

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE MORGAN STANLEY MORTGAGE  
PASS-THROUGH CERTIFICATES LITIGATION,

This Document Relates To:  
ALL ACTIONS.

MASTER FILE NO. 09-CV-2137-KBF  
ECF Case  
CLASS ACTION

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED  
SETTLEMENT AND FINAL APPROVAL HEARING**

***A Federal Court authorized this Notice. This is not a solicitation from a lawyer.***

**NOTICE OF PENDENCY OF CLASS ACTION:** Please be advised that your rights may be affected by the above-captioned class action lawsuit pending in this Court (the “Action”) if: (i) prior to December 2, 2008, you purchased or otherwise acquired any 2006 Certificates<sup>1</sup> pursuant or traceable to the 2006 Offerings<sup>2</sup> and were damaged thereby; or (ii) prior to May 7, 2009, purchased or otherwise acquired any 2007 Certificates<sup>3</sup> pursuant or traceable to the 2007 Offerings<sup>4</sup> and were damaged thereby.

**NOTICE OF SETTLEMENT:** Please also be advised that the Public Employees’ Retirement System of Mississippi (“MissPERS”) and West Virginia Investment Management Board (“West Virginia”) (together, “Lead Plaintiffs”), and former named plaintiffs NECA-IBEW Health and Welfare Fund, Pompano Beach Police and Firefighters’ Retirement System, and Carpenters Pension Fund of West Virginia (collectively with Lead Plaintiffs, “Plaintiffs” or “Settlement Class Representatives”), on behalf of the Settlement Class (as defined in ¶1 below), have reached a proposed settlement of the Action for a total of \$95 million in cash that will resolve all claims in the Action (the “Settlement”).

**This Notice explains important rights you may have, including your possible receipt of cash from the Settlement. Your legal rights will be affected whether or not you act. Please read this Notice carefully!**

**1. Description of the Action and the Settlement Class:** This Notice relates to a proposed Settlement of a class action lawsuit pending against the following defendants: Morgan Stanley Capital I Inc.; Morgan Stanley Mortgage Capital Inc.; Morgan Stanley Mortgage Capital Holdings LLC; Morgan Stanley & Co. Incorporated; Morgan Stanley; David R. Warren; Anthony B. Tufariello; William J. Forsell; and Steven S. Stern (“Defendants”) (collectively, with Plaintiffs, the “Settling Parties”). The proposed Settlement, if approved by the Court, will apply to the following Settlement Class (the “Settlement Class”): all persons and entities who: (i) prior to December 2, 2008, purchased or otherwise acquired any of the 2006 Certificates pursuant or

<sup>1</sup> “2006 Certificates” means those Certificates listed (by CUSIP) on Table A-1 to the Plan of Allocation, which is available on the Settlement website, [www.MorganStanleyRMBSsettlement.com](http://www.MorganStanleyRMBSsettlement.com).

<sup>2</sup> “2006 Offerings” means Morgan Stanley Mortgage Loan Trust 2006-4SL, Morgan Stanley Mortgage Loan Trust 2006-5AR, Morgan Stanley Mortgage Loan Trust 2006-6AR, Morgan Stanley Mortgage Loan Trust 2006-7, Morgan Stanley Mortgage Loan Trust 2006-8AR, Morgan Stanley Mortgage Loan Trust 2006-9AR, Morgan Stanley Mortgage Loan Trust 2006-10SL, Morgan Stanley Mortgage Loan Trust 2006-11, Morgan Stanley Mortgage Loan Trust 2006-12XS, Morgan Stanley Mortgage Loan Trust 2006-13ARX, Morgan Stanley Mortgage Loan Trust 2006-14SL, Morgan Stanley Mortgage Loan Trust 2006-15XS, and Morgan Stanley Mortgage Loan Trust 2006-16AX.

<sup>3</sup> “2007 Certificates” means those Certificates listed (by CUSIP) on Table A-2 to the Plan of Allocation, which is available on the Settlement website, [www.MorganStanleyRMBSsettlement.com](http://www.MorganStanleyRMBSsettlement.com).

<sup>4</sup> “2007 Offerings” means Morgan Stanley Mortgage Loan Trust 2006-17XS, Morgan Stanley Mortgage Loan Trust 2007-1XS, Morgan Stanley Mortgage Loan Trust 2007-2AX, Morgan Stanley Mortgage Loan Trust 2007-3XS, Morgan Stanley Mortgage Loan Trust 2007-4SL, Morgan Stanley Mortgage Loan Trust 2007-5AX, Morgan Stanley Mortgage Loan Trust 2007-6XS, Morgan Stanley Mortgage Loan Trust 2007-7AX, Morgan Stanley Mortgage Loan Trust 2007-8XS, Morgan Stanley Mortgage Loan Trust 2007-9SL, Morgan Stanley Mortgage Loan Trust 2007-10XS, Morgan Stanley Mortgage Loan Trust 2007-11AR, Morgan Stanley Mortgage Loan Trust 2007-12, Morgan Stanley Mortgage Loan Trust 2007-13, Morgan Stanley Mortgage Loan Trust 2007-14AR, and Morgan Stanley Mortgage Loan Trust 2007-15AR.

Morgan Stanley Mortgage Loan Trust 2006-17XS was issued in 2006, but is included in the definition of “2007 Offerings” consistent with the proceedings in the Action and the Settling Parties’ litigation terminology.

traceable to the 2006 Offerings and were damaged thereby; or (ii) prior to May 7, 2009, purchased or otherwise acquired any 2007 Certificates pursuant or traceable to the 2007 Offerings and were damaged thereby. As described in more detail in ¶27 below, certain persons and entities are expressly excluded from the definition of the Settlement Class, including, but not limited to, those who have brought their own individual claims against Defendants as set forth on Appendix 1 to the Stipulation and Agreement of Settlement (“Stipulation”). Anyone with questions as to whether or not they are excluded from the Settlement Class may call the Claims Administrator toll-free at (888) 283-7957. Also excluded are those persons or entities who submit a request for exclusion as set forth in ¶48 below.

**2. Statement of Settlement Class’s Recovery:** Subject to Court approval, and as described more fully in ¶¶38-40 below, Plaintiffs, on behalf of the Settlement Class, have agreed to settle all Released Claims (as defined in ¶39 below) against Defendants and other Released Parties (as defined in ¶40 below) in exchange for a settlement payment of \$95 million in cash (the “Settlement Amount”) to be deposited into an escrow account. The Net Settlement Fund (the Settlement Fund less Taxes, Notice and Administration Costs, and attorneys’ fees and Litigation Expenses awarded by the Court) will be distributed in accordance with a plan of allocation (the “Plan of Allocation”) that will be approved by the Court and will determine how the Net Settlement Fund shall be distributed to Members of the Settlement Class. The Plan of Allocation is a basis for determining the relative positions of Settlement Class Members for purposes of allocating the Net Settlement Fund. The proposed Plan of Allocation is included in this Notice, and may be modified by the Court without further notice.

**3. Statement of Average Distribution Per \$1,000 in Original Value:** The Settlement Fund consists of the \$95 million Settlement Amount plus interest earned. Based on the total original face value of the Certificates as stated in the prospectus supplements (without subtracting the principal paydowns received on the Certificates) purchased or acquired by potential Settlement Class Members, and assuming all potential Settlement Class Members elect to participate, the estimated average distribution is \$2.63 per \$1,000 in original face value offered. Settlement Class Members may recover more or less than this amount depending on, among other factors, the aggregate value of the Recognized Claims represented by valid and acceptable Claim Forms as explained in the Plan of Allocation appended hereto as Appendix A; when their Certificates were purchased or acquired and the price at the time of purchase; any principal amounts received; whether the Certificates were sold, and if so, when they were sold and for how much; whether the Court sustained the claims asserted on behalf of purchasers of certain Certificates; and/or if held on the applicable dates of suit identified in the Plan of Allocation for each of the Certificates, the value of the Certificates on that date. In addition, the actual recovery of Settlement Class Members may be further reduced by the payment of fees and costs from the Settlement Fund, as approved by the Court.

**4. Statement of the Parties’ Position on Damages:** Defendants deny all claims of wrongdoing, that they engaged in any wrongdoing, that they are liable to Plaintiffs and/or the Settlement Class, that Plaintiffs or other Members of the Settlement Class suffered any injury, and that the Action is subject to proper certification for litigation purposes. Moreover, the parties do not agree on the amount of recoverable damages or on the average amount of damages per Certificate that would be recoverable if Plaintiffs were to prevail on each of the claims. The issues on which the parties disagree include, but are not limited to, whether: (1) the statements made or facts allegedly omitted were material, false or misleading; (2) Defendants are otherwise liable under the securities laws for those statements or omissions; and (3) all or part of the damages allegedly suffered by Members of the Settlement Class were caused by economic conditions or factors other than the allegedly false or misleading statements or omissions.

**5. Statement of Attorneys’ Fees and Expenses Sought:** Lead Counsel will apply to the Court for an award of attorneys’ fees from the Settlement Fund in the amount of 17% of the Settlement Fund, plus interest earned at the same rate and for the same period as earned by the Settlement Fund. In addition, Lead Counsel also will apply to the Court for payment from the Settlement Fund for Plaintiffs’ Counsel’s Litigation Expenses (reasonable costs, expenses, or charges of Plaintiffs’ Counsel in connection with commencing and prosecuting the Action), in an amount not to exceed \$2 million, plus interest earned at the same rate and for the same period as earned by the Settlement Fund. Expenses may include reimbursement of the costs and expenses of Plaintiffs (including lost wages) in accordance with 15 U.S.C. § 77z-1(a)(4). Based on the total original face value of the Certificates as stated in the prospectus supplements (without subtracting

the principal paydowns received on the Certificates) purchased or acquired by potential Settlement Class Members, and assuming all purchasers of the initially offered Certificates elect to participate, if the Court approves Lead Counsel's fee and expense application, the estimated average cost is \$0.50 per \$1,000 of original face value offered. The actual cost may be more or less than this amount depending on, among other factors, the aggregate value of the Recognized Claims represented by valid and acceptable Claim Forms as explained in the Plan of Allocation appended hereto as Appendix A; when their Certificates were purchased or acquired and the price at the time of purchase; any principal amounts received; whether the Certificates were sold, and if so, when they were sold and for how much; whether the Court sustained the claims asserted on behalf of purchasers of certain Certificates; and/or if held on the applicable dates of suit identified in the Plan of Allocation for each of the Certificates, the value of the Certificates on that date.

**6. Identification of Attorneys' Representatives:** Plaintiffs and the Settlement Class are being represented by Bernstein Litowitz Berger & Grossmann LLP and Robbins Geller Rudman & Dowd LLP (collectively, "Lead Counsel"). Any questions regarding the Settlement should be directed to David R. Stickney, Esq. at Bernstein Litowitz Berger & Grossmann LLP, 12481 High Bluff Drive, Suite 300, San Diego, CA 92130, (866) 648-2524, blbg@blbgllaw.com, or to Daniel S. Drosman, Esq. at Robbins Geller Rudman & Dowd LLP, 655 W. Broadway, Suite 1900, San Diego, CA 92101, (800) 449-4900, DJR@rgrdlaw.com.

| <b>YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:</b>   |   |
|---|---|
| <b>DO NOTHING.</b>  | Get no payment. Remain a Settlement Class Member. Give up your rights.  |
| <b>REMAIN A MEMBER OF THE SETTLEMENT CLASS AND SUBMIT A CLAIM FORM POSTMARKED NO LATER THAN JANUARY 15, 2015.</b>   | This is the only way to be potentially eligible to receive a payment. If you wish to obtain a payment as a Member of the Settlement Class, you will need to file a claim form (the "Claim Form" or "Proof of Claim Form"), which is included with this Notice, postmarked no later than January 15, 2015.   |
| <b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS (OPT OUT) BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN NOVEMBER 26, 2014.</b> | Receive no payment pursuant to this Settlement. This is the only option that allows you to ever potentially be part of any other lawsuit against any of the Defendants or the other Released Parties concerning the Released Claims. Should you elect to exclude yourself from the Settlement Class, you should understand that Defendants and the other Released Parties will have the right to assert any and all defenses they may have to any claims that you may seek to assert, including, without limitation, the defense that any such claims are untimely under applicable statutes of limitations and statutes of repose. |
| <b>OBJECT TO THE SETTLEMENT SO THAT IT IS RECEIVED NO LATER THAN NOVEMBER 26, 2014.</b>   | Write to the Court about your view on the Settlement, or why you don't think the Settlement is fair to the Settlement Class. If you do not exclude yourself from the Settlement Class, you may object to the Settlement, the Plan of Allocation, or the request for attorneys' fees and Litigation Expenses. You must still submit a Claim Form in order to be potentially eligible to receive any money from the Settlement Fund.  |
| <b>GO TO THE HEARING ON DECEMBER 18, 2014, AT 1:00 P.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN NOVEMBER 26, 2014.</b>     | Ask to speak in Court about the fairness of the Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and Litigation Expenses.  |

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## WHY DID I GET THIS NOTICE?

7. The purpose of this Notice is to inform you about (a) this litigation, (b) the certification of the Settlement Class, (c) the terms of the proposed Settlement, and (d) your rights in connection with a hearing to be held before the United States District Court, Southern District of New York (the "Court"), on December 18, 2014, at 1:00 p.m. to consider the fairness, reasonableness, and adequacy of the Settlement and related matters. This Notice also describes the steps to be taken by those who wish to be excluded from the Settlement Class and, for those who remain Settlement Class Members, the steps necessary to seek to be potentially eligible to share in the distribution of the Settlement Fund in the event the Settlement is approved by the Court.

8. A class action is a type of lawsuit in which the claims of a number of individuals are resolved together, thus providing the class members with both consistency and efficiency. In a class action lawsuit, the Court selects one or more people, known as class representatives, to sue on behalf of all people with similar claims, commonly known as the class or the class members. (For more information on excluding yourself from the Settlement Class, please read "What If I Do Not Want To Be A Part Of The Settlement? How Do I Exclude Myself?" located below.) In the Action, the Court has appointed Lead Plaintiffs and the other Plaintiffs as the Settlement Class Representatives and Lead Counsel as Settlement Class Counsel, for purposes of the Settlement.

9. The Court in charge of this case is the United States District Court for the Southern District of New York, and the case is known as *In re Morgan Stanley Mortgage Pass-Through Certificates Litigation*, Master File No. 09-cv-2137 (KBF) (the "Action"). The judge presiding over this case is the Honorable Katherine B. Forrest, United States District Judge. The people who are suing are called plaintiffs, and those who are being sued are called defendants. In this case, the defendants are Morgan Stanley Capital I Inc.; Morgan Stanley Mortgage Capital Inc.; Morgan Stanley Mortgage Capital Holdings LLC; Morgan Stanley & Co. Incorporated; Morgan Stanley; David R. Warren; Anthony B. Tufariello; William J. Forsell; and Steven S. Stern.

10. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The purpose of this Notice is to inform you of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Settlement if you wish to do so. It also is being sent to inform you of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the proposed Settlement, the proposed Plan of Allocation, and the application by Lead Counsel for attorneys' fees and Litigation Expenses (the "Final Approval Hearing").

11. The Final Approval Hearing will be held on December 18, 2014, at 1:00 p.m., before the Honorable Katherine B. Forrest, at the United States District Court, Southern District of New York, 500 Pearl Street, New York, NY 10007, Courtroom 15A, for the following purposes:



- (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate and should be approved by the Court;
- (b) to determine whether the Order and Final Judgment as provided for under the Stipulation should be entered;
- (c) to determine whether the proposed Plan of Allocation for the net proceeds of the Settlement is fair and reasonable and should be approved by the Court;
- (d) to determine whether the application by Lead Counsel for an award of attorneys' fees and Litigation Expenses should be approved; and
- (e) to rule upon such other matters as the Court may deem appropriate.

12. This Notice does not express any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement, payments to Authorized Claimants will be made after any appeals are resolved, and after the completion of all claims processing. This process takes time. Please be patient.

**WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?**

13. On December 2, 2008, MissPERS filed a class action complaint against Defendants and certain other defendants in the Superior Court of California, County of Orange ("Initial Complaint"). The case was subsequently removed to the United States District Court, Southern District of New York.

14. This case arises from the sale of certain residential mortgage-backed securities by Morgan Stanley entities during 2006 and 2007. Plaintiffs alleged that the offering documents for the securities contained false and misleading statements about the underlying borrowers and collateral. Defendants deny that the offering documents contained misstatements and asserted factual and legal defenses.

15. The Initial Complaint asserted claims under the Securities Act of 1933 ("Securities Act") on behalf of persons or entities who purchased or otherwise acquired mortgage pass-through certificates in 13 offerings pursuant or traceable to Morgan Stanley Capital I Inc.'s March 14, 2006 Pre-Effective Amendment No. 2 to Form S-3 Registration Statement and its accompanying prospectuses and prospectus supplements.<sup>5</sup>

16. On May 7, 2009, West Virginia filed a class action complaint against Defendants and certain other defendants asserting Securities Act violations ("West Virginia Complaint"). The West Virginia Complaint asserted claims related to the 13 offerings in the Initial Complaint and 16 additional offerings.

17. On July 17, 2009, the Court issued an order consolidating the cases, appointing West Virginia as lead plaintiff and Coughlin Stoa Geller Rudman & Robbins LLP ("Robbins Geller") as lead counsel. On September 15, 2009, West Virginia filed the Consolidated Amended Complaint ("Consolidated Complaint"). On August 17, 2010, the Court granted in part Defendants' motion to dismiss West Virginia's claims for lack of standing and for failure to comply with the applicable statute of limitations, and afforded MissPERS leave to amend. The Court appointed MissPERS as co-lead plaintiff, and Bernstein Litowitz and Robbins Geller as co-lead counsel.

18. On September 10, 2010, MissPERS filed the Second Amended Complaint ("Second Complaint"). The Second Complaint included additional named plaintiffs, including NECA-IBEW Health and Welfare Fund, Pompano Beach Police and Firefighters' Retirement System, and Carpenters Pension Fund of West Virginia ("New Plaintiffs"), as well as two other plaintiffs that, subsequently, voluntarily dismissed their claims. On September 15, 2011, the Court granted in part and denied in part Defendants' motion to dismiss the Second Complaint, and directed MissPERS and New Plaintiffs to amend as to certain allegations.

19. On September 30, 2011, MissPERS and New Plaintiffs filed the Third Amended Complaint ("Third Complaint"). On July 16, 2012, the Court denied Defendants' motion to dismiss.

<sup>5</sup> The Initial Complaint lists 14 offerings, but one of the offerings, MSM 2006-5ARW, was later determined to be a private placement which was derived from one of the 13 offerings (MSM 2006-5AR). Accordingly, MSM 2006-5ARW was eventually omitted from subsequent complaints, and it is not one of the offerings subject to the Settlement.

20. On July 27, 2012, Defendants filed a motion to stay proceedings pending the outcome of two cases before the Second Circuit: (1) *In re IndyMac Mortgage-Backed Securities Litigation*, Nos. 11-2998-cv (L), 11-3036-cv (con) (2d Cir. July 21, 2011) (“*IndyMac*”); and (2) *Citigroup Inc. v. International Fund Management S.A.*, No. 12-1903 (2d Cir. May 9, 2012). On September 20, 2012, MissPERS and New Plaintiffs filed a motion for reconsideration and to amend in light of the Second Circuit’s decision in *NECA-IBEW Health & Welfare Fund v. Goldman, Sachs & Co.*, 693 F.3d 145 (2d Cir. 2012) (“*Goldman Sachs*”).

21. On January 11, 2013, the Court granted MissPERS and New Plaintiffs’ motion for reconsideration and denied Defendants’ motion to stay. Specifically, the Court held that because it appears that MissPERS had standing under *Goldman Sachs* as of the time of the Initial Complaint to sue on behalf of purchasers of each of the 13 offerings, the outcome of the appeal pending before the Second Circuit in *IndyMac* will not affect the scope of Plaintiffs’ claims. Accordingly, on January 31, 2013, MissPERS and New Plaintiffs filed the Fourth Amended Complaint (“Fourth Complaint” or the “Complaint”), which asserted claims arising from 13 offerings included in the Initial Complaint. On March 8, 2013, Defendants filed their Answer to the Fourth Complaint.

22. On July 11, 2013, Defendants filed a motion for reconsideration of the Court’s September 15, 2011 Order in light of the Second Circuit’s decision in *Police and Fire Ret. Sys. of City of Detroit v. IndyMac MBS, Inc.*, 721 F.3d 95 (2d Cir. 2013).

23. On August 30, 2013, MissPERS and New Plaintiffs filed their Motion for Class Certification and Appointment of Class Representatives and Co-Class Counsel.

24. On May 27, 2014, the Court granted Defendants’ motion for reconsideration. The Order dismissed New Plaintiffs’ claims without prejudice to the litigation of those claims by one or more class representatives if MissPERS’s motion for class certification is granted.

25. Lead Counsel conducted extensive investigations related to the claims at issue and the underlying events and transactions alleged in the Fourth Complaint, including through document discovery and obtaining testimony from witnesses. Lead Counsel have analyzed evidence, including a substantial volume of documents produced by Defendants and third parties, have consulted with experts, and have researched the applicable law with respect to the claims of Lead Plaintiffs and the Settlement Class, as well as Defendants’ potential defenses.

26. On July 23, 2014, after extensive arm’s-length negotiations, the Settling Parties reached an agreement in principle to settle the Action for \$95 million, subject to the negotiation of a complete set of settlement terms. The negotiation of the Stipulation was subsequently completed and filed with the Court. By Order entered September 10, 2014, the Court preliminarily approved the Settlement, certified the Settlement Class for purposes of the Settlement, authorized this Notice to be sent to potential Settlement Class Members, and scheduled the Final Approval Hearing to consider whether to grant final approval to the Settlement. On September 16, 2014, the Court entered an order scheduling the Final Approval Hearing for December 18, 2014, at 1:00 p.m.

#### **HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?**

27. If you are a Member of the Settlement Class, you are subject to the Settlement unless you timely request to be excluded. The Settlement Class consists of all persons and entities who: (i) prior to December 2, 2008, purchased or otherwise acquired any of the 2006 Certificates pursuant or traceable to the 2006 Offerings and were damaged thereby; or (ii) prior to May 7, 2009, purchased or otherwise acquired any 2007 Certificates pursuant or traceable to the 2007 Offerings and were damaged thereby. Excluded from the Settlement Class are: (1) Defendants, originators of any loans underlying the Certificates, and Defendants’ and originators’ successors and assigns, and the directors and officers of such entities at all relevant times, as well as members of such persons’ or entities’ immediate families and their legal representatives, heirs, successors or assigns, and any entity in which any excluded person or entity has or had a controlling interest, except that affiliates and entities in which such excluded person or entity has or had a controlling interest other than Investment Vehicles (which are excluded only to the extent provided for in the definition of Investment Vehicles) are excluded from the Settlement Class only to the extent that such entities themselves had a proprietary (i.e., for their own account) interest in the Certificates and not to the extent that they held the Certificates in a fiduciary capacity or otherwise on behalf of any third-party client, account, fund, trust, or employee benefit plan that otherwise falls within the Settlement Class; and (2) persons or entities that have

separately asserted or pursued against Defendants their claims concerning any of the Certificates, including by filing individual actions or privately entering into confidential tolling agreements with Defendants concerning any of the Certificates, as such persons and entities are identified on Appendix 1 to the Stipulation (which is available on the Settlement website, [www.MorganStanleyRMBSsettlement.com](http://www.MorganStanleyRMBSsettlement.com)). Also excluded from the Settlement Class are any persons or entities who exclude themselves by filing a valid request for exclusion in accordance with the requirements set forth in this Notice. (See “What If I Do Not Want To Be A Part Of The Settlement? How Do I Exclude Myself?,” below.) Anyone with questions as to whether or not they are excluded from the Settlement Class may call the Claims Administrator toll-free at (888) 283-7957.

**RECEIPT OF THIS NOTICE DOES NOT NECESSARILY MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR THAT YOU ARE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT. IF YOU WISH TO BE POTENTIALLY ELIGIBLE TO RECEIVE A DISTRIBUTION OF THE SETTLEMENT PROCEEDS, YOU MUST COMPLETE, SIGN AND SUBMIT THE ENCLOSED CLAIM FORM POSTMARKED NO LATER THAN JANUARY 15, 2015.**

#### **WHAT ARE THE PLAINTIFFS’ REASONS FOR THE SETTLEMENT?**

28. Plaintiffs and Lead Counsel believe that the claims asserted against Defendants have merit. Plaintiffs and Lead Counsel recognize, however, the expense and length of continued proceedings necessary to pursue their claims against Defendants through trial and appeals, as well as the difficulties in establishing liability, obtaining class certification and establishing damages. Plaintiffs and Lead Counsel have considered the amount of the Settlement, as well as the uncertain outcome and risk in complex lawsuits like this one.

29. In light of the amount of the Settlement and the immediacy of recovery to the Settlement Class, Plaintiffs and Lead Counsel believe that the proposed Settlement is fair, reasonable and adequate, and in the best interests of the Settlement Class. Plaintiffs and Lead Counsel believe that the Settlement provides a substantial benefit now, namely \$95 million cash (less the various deductions described in this Notice), as compared to the risk that the claims would produce a smaller recovery, or no recovery after summary judgment, trial and appeals, possibly years in the future.

30. Defendants have denied and continue to deny each and all of the claims alleged by Plaintiffs in the Action. Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action. Defendants also have denied and continue to deny, among other things, the allegations that Plaintiffs or the Settlement Class have suffered any damage, that Plaintiffs or the Settlement Class were harmed by the conduct alleged in the Action, or that the Action is properly certifiable as a class action for litigation purposes.

#### **WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?**

31. If there were no Settlement and Plaintiffs failed to establish any essential legal or factual element of the alleged claims, neither Plaintiffs nor the Settlement Class would recover anything from Defendants. If Plaintiffs were not to succeed in obtaining class certification, Defendants may have asserted the defense that the claims of Settlement Class Members were untimely under applicable statutes of limitations and statutes of repose. Also, if Defendants were successful in proving any of their defenses, the Settlement Class likely would recover substantially less than the amount provided in the Settlement, or nothing at all.

#### **HOW MUCH WILL MY PAYMENT BE?**

32. Defendants have agreed to cause to be paid Ninety-Five Million Dollars (\$95,000,000.00) in cash into escrow for the benefit of the Settlement Class. At this time, it is not possible to make any determination as to how much individual Settlement Class Members may receive from the Settlement. Plaintiffs have proposed a plan for allocating the Net Settlement Fund to those Settlement Class Members who timely submit valid Proof of Claim Forms (the “Plan of Allocation”). The Plan of Allocation proposed by Plaintiffs is attached hereto as Appendix A, and additional information is available on the website created for purposes of this Settlement, [www.MorganStanleyRMBSsettlement.com](http://www.MorganStanleyRMBSsettlement.com).

33. Payment pursuant to the Plan of Allocation shall be conclusive against all Authorized Claimants. No person or entity shall have any claim based on distributions made substantially in accordance with the

Stipulation and the Settlement contained therein, the Plan of Allocation, or further order(s) of the Court against Lead Counsel, Plaintiffs, Plaintiffs' Counsel, Settlement Class Members, the Claims Administrator, Defendants and the other Released Parties (defined below), or any person or entity designated by Lead Counsel. All Members of the Settlement Class who fail to timely submit an acceptable Claim Form by the deadline set by the Court, or such other deadline as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments pursuant to the Settlement, but will in all other respects be subject to and bound by the terms of the Settlement, including the release of the Settlement Class Member's Released Claims.

34. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the claim of any Member of the Settlement Class.

35. The Plan of Allocation appended hereto is the proposed plan submitted by Plaintiffs and Lead Counsel for the Court's approval. The Court may approve this plan as proposed or it may modify it without further notice to the Settlement Class.

36. Each Claimant shall be deemed to have submitted to the jurisdiction of the United States District Court for the Southern District of New York with respect to his, her or its Proof of Claim.

37. Persons and entities that exclude themselves from the Settlement Class will not be eligible to receive a distribution from the Net Settlement Fund and should not submit Proof of Claim Forms.

#### WHAT RIGHTS AM I GIVING UP BY AGREEING TO THE SETTLEMENT?

38. If the Settlement is approved, the Court will enter a judgment (the "Judgment"). The Judgment will dismiss with prejudice the claims against Defendants and will provide that Plaintiffs and all other Settlement Class Members shall have released, dismissed and forever discharged the respective Settlement Class Member's Released Claims (as defined in ¶39 below), including Unknown Claims (as defined in ¶41 below) against each and all of the Released Parties (as defined in ¶40 below).

39. "Released Claims" means all claims (including "Unknown Claims" as defined below), demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, contingent or absolute, mature or immature, discoverable or undiscoverable, whether concealed or hidden, suspected or unsuspected, which now exist, or heretofore have existed, have been asserted or could have been asserted under federal, state, common or foreign law or otherwise, by Lead Plaintiffs or any Settlement Class Member against Defendants based upon or arising out of both (a) the allegations, facts, transactions, events, occurrences, disclosures, statements, representations, acts, omissions or failures to act which were, could have been, or could in the future be alleged in the Action, and (b) the purchase or other acquisition of the Certificates by Lead Plaintiffs or any Settlement Class Member. Released Claims shall not include claims to enforce the Settlement or derivative claims, including contractual claims, belonging to the issuing trusts. Nothing in the definition of "Released Claims" shall be construed to suggest or imply that any derivative claims exist or have merit.

40. "Released Parties" means: (a) the Defendants; and (b) the Defendants' current and former officers, directors, agents, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, employees, and attorneys, in their respective capacities as such.

41. "Unknown Claims" means any and all Released Claims that Plaintiffs and/or any Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any Released Parties' Claims that the Released Parties do not know or suspect to exist in his, her or its favor, which if known by him, her or it might have affected his, her or its settlement with and release of the Released Parties (or Plaintiffs, as appropriate), or might have affected his, her or its decision not to object to this Settlement or not exclude himself, herself or itself from the Settlement Class. With respect to any and all Released Claims and Released Parties' Claims, upon the Effective Date, Plaintiffs and Defendants shall expressly waive, and each Settlement Class Member and Released Party shall be deemed to have waived, and by operation of the Order and Final Judgment shall have expressly waived, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by Cal. Civ. Code § 1542, and any law of any state or territory of the United States, or principle of common law, or the law of any foreign jurisdiction, that is similar, comparable or equivalent to Cal. Civ. Code § 1542, which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**



Plaintiffs and Settlement Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Plaintiffs shall expressly, and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally and forever settled and released any and all Released Claims, known or Unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including conduct which is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs and Defendants acknowledge, and Settlement Class Members and Released Parties by law and operation of the Order and Final Judgment shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims and Released Parties’ Claims was separately bargained for and was a material element of the Settlement.

42. The Judgment also will provide that Defendants and each of the other Released Parties shall be deemed to have released, dismissed, and forever discharged all of the Released Parties’ Claims against Plaintiffs, Lead Counsel, and any other Settlement Class Member. “Released Parties’ Claims” means any and all claims and causes of action of every nature and description, whether known or Unknown, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Defendants in the Action, except for claims relating to the enforcement of the Settlement, against Plaintiffs, Lead Counsel, or any other Settlement Class Member.

**WHAT PAYMENT ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS SEEKING?  
HOW WILL THE LAWYERS BE PAID?**

43. Lead Counsel have not received any payment for their services in pursuing claims against Defendants on behalf of the Settlement Class, nor have Lead Counsel been paid for their expenses. Before final approval of the Settlement, Lead Counsel intend to apply to the Court for an award of attorneys’ fees to Lead Counsel from the Settlement Fund in the amount of 17% of the Settlement Fund, plus interest. At the same time, Lead Counsel also intend to apply for the payment from the Settlement Fund for Plaintiffs’ Counsel’s Litigation Expenses (which may also include reimbursement of the reasonable costs and expenses of Plaintiffs directly related to their representation of the Settlement Class in accordance with 15 U.S.C. § 77z-1(a)(4)), in an amount not to exceed \$2 million, plus interest. The Court will determine the amount of the award.

**HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?**

44. If you fall within the definition of the Settlement Class as described above, and you are not excluded by the definition of the Settlement Class and you do not elect to exclude yourself from the Settlement Class, then you are a Settlement Class Member, and you will be bound by the proposed Settlement if the Court approves it, and by any judgment or determination of the Court affecting the Settlement Class. If you are a Settlement Class Member, you must submit a Claim Form and supporting documentation to establish your potential entitlement to share in the proceeds of the Settlement. A Claim Form is included with this Notice, or you may go to the website maintained by the Claims Administrator for the Settlement to request that a Claim Form be mailed to you. The website is [www.MorganStanleyRMBSettlement.com](http://www.MorganStanleyRMBSettlement.com). You may also request a Claim Form by calling toll-free (888) 283-7957. Copies of the Claim Form can also be downloaded from Lead Counsel’s websites at [www.blbglaw.com](http://www.blbglaw.com) and [www.rgrdlaw.com](http://www.rgrdlaw.com). Those who exclude themselves from the Settlement Class, and those who do not submit timely and valid Claim Forms with adequate supporting documentation, will not be entitled to share in the proceeds of the Settlement unless otherwise ordered by the Court. Please retain all original records of your ownership of, or transactions in, the Certificates, as they may be needed to document your Claim.

45. As a Settlement Class Member, for purposes of the Settlement you are represented by Plaintiffs and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her notice of appearance on the attorneys listed in the section entitled, “When and Where Will the Court Decide Whether to Approve the Settlement?” below.

46. If you do not wish to remain a Settlement Class Member, you may exclude yourself from the Settlement Class by following the instructions in the section entitled, “What If I Do Not Want To Be A Part Of The Settlement? How Do I Exclude Myself?” below. If you exclude yourself from the Settlement Class, you will not be eligible to receive any benefit from the Settlement and you should not submit a Claim Form but you will retain the right to be a part of any other lawsuit against any of the Released Parties (as defined in ¶140 above) with respect to any of the Released Claims (as defined in ¶139 above).

47. If you wish to object to the Settlement or any of its terms, the proposed Plan of Allocation, or Lead Counsel’s application for attorneys’ fees and Litigation Expenses, and if you do not exclude yourself from the Settlement Class, you may present your objections by following the instructions in the section entitled, “When and Where Will the Court Decide Whether to Approve the Settlement?” below. If you exclude yourself from the Settlement Class, you are not entitled to submit an objection.

**WHAT IF I DO NOT WANT TO BE A PART OF THE SETTLEMENT?  
HOW DO I EXCLUDE MYSELF?**

48. Each Settlement Class Member will be bound by all determinations and judgments in this lawsuit concerning the Settlement, whether favorable or unfavorable, unless such person or entity mails, by first-class mail (or its equivalent outside the U.S.), or otherwise delivers a written request for exclusion from the Settlement Class, addressed to Morgan Stanley RMBS Settlement, P.O. Box 8040, San Rafael, CA 94912-8040. The exclusion request must be received no later than November 26, 2014. Each request for exclusion must clearly indicate the name, address and telephone number of the person or entity seeking exclusion, that the sender requests to be excluded from the Settlement Class in *In re Morgan Stanley Mortgage Pass-Through Certificates Litigation*, Master File No. 09-cv-2137 (KBF) (S.D.N.Y.), and must be signed by such person. Such persons or entities requesting exclusion are also directed to provide the following information: (i) identity and original face value of Certificates included in the Settlement Class definition and the Settlement Class Member’s transactions therein; (ii) prices or other consideration paid or received for such Certificates; and (iii) whether the Certificates were exchanged or sold, and if so, when, and, if applicable, the sale amount. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court.

49. If a person or entity requests to be excluded from the Settlement Class, that person or entity will not receive any benefit provided for in the Stipulation.

50. If the requests for exclusion from the Settlement exceed a certain amount, as set forth in a separate confidential supplemental agreement between Plaintiffs and Defendants (the “Supplemental Agreement”), Defendants shall have, in their unanimous discretion, the option to terminate the Settlement in accordance with the procedures set forth in the Supplemental Agreement.

**WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?  
DO I HAVE TO COME TO THE HEARING?  
MAY I SPEAK AT THE HEARING IF I DON’T LIKE THE SETTLEMENT?**

**51. If you do not wish to object in person to the proposed Settlement, the proposed Plan of Allocation, and/or the application for attorneys’ fees and Litigation Expenses, you do not need to attend the Final Approval Hearing. You can object to or participate in the Settlement without attending the Final Approval Hearing.**

52. The Final Approval Hearing will be held on December 18, 2014, at 1:00 p.m., before the Honorable Katherine B. Forrest, at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, NY 10007, Courtroom 15A. The Court reserves the right to approve the Settlement or the Plan of Allocation at or after the Final Approval Hearing without further notice to the Members of the Settlement Class.

53. Any Settlement Class Member who does not request exclusion such that it is *received* no later than November 26, 2014, may object to the Settlement, the Plan of Allocation, or Lead Counsel’s request for an award of attorneys’ fees and Litigation Expenses.<sup>6</sup> Objections or oppositions must be in writing. You must file any written objection or opposition, together with copies of all other supporting papers and briefs, with the

<sup>6</sup> Plaintiffs’ initial motion papers in support of these matters will be filed with the Court on or before November 13, 2014.

Clerk's Office at the United States District Court for the Southern District of New York at the address set forth below on or before November 26, 2014. You must also serve the papers on Lead Counsel for the Settlement Class and counsel for the Defendants at the addresses set forth below so that the papers are *received* on or before November 26, 2014.

**CLERK'S OFFICE**

UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK  
500 Pearl Street  
New York, NY 10007

**Lead Counsel for the Settlement Class**

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David R. Stickney, Esq.  
Niki L. Mendoza, Esq.  
12481 High Bluff Drive, Suite 300  
San Diego, CA 92130

-and-

ROBBINS GELLER RUDMAN & DOWD LLP  
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655 W. Broadway, Suite 1900  
San Diego, CA 92101

**Counsel for Defendants**

DAVIS POLK & WARDWELL LLP  
James P. Rouhandeh, Esq.  
Dana M. Seshens, Esq.  
Carissa M. Pilotti, Esq.  
450 Lexington Avenue  
New York, NY 10017

54. Any objection must include: (a) the full name, address, and phone number of the objecting Settlement Class Member; (b) a list and documentation of all of the Settlement Class Member's transactions involving the Certificates included in the Settlement Class definition, including brokerage confirmation receipts or other competent documentary evidence of such transactions, including the amount and date of each purchase or sale and the price paid and/or received, and documentation of any exchange transactions; (c) a written statement of all grounds for the objection accompanied by any legal support for the objection; (d) copies of any papers, briefs or other documents upon which the objection is based; (e) a list of all persons who will be called to testify in support of the objection; (f) a statement of whether the objector intends to appear at the Final Approval Hearing; (g) a list of other cases in which the objector or the objector's counsel have appeared either as settlement objectors or as counsel for objectors in the preceding five years; and (h) the objector's signature, even if represented by counsel. Persons who intend to object to the Settlement, the Plan of Allocation, and/or to Lead Counsel's application for an award of attorneys' fees and Litigation Expenses, and desire to present evidence at the Final Approval Hearing must include in their written objections the exhibits they intend to introduce into evidence at the Final Approval Hearing.

55. You may not object to the Settlement, or any aspect of it, if you excluded yourself from the Settlement Class.

56. You may file a written objection without having to appear at the Final Approval Hearing. You may not appear at the Final Approval Hearing to present your objection, however, unless you first filed and served a written objection in accordance with the procedures described above, unless the Court orders otherwise.

57. You are not required to hire an attorney to represent you in making written objections or in appearing at the Final Approval Hearing. If you decide to hire an attorney, which will be at your own expense, however, he or she must file a notice of appearance with the Court and serve it on Lead Counsel so that the notice is received on or before November 26, 2014.

58. The Final Approval Hearing may be adjourned by the Court without further written notice to the Settlement Class, other than a posting of the adjournment on the Settlement website, [www.MorganStanleyRMBSSettlement.com](http://www.MorganStanleyRMBSSettlement.com). If you intend to attend the Final Approval Hearing, you should confirm the date and time with Lead Counsel.

**Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever**

**foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's request for an award of attorneys' fees and Litigation Expenses. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.**

**WHAT IF I BOUGHT CERTIFICATES ON SOMEONE ELSE'S BEHALF?**

59. Nominees who purchased Certificates for beneficial owners who are Settlement Class Members are directed to: (a) request within seven (7) calendar days of receipt of this Notice additional copies of the Notice and the Claim Form from the Claims Administrator for such beneficial owners; or (b) send a list of the names and addresses of such beneficial owners to the Claims Administrator within seven (7) calendar days after receipt of this Notice. If a nominee elects to send the Notice to beneficial owners, such nominee is directed to mail the Notice within seven (7) calendar days of receipt of the additional copies of the Notice from the Claims Administrator, and upon such mailing, the nominee shall send a statement to the Claims Administrator confirming that the mailing was made as directed, and the nominee shall retain the list of names and addresses for use in connection with any possible future notice to the Settlement Class. Upon full compliance with these instructions, including the timely mailing of the Notice to beneficial owners, such nominees may seek reimbursement of their reasonable expenses actually incurred in complying with this Order by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought and reflecting compliance with these instructions, including timely mailing of the Notice, if the nominee elected or elects to do so. Such properly documented expenses incurred by nominees in compliance with the terms of these instructions will be paid from the Settlement Fund. Copies of this Notice may also be obtained by calling toll-free (888) 283-7957, and may be downloaded from the Settlement website, [www.MorganStanleyRMBSsettlement.com](http://www.MorganStanleyRMBSsettlement.com) or from Lead Counsel's websites, [www.blbglaw.com](http://www.blbglaw.com) or [www.rgrdlaw.com](http://www.rgrdlaw.com).

**CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?**

60. This Notice contains only a summary of the terms of the proposed Settlement. More detailed information about the matters involved in the Action is available at [www.MorganStanleyRMBSsettlement.com](http://www.MorganStanleyRMBSsettlement.com), including, among other documents, copies of the Stipulation and Proof of Claim Form. All inquiries concerning this Notice or the Claim Form should be directed to:

Morgan Stanley RMBS Settlement  
P.O. Box 8040  
San Rafael, CA 94912-8040  
Toll-free number: (888) 283-7957

**OR**

David R. Stickney, Esq.  
Niki L. Mendoza, Esq.  
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San Diego, CA 92101  
(800) 449-4900  
[DJR@rgrdlaw.com](mailto:DJR@rgrdlaw.com)

**Lead Counsel**

**DO NOT CALL OR WRITE THE COURT OR  
THE OFFICE OF THE CLERK OF COURT  
REGARDING THIS NOTICE.**

Dated: September 17, 2014

By Order of the Court  
United States District Court  
for the Southern District of New York