

EXHIBIT “P”

EX-10.1 2 exhibit_10-1.htm POOLING & SERVICING AGREEMENT

EXHIBIT 10.1

STRUCTURED ASSET MORTGAGE INVESTMENTS II INC.
DEPOSITOR

WELLS FARGO BANK, NATIONAL ASSOCIATION,
TRUSTEE

AND

EMC MORTGAGE CORPORATION
SERVICER, SPONSOR AND COMPANY

POOLING AND SERVICING AGREEMENT

DATED AS OF DECEMBER 1, 2006

STRUCTURED ASSET MORTGAGE INVESTMENTS II INC.
Bear Stearns Mortgage Funding Trust 2006-AR5
Mortgage Pass-Through Certificates, Series 2006-AR5

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designated as the sole class of "residual interest" in REMIC III.

Class R-X Certificates: The Class R-X Certificates substantially in the form annexed hereto as Exhibit A-6 and evidencing ownership of the "residual interest" in REMIC IV for purposes of the REMIC Provisions.

Class X Certificates: The Class I-X Certificates.

Class XP Certificates: The Class I-XP Certificates and the Class II-XP Certificates.

Class XP Reserve Account: The account established and maintained by the Trustee pursuant to Section 4.09 hereof.

Closing Date: December 29, 2006.

Code: The Internal Revenue Code of 1986, as amended.

Commission or SEC: The U.S. Securities and Exchange Commission.

Compensating Interest Payment: As defined in Section 6.06.

Corporate Trust Office: The designated office of the Trustee, where at any particular time its corporate trust business with respect to this Agreement shall be administered. For the purpose of registration and transfer and exchange only, the Corporate Trust Office of the Trustee shall be located at Sixth Street and Marquette Avenue, Minneapolis, Minnesota 55479, Attention: Corporate Trust Group, Bear Stearns Mortgage Funding Trust 2006-AR5. The Corporate Trust Office of the Trustee at the date of the execution of this Agreement for all other purposes is located at 9062 Old Annapolis Road, Columbia, Maryland 21045, Attention: Corporate Trust Group, Bear Stearns Mortgage Funding Trust 2006-AR5.

Coupon Strip: With respect to Loan Group I, shall be an amount equal to the lesser of (a) the product of (i) 1.00%, (ii) the aggregate Stated Principal Balance of the Group I Mortgage Loans with original terms to maturity in excess of 30 years as of the Due Date occurring in the month prior to such Distribution Date and (iii) one-twelfth and (b) the excess of (i) the Final Maturity Reserve Account Target for such Distribution Date over (ii) the amount on deposit in the Final Maturity Reserve Account immediately prior to such Distribution Date.

Coupon Strip Rate: With respect to Loan Group I, shall equal the related Coupon Strip, if any, payable to the Final Maturity Reserve Account on any Distribution Date, expressed as a per annum rate calculated on the basis of the aggregate Stated Principal Balance of the Group I Mortgage Loans as of such Distribution Date.

Credit Enhancement Percentage: For any Distribution Date is the percentage obtained by dividing (x) the aggregate Current Principal Amount of the Subordinate Certificates in the related Loan Group (including the related Overcollateralization Amount) thereto by (y) the aggregate Principal Balance of the Mortgage Loans in the related Loan Group, calculated after taking into account distributions of principal on the related Mortgage Loans and distribution of the Principal Distribution Amounts to the holders of the related Certificates then entitled to distributions of principal on such Distribution Date.

Cumulative Loss Test Violation: The Group I Cumulative Loss Test Violation or the Group II Cumulative Loss Test Violation, as applicable.

Current Interest: As of any Distribution Date, with respect to each Class of Offered Certificates and the Class II-B-5 Certificates, (i) the interest accrued on the Current Principal Amount or Notional Amount during the related Interest Accrual Period at the applicable Pass-Through Rate plus any amount previously distributed with respect to interest for such Certificate that has been recovered as a voidable preference by a trustee in bankruptcy minus with respect to the Class A Certificates or Class B Certificates, (ii) the sum of (a) any Prepayment Interest Shortfall for such Distribution Date, to the extent not covered by Compensating Interest Payments and (b) any shortfalls resulting from the application of the Relief Act during the related Due Period; provided, however, that for purposes of calculating Current Interest for any such Class, amounts specified in clauses (ii)(a) and (ii)(b) hereof for any such Distribution Date shall be allocated first to the related Class B-IO Certificates and the Residual Certificates in reduction of amounts otherwise distributable to such Certificates on such Distribution Date and then any excess shall be allocated to each other Class of Certificates in the related Loan Group pro rata based on the respective amounts of interest accrued pursuant to clause (i) hereof for each such Class on such Distribution Date, (c) any Net Deferred Interest allocated to such Class, and (d) the interest portion of any Realized Losses on the related Mortgage Loans allocated to such Class in the manner as described herein.

Current Principal Amount: With respect to any Class of Offered Certificates and the Class II-B-5 Certificates as of any Distribution Date, the initial principal amount of such Certificate plus the amount of any Net Deferred Interest allocated thereto on the related Distribution Date and all previous Distribution Dates plus any Subsequent Recoveries added to the Current Principal Amount of such Certificates pursuant to Section 6.02(h) hereof, and reduced by (i) all amounts distributed on previous Distribution Dates on such Certificate with respect to principal and (ii) any Applied Realized Loss Amounts allocated to such Class on previous Distribution Dates. With respect to any Class of Certificates, the Current Principal Amount thereof will equal the sum of the Current Principal Amounts of all Certificates in such Class. The initial Current Principal Amount for each Class of Certificates is set forth in Section 5.01(c)(iv).

Curtailment: Any Principal Prepayment made by a Mortgagor which is not a Principal Prepayment in full.

Custodial Account: The trust account or accounts created and maintained by the Servicer pursuant to Section 4.01, which shall be denominated "Wells Fargo Bank, National Association, as Trustee f/b/o holders of Structured Asset Mortgage Investments II Inc., Bear Stearns Mortgage Funding Trust 2006-AR5, Mortgage Pass-Through Certificates, Series 2006-AR5, Custodial Account." The Custodial Account shall be an Eligible Account.

Custodial Agreement: An agreement, dated as of the Closing Date among the Depositor, the Servicer, the Trustee and the Custodian in substantially the form attached hereto as Exhibit G.

Custodian: Wells Fargo Bank, National Association, or any successor custodian appointed pursuant to the provisions hereof and of the Custodial Agreement.

Cut-off Date: December 1, 2006.

Cut-off Date Balance: \$1,872,852,623.10.

Deferred Interest: The amount of accrued interest on the Mortgage Loans, the payment of which is deferred and added to the Outstanding Principal Balance of a Mortgage Loan due to negative amortization on such Mortgage Loan.

Deficient Valuation: A Bankruptcy Loss that results if a court, in connection with a personal bankruptcy of a Mortgagor, establishes the value of a Mortgaged Property at an amount less than the unpaid principal balance of the Mortgage Loan secured by such Mortgaged Property.

Delinquency Recognition Policies: The generally accepted industry standard that defines the proper means of reporting delinquency status when a loan is determined to be delinquent if the payment is not received by the end of the day immediately preceding the loan's next due date.

Delinquency Test Violation: A Group I Delinquency Test Violation or a Group II Delinquency Test Violation, as applicable.