Ceres

September 13, 2012

Mr. Alfred Pollard, General Counsel
Attn: Comments/RIN 2590-AA53
Federal Housing Finance Agency, Eighth Floor
400 Seventh Street, SW.
Washington, DC 20024

Dear Mr. Pollard:

On behalf of Ceres, I urge the Federal Housing Finance Agency to reverse its position on its Proposed Rule and restore Property Assessed Clean Energy (PACE) programs that help property owners make energy efficiency and renewable energy upgrades to their homes.

Ceres works with companies, investors, regulators, and public interest groups to advance innovative solutions that will increase energy efficiency and renewable energy and reduce carbon and other toxic pollution. We also direct the Investor Network on Climate Risk (INCR), a group of 100 leading institutional investors collectively managing more than $10 trillion in assets focused on the business impacts of climate change, and Business for Innovative Climate & Energy Policy (BICEP), a coalition of more than 20 leading consumer brand companies advocating for strong climate and clean energy policies in the U.S.

Ceres strongly supports innovative financing programs like PACE that save homeowners and businesses money on energy bills, create much-needed local jobs, reduce our dependence on coal and other fossil fuels, and cut pollution that harms our health and environment. We're joined by many other stakeholders in the business and investment communities in this support. In response to FHFA's Advance Notice of Proposed Rulemaking (ANPR), more than 30,000 comment letters supporting PACE were submitted by businesses, investors, banks, real estate developers, energy companies, local governments, federal and state elected officials, and a wide range of other stakeholders. Those comments cited numerous studies, articles, legal decisions and other sources providing evidence that PACE programs do in fact increase the value of homes, reduce homeowners' energy costs (thereby making mortgage repayment more likely), grow jobs and economic activity, and help local governments meet greenhouse gas reduction and clean energy goals.

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Ceres agrees with this body of evidence in support of PACE programs and the benefits they provide to property owners and the broader economy. Available evidence indicates that participation in PACE programs does not increase the likelihood of default. These programs are sound, make good business sense, and, contrary to what FHFA asserts, do not materially increase financial risk to mortgage lenders. Additionally, lower monthly utility bills due to energy efficiency upgrades or renewable energy installations make homeowners financially better off by freeing up monthly cash flow that would otherwise go towards utility expenditures and increasing home values.[1]

Most importantly to the companies and investors that we work with, these programs can be job creators and drive local economic growth. The Brookings Institution estimates that if just 1 percent of our nation's homeowners were to invest in PACE-financed energy upgrades, we could create over 225,000 jobs and $42 billion in economic output. Similarly, ECONorthwest conducted an analysis that shows that $4 million in PACE project spending across four cities ($1 million in spending in each city) would generate 60 new jobs, $10 million in gross economic output, and $1 million in combined federal, state and local tax revenue. PACE programs not only create local jobs and support local businesses, but also put money back in homeowners' pocketbooks that can be reinvested in the broader economy.

FHFA's Proposed Rule is even more harmful to PACE programs than the proposed action cited in the ANPR and would continue to block these programs from moving forward. Ceres strongly urges FHFA to reconsider its Proposed Rule and to reinstate PACE programs.

We also urge the agency to move forward with adopting the underwriting standards outlined in H.R. 2599 by implementing a modified version of its Alternative 3 to the Proposed Rule. Ceres supports the passage of H.R. 2599 and believes that FHFA's Alternative 3 would provide rigorous underwriting criteria and other protections to reduce the risk of default, ensure that PACE-financed improvements add to the value of homes, protect consumers, and sufficiently protect the Enterprises from risk perceived by FHFA. FHFA should modify this alternative so that if PACE liens are recorded and the underwriting standards outlined in H.R. 2599 are met, the Enterprises should: 1) *not* take actions to call a default on any mortgage because the underlying property has become subject to a first-lien PACE obligation; 2) *be permitted* to purchase mortgages subject to first-lien PACE obligations, and be directed to treat PACE assessments in a similar manner as any other municipal tax assessment; and 3) *if requested, consent* to the imposition of a first-lien PACE obligation. This variation on Alternative 3 provides a solution that is supported by the evidence, can be implemented by local governments right away and will allow PACE programs to move forward.

[1] http://pacenow.org/wp-content/uploads/2012/08/KK_Green_Homes_0719121.pdf

We also urge the FHFA, in its final rule adopting this modified version of Alternative 3, to leave open the future opportunity to address its concerns through implementation of elements of its proposed Alternative 1 (Guarantee/Insurance). At this time, there is no insurance product in the marketplace or an established reserve fund that protects against "100% of any net loss" as suggested by FHFA, but some form of insurance or loan loss reserve could provide additional risk mitigation in the future. If an insurance product or reserve fund that provides sufficient protection against the risk to the Enterprises perceived by FHFA becomes available, local governments should be permitted to choose whether to utilize such products or comply with the Alternative 3 standards.

FHFA should not close to the door to residential PACE programs when a workable solution is either available now or can be resolved in a collaborative stakeholder process in a relatively short period of time. By adopting a modified Alternative 3 to the Proposed Rule and leaving the door open to the future use of insurance products or reserve funds that could provide sufficient risk mitigation, PACE programs can move forward in a manner that leaves homeowners better off and provides significant benefits to our communities by driving economic growth and jobs and helping homeowners have more control over their energy costs. The investors and businesses that we work with, as well as hundreds of communities in the 27 states that have passed PACE-enabling legislation, are counting on your agency to reinstate this powerful enabler of economic growth and environmental stewardship.

Sincerely,

Mindy S. Lubber

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