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OFFICE OF GENERAL COUNSEL

COUNCIL OF NAIMA
NORTH AMERICAN INSULATION MANUFACTURERS ASSOCIATION

June 28, 2012

Mr. Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 7th St., N.W.
Washington, DC 20024

Attention: Comments/RIN 2590-AA53 Enterprise Underwriting Standards

Dear Mr. Pollard:

We, the Council of the North American Insulation Manufacturers Association (CNAIMA), are writing in response to the Federal Housing Finance Agency's (FHFA) recent Notice of Proposed Rulemaking (NPR) concerning mortgage assets and Property Assessed Clean Energy (PACE) programs[1]. **We believe it is extremely important that your agency adopt policies that reflect the comments received and allow PACE to continue to advance.**

CNAIMA represents North American companies that produce thermal or acoustical insulation products and supply materials, components, and goods to insulation manufacturers.

Currently, more than 46 million homes are under insulated. Little understood and often overlooked, this simple technology has the ability to achieve dramatic energy savings and increase our nation's overall energy efficiency. Installing proper levels of insulation in homes would immediately lower energy bills, create jobs and decrease energy usage. If American homes were properly insulated, we could save 30 times the amount of energy lost in the 2010 Gulf oil spill.

The real challenge in accomplishing this, however, lies not in developing new technologies or locating new energy reserves, but in incentivizing people to install and retrofit insulation in new and existing homes. Unfortunately, insulation retrofits are limited by the availability of funds.

PACE has enormous potential to help overcome this obstacle and save homeowners money, create local jobs and dramatically reduce energy use. The comments received by FHFA reflect the widespread and deep support for PACE programs. As the NPR itself notes:

"Over the last three years, more than 25 states have enacted legislation authorizing local governments to set up PACE-type programs."

The NPR references two types of comments, both of which appear overwhelmingly to support PACE programs:

"The 33,000 organized-response form letters . . . almost uniformly called on FHFA to change its position to permit the Enterprises to purchase such loans encumbered by PACE loans that created liens with priority over first mortgages." These responses lauded PACE programs for their "contribution to energy efficiency, environmental benefits, job creation and other economic or climate benefits."

[1] 77 Fed. Reg. 116, 36086-36110, proposed June 15, 2012

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In addition to these tens of thousands of supportive comments, FHFA received "roughly 400 substantive responses." FHFA notes that most expressed support for PACE programs. Among these supportive comments were letters "submitted by Rep. Nan Hayworth and several other members of Congress, and by Sen. Michael Bennet and several other U.S. Senators. . . ." Two California state legislators, State Senator Fran Pavley and Assembly Member Jared Huffman stated that property "values go up, strengthening owners' financial position and increasing the value of a lender's collateral."

FHFA quotes the Town of Babylon, New York as stating that "you'll find they (PACE obligations) will enhance the value of participating homes and, in fact, reinforce, rather than 'impair,' the first mortgages." Sonoma County, California, reported to FHFA that: "There is no demonstrable risk to the Enterprises from the existing PACE programs; instead, it appears that the Enterprises are enjoying increased security on loans they own because of the added value of the improvements."

Comments from one respondent are worth quoting at length:

> As of 2007, there were more than 37,000 special assessment districts in the United States. For decades, municipalities have utilized these districts to create financing mechanisms for voluntary improvements to private property that serve a public purpose. Given this long-standing existence of special assessment districts which mirror the intent and structure of PACE, the legality of PACE programs rests on firm legal and historical precedent. **FHFA's effort to single out PACE programs for disapproval, alone out of all the other special assessment programs that exist across the country, is illogical and insupportable.** (Emphasis added)

The criticism "illogical and insupportable" equally applies to the fact that FHFA's position flies in the face of the overwhelming weight of comments received, as well as the historical experience of state and local enactment and federal legislative support.

We appreciate this opportunity to raise our voice, and urge you to look for ways to accommodate these broadly beneficial programs. **We recommend that the FHFA adopt reasonable underwriting standards that ensure local PACE programs can continue.**

In particular, we would like to highlight the following points for your consideration:

**1) PACE assessments are valid—not "loans" as asserted by FHFA**
FHFA has repeatedly referred to PACE assessments as "loans." To the contrary, as noted in the comments, they are property tax assessments with characteristics similar to those of more than 37,000 other land-secured special assessment districts in the United States that are rooted in hundreds of years of state and local law. Such districts are typically created at the voluntary behest of property owners who vote to allow their local governments to finance public improvements. Other districts allow property owners to act voluntarily and individually to adopt municipally financed improvements to their properties that are repaid with assessments. PACE districts are similar to many other special assessment districts in the size of their assessments and length of their repayment periods.

**2) PACE assessments present minimal risks to lenders, investors, homeowners & GSEs**
FHFA asserts that PACE presents "significant safety and soundness" concerns, but there is no evidence that this is true. There is long-standing experience that energy efficiency improvements reduce homeowners'

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energy bills and increase their property values. PACE financed improvements allow homeowners to hedge themselves against fuel price spikes and rising fuel costs over time. These factors lessen the safety and soundness risk than the FHFA has asserted. Local governments that established PACE programs prior to the July 6, 2010 action by FHFA developed program standards to protect lenders and consumers. The White House and the Department of Energy both published national PACE guidelines with clear, strong underwriting standards to ensure that homeowners are able to afford the improvements. A bipartisan bill in the House of Representatives (HR 2599), sponsored by Rep. Nan Hayworth (R-NY) and more than 50 other cosponsors further delineates national standards to minimize risk to lenders and consumers. Finally, the early results of PACE pilot programs show that PACE presents minimal risk: there are only a handful of known defaults out of nearly 3,200 upgraded properties, substantially fewer than the rate of default for non-PACE property-owners in the same districts.

**3) Home energy improvements financed with PACE achieve important economic benefits**
State and local governments have also passed PACE laws because PACE has great potential to help governments attain important economic goals. For example, according to a Department of Energy study, the Boulder County PACE program created over 120 jobs, generated more than $20 million in overall economic activity and reduced consumers' energy use by more than $125,000 in the first year alone. These benefits are important by themselves. In developing a rule that serves the public interest, the FHFA must weigh perceived risks against economic benefits that clearly reduce default rates.

**4) Final Rule**
We strongly urge you to reconsider your opposition to PACE programs. We recommend that FHFA adopt a rule stipulating that any mortgage lenders regulated by FHFA be allowed to buy residential mortgages with PACE assessments that are originated by programs that conform to standards and guidelines such as those established in HR 2599 (The PACE Assessment Protection Act) to protect the interests of state and local governments, homeowners, mortgage lenders and Government Sponsored Enterprises (GSEs) as recommended by the near-unanimous responses to the ANPR.

Sincerely,

Kate Offringa

Kate Offringa
President and CEO

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