

March 16, 2020

**Submitted Electronically**

Alfred M. Pollard, General Counsel  
Attn: PACE Request for Input, Notice No. 2020-N-1  
Federal Housing Finance Agency  
400 Seventh Street SW  
Eighth Floor  
Washington, D.C. 20219

**Re: PACE Request for Input (RFI), Notice No. 2020-N-1**

Dear Mr. Pollard:

The Federal Housing Finance Agency (FHFA) has sought public input on residential energy retrofitting programs financed through special state and local legislation enabling a “super-priority lien” over existing and subsequent first mortgages, often referred to as Property Assessed Clean Energy, or otherwise known as “PACE” program liens and loans. The undersigned Federal Home Loan Banks (each an “FHLBank” and collectively, the “FHLBanks”) appreciate the opportunity to present the following responses to the questions presented in the RFI.

Question 4 - Should FHFA establish safety and soundness standards for the Federal Home Loan Banks to accept as eligible advance collateral mortgage loans in communities where PACE loans are available? How might those standards best address the increased risk of such collateral?

**Response**

We do not believe FHFA needs to mandate additional safety and soundness standards for the FHLBanks to address PACE loans since each FHLBank currently has well-established collateral eligibility rules and collateral verification processes in place. Since the last FHFA directive in late 2010 regarding PACE liens and energy retrofit programs, each of the FHLBanks are of the position that their policies, procedures, practices, and overall risk management approach effectively addresses the risks associated with accepting loans as collateral in communities where PACE loans are available. FHLBanks mitigate collateral credit risk associated with PACE loans in a variety of ways, including but not limited to, blanket liens, overcollateralization, eligibility requirements, collateral verification and discovery methods, and diverse pledged collateral pools where substitution of eligible collateral for ineligible collateral is generally available.

FHLBanks’ current eligibility requirements regarding mortgage loans subject to PACE program liens are effective, transparent and easy for FHLBank members, large and small, to understand and implement in connection with maintaining and collateralizing their obligations to the FHLBanks. Moreover, the FHLBanks’ current collateral verification processes appropriately address the increased risk that PACE loans might present to pledged collateral. For example, many of the FHLBanks operate effective collateral eligibility and collateral verification educational training that provides its membership with an understanding of the risks associated with PACE loans. Most FHLBanks prohibit the pledging of loans secured by properties subject to a PACE loan which take priority over the first mortgage, while a minority of FHLBanks have established processes for members to pledge mortgage loans with PACE loans which take priority over the first mortgage, including but not limited to, adjusting loan-to-value, debt-to-income, debt service coverage ratios, or implementing an over-collateralization requirement. In addition, each month, external legal counsel provides the FHLBanks with a report on “Property Assessed Clean Energy Enabling Legislation and Programs,” which includes a zip code exhibit. This enables FHLBanks to identify PACE programs by zip code, area code, city, county and state as part

of their ongoing collateral verification review processes. The monthly report also covers pending and existing federal, state and local legislation.

FHLBanks are concerned that any new FHFA collateral requirements with respect to PACE loans may result in a variety of unnecessary and avoidable harm to our members with respect to collateral eligibility, which is an issue that already creates consternation among FHLBank members. For example, if FHFA prohibits pledging mortgage loans at a certain community level (e.g., by geographic designation or line drawing), the unfortunate result may be a disparate negative impact on smaller community bank members if the excluded community constitutes the extent of a community bank's lending and collateral footprint. Each of the FHLBanks currently have processes in place to limit exposure resulting from PACE loans, including, but not limited to prohibiting the pledging of loans secured by property subject to a PACE loan, which takes priority over the first mortgage. A minority of FHLBanks have controls for the acceptance of collateral secured by property subject to a PACE loan, including control adjustments for additional PACE programs or after-the-fact changes to existing PACE programs, and regular reviews of member collateral to evaluate whether such collateral is impacted by PACE loans. The FHLBanks' analysis to date indicates de minimis, if any, impact to the FHLBanks' collateral positions as a result of PACE loans. The FHFA should take into consideration whether the benefits of any new safety and soundness standards or procedures outweigh the costs to FHLBank and its members.

Question 7 – Should borrowers in PACE jurisdictions be required to execute any additional agreements or certifications in connection with mortgages for the Enterprises, Home Loan Banks or FHA guaranteeing the borrowers will not accept PACE financing for energy efficiency improvements?

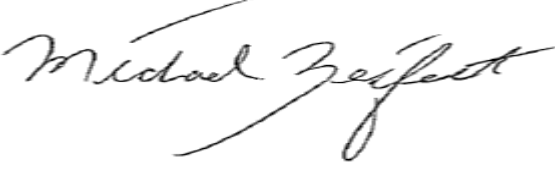
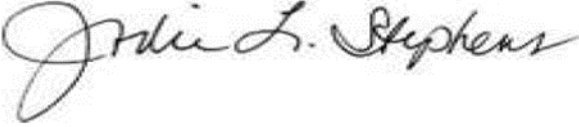
Response

Please refer to our comment in response to Question 4 regarding the need for additional safety and soundness standards to accept as eligible advance collateral mortgage loans in communities where PACE loans are available. Establishing a requirement that members must require borrowers to execute an additional agreement and/or certification in order to pledge such mortgage loans to an FHLBank would be intrusive to our members' businesses. A requirement to that effect would require our members to implement a process for all loans, across the various jurisdictions, whether or not the member initially intends to pledge the loan to an FHLBank, in the event that a loan would eventually need to be pledged to an FHLBank. Such a requirement, and associated costs, would impede members' willingness to use an FHLBank and ability to rely on FHLBank products due to restrictive collateral requirements. Therefore, the FHLBanks do not believe the potential risks associated with PACE loans, which in our experience has been immaterial, makes such agreements or certifications worth the additional cost, for FHLBanks or their members.

Thank you for the opportunity to comment on the PACE RFI.

Sincerely,

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| <b>FEDERAL HOME LOAN BANK OF ATLANTA</b><br>✦<br> | <b>FEDERAL HOME LOAN BANK OF BOSTON</b><br>:-<br> |
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| <b>FEDERAL HOME LOAN BANK OF DALLAS</b><br>       | <b>FEDERAL HOME LOAN BANK OF DES MOINES</b><br>      |
| <b>FEDERAL HOME LOAN BANK OF INDIANAPOLIS</b><br> | <b>FEDERAL HOME LOAN BANK OF NEW YORK</b><br>        |
| <b>FEDERAL HOME LOAN BANK OF PITTSBURGH</b><br> | <b>FEDERAL HOME LOAN BANK OF SAN FRANCISCO</b><br> |
| <b>FEDERAL HOME LOAN BANK OF TOPEKA</b><br>     |                                                                                                                                        |