63. | CWALT 2004-7T1 |
| 24. | CWHL 2004-21 | 64. | CWALT 2004-9T1 |
| 25. | CWHL 2004-24 | 65. | CWALT 2004-J11 |
| 26. | CWHL 2004-J4 | 66. | CWALT 2004-J12 |
| 27. | CWHL 2004-R1 | 67. | CWALT 2005-4 |
| 28. | CWHL 2005-5 | 68. | CWALT 2005-J2 |
| 29. | CWHL 2005-6 | 69. | CWALT 2005-J5 |
| 30. | CWHL 2005-10 | 70. | CWALT 2005-J6 |
| 31. | CWHL 2005-12 | 71. | CWALT 2005-3CB |
| 32. | CWHL 2005-13 | 72. | CWALT 2005-6CB |
| 33. | CWHL 2005-14 | 73. | CWALT 2005-7CB |
| 34. | CWHL 2005-15 | 74. | CWALT 2005-9CB |
| 35. | CWHL 2005-16 | 75. | CWALT 2006-J8 |
| 36. | CWHL 2005-17 | 76. | CWALT 2004-12CB |
| 37. | CWHL 2005-18 | 77. | CWALT 2004-13CB |
| 38. | CWHL 2005-19 | 78. | CWALT 2004-14T2 |
| 39. | CWHL 2005-20 | 79. | CWALT 2004-16CB |
| 40. | CWHL 2005-21 | 80. | CWALT 2004-18CB |

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| 81. | CWALT 2004-20T1 | 103. | CWALT 2005-25T1 |
| 82. | CWALT 2004-22CB | 104. | CWALT 2005-26CB |
| 83. | CWALT 2004-24CB | 105. | CWALT 2005-28CB |
| 84. | CWALT 2004-25CB | 106. | CWALT 2005-29CB |
| 85. | CWALT 2004-26T1 | 107. | CWALT 2005-30CB |
| 86. | CWALT 2004-27CB | 108. | CWALT 2005-32T1 |
| 87. | CWALT 2004-28CB | 109. | CWALT 2005-33CB |
| 88. | CWALT 2004-29CB | 110. | CWALT 2005-34CB |
| 89. | CWALT 2004-30CB | 111. | CWALT 2005-35CB |
| 90. | CWALT 2004-32CB | 112. | CWALT 2005-37T1 |
| 91. | CWALT 2004-34T1 | 113. | CWALT 2005-40CB |
| 92. | CWALT 2004-35T2 | 114. | CWALT 2005-42CB |
| 93. | CWALT 2004-36CB | 115. | CWALT 2005-46CB |
| 94. | CWALT 2005-10CB | 116. | CWALT 2005-47CB |
| 95. | CWALT 2005-11CB | 117. | CWALT 2005-48T1 |
| 96. | CWALT 2005-13CB | 118. | CWALT 2005-49CB |
| 97. | CWALT 2005-18CB | 119. | CWALT 2005-50CB |
| 98. | CWALT 2005-19CB | 120. | CWALT 2005-52CB |
| 99. | CWALT 2005-20CB | 121. | CWALT 2005-53T2 |
| 100. | CWALT 2005-21CB | 122. | CWALT 2005-54CB |
| 101. | CWALT 2005-22T1 | 123. | CWALT 2005-55CB |
| 102. | CWALT 2005-23CB | 124. | CWALT 2007-10CB |

EXHIBIT B

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|-----|-----------------|-----|--------------|
| 1. | CWALT 2004-J10 | 41. | CWHL 2007-17 |
| 2. | CWALT 2005-64CB | 42. | CWHL 2007-4 |
| 3. | CWALT 2005-73CB | 43. | CWHL 2007-5 |
| 4. | CWALT 2005-74T1 | 44. | CWHL 2007-6 |
| 5. | CWALT 2005-77T1 | 45. | CWHL 2007-7 |
| 6. | CWALT 2005-J8 | 46. | CWHL 2007-8 |
| 7. | CWALT 2006-12CB | | |
| 8. | CWALT 2006-20CB | | |
| 9. | CWALT 2006-23CB | | |
| 10. | CWALT 2006-26CB | | |
| 11. | CWALT 2006-27CB | | |
| 12. | CWALT 2006-33CB | | |
| 13. | CWALT 2006-40T1 | | |
| 14. | CWALT 2006-45T1 | | |
| 15. | CWALT 2006-4CB | | |
| 16. | CWALT 2006-6CB | | |
| 17. | CWALT 2006-9T1 | | |
| 18. | CWALT 2006-J1 | | |
| 19. | CWALT 2007-13 | | |
| 20. | CWALT 2007-16CB | | |
| 21. | CWALT 2007-17CB | | |
| 22. | CWALT 2007-22 | | |
| 23. | CWALT 2007-23CB | | |
| 24. | CWALT 2007-24 | | |
| 25. | CWALT 2007-2CB | | |
| 26. | CWALT 2007-4CB | | |
| 27. | CWALT 2007-5CB | | |
| 28. | CWALT 2007-6 | | |
| 29. | CWALT 2007-J1 | | |
| 30. | CWHL 2004-J3 | | |
| 31. | CWHL 2005-30 | | |
| 32. | CWHL 2005-J2 | | |
| 33. | CWHL 2005-J3 | | |
| 34. | CWHL 2006-13 | | |
| 35. | CWHL 2006-18 | | |
| 36. | CWHL 2006-19 | | |
| 37. | CWHL 2006-J1 | | |
| 38. | CWHL 2006-J2 | | |
| 39. | CWHL 2007-15 | | |
| 40. | CWHL 2007-16 | | |