

# SchoolsFirst<sup>™</sup>

FEDERAL CREDIT UNION

March 24, 2012

Mr. Alfred Pollard  
General Counsel  
Federal Housing Finance Agency  
400 Seventh St. S.W.  
Washington, DC 20024

Re: RIN 2590-AA53 – Mortgage Assets Affected by PACE Programs

Dear Mr. Pollard:

I am writing on behalf of SchoolsFirst Federal Credit Union, which serves school employees in Southern California. We have more than 500,000 Members and over \$8.9 billion in assets. SchoolsFirst FCU appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA's) Advanced Notice of Proposed Rulemaking (ANPR) relating to Property Assessed Clean Energy (PACE) programs.

SchoolsFirst FCU strongly support the concept of PACE. It is a powerful financing tool to help residential, commercial, and industrial owners finance energy efficiency and renewable energy improvements in their homes and buildings. These programs have the potential to save homeowners money, create local jobs and dramatically reduce energy use.

The concern which we have with PACE relates to the lien-priming feature which typically attaches to these programs. In the event of foreclosure, this lien-priming could have a significant adverse impact on the holder of the first mortgage on the secured property. This is particularly true in the current market.

First liens established by PACE loans are unlike routine tax assessments and pose unusual and difficult risk management challenges for lenders, servicers and mortgage securities investors. The size and duration of PACE loans exceed typical local tax programs and do not have the traditional community benefits associated with taxing initiatives.

While the first lien position offered in most PACE programs minimizes credit risk for investors funding the programs, it alters traditional lending priorities. Underwriting for PACE programs results in collateral-based lending rather than lending based upon ability-to-pay, the absence of Truth-in-Lending Act and other consumer protections, and uncertainty as to whether the home improvements actually produce meaningful reductions in energy consumption.

As such, we believe FHFA should direct the government-sponsored enterprises (GSEs) to create modified lending guidelines allowing for either slightly increased LTV ratios or the allowance for second-position liens on properties that are encumbered with a PACE lien. This would result in allowing the PACE lien to be retired as part of the loan transaction, thereby mitigating the risk to the lender in the event of foreclosure while advancing the government's economic and environmental objectives.

Additionally, we believe that FHFA should further direct the GSEs to exempt sellers of mortgages from confirming that no PACE lien was created on the subject property between the origination

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and sale of the loan. Making this a requirement would increase the costs of origination and place an undue burden on mortgage originators, which would ultimately be borne by the consumer.

The ANPR asks whether there is a viable alternative to protect against the risk of loss created by PACE liens for lenders. Short of obtaining a blanket insurance policy to insure against this risk (and assuming that one is available) we can think of no other protections short of retiring the lien, as outlined above.

The FHFA also requests comment on whether there a difference in the value of the underlying property may result from a home improvement financed via a PACE program and that financed through an alternative source. The impact which we perceive would occur if a homeowner or business owner did not qualify for financing outside of the PACE program and was unable to make the improvement at all. In such cases, the potential increase in the value of the underlying property would not be realized at all. This is why we support PACE as a concept.

Lastly, we would like to comment on the FHFA's concern that first-lien mortgage holders may be at increased risk if PACE programs fail to disclose to applicants the possibility that subsequent purchasers of the subject property may reduce the amount they would pay to purchase the property by the amount of outstanding PACE obligation. This is certainly a possibility, particularly in instances where the subsequent purchaser cannot obtain the best available financing. The purchaser is likely to request an offset in that scenario.

As indicated above, SchoolsFirst FCU does not conceptually oppose PACE programs; we merely need the GSEs to provide a way of establishing compatibility between the legitimate government objectives of these programs and the protection of mortgage lender's interests.

Thank you for the opportunity to comment on this ANPR and for considering our perspective on PACE programs.

Sincerely,



Fred Ferrell  
Vice President, Real Estate Lending  
SchoolsFirst Federal Credit Union

cc: Credit Union National Association (CUNA)  
California/Nevada Credit Union League (CCUL)