

**Property Assessed Clean Energy (PACE) Conference Call on Upcoming Rulemaking Efforts  
with the Consumer Finance Protection Bureau**

Wednesday, April 10, 2019  
2:00 pm

*Please note that the briefing call will be closed to press, off the record, and not for attribution in social media. **The call is open to local government officials and their representative organizations only.***

**Discussion questions for the call:**

- **QUESTION 7:** What is the role that states and local governments play in both the formation and underwriting of PACE financing?
- **QUESTION 17:** How does your county or city handle consumer repayment? For example:
  - I. When does repayment begin after the financing agreement is signed?
  - II. How frequently are payments made?
  - III. Are payments roughly equal throughout a consumer's full financing term, or can payments change? Are interest rates fixed or variable? Are balloon payments required? If so, in what circumstances? Do PACE financing agreements always provide for full amortization?
  - IV. To which parties do consumers make payments? Does the party to which consumers make payments ever change over the life of the financing agreement? If so, in what circumstances does this occur and why?
  - V. After a consumer remits a payment, how is the payment distributed, and by whom?
  - VI. Please describe any changes to payments or payment processes when a consumer becomes delinquent or defaults.
  - VII. Please describe any differences to payments or payment processes when a consumer has a mortgage loan with an escrow account for taxes.

**Other questions in the Advanced Notice of Proposed Rulemaking that are relevant to local governments include:**

TIER ONE QUESTIONS:

- **QUESTION 15:** Please provide information about the source of funding for PACE financing transactions. For example, are the transactions funded with public or private capital? Which parties supply the capital used to pay the contractors installing the home improvement projects?
- **QUESTION 16:** Please describe the role of public bonds in PACE financing transactions. Please identify the bond-issuing authorities. What is the timing of bond issuance? Who purchases the bonds, and what effect does the purchase have? Where public bonds are not involved in PACE financing transactions, please describe the role of any other public financing mechanisms.

- **QUESTION 18:** Please describe how PACE financing is integrated with local property tax systems and how specific information about the PACE financing obligation is distinguished from other real property tax obligations in the tax system. Who monitors repayment of the PACE financing?
- **QUESTION 23:** Please provide information about the liens associated with PACE financing. How do they differ from liens securing other property tax obligations that may encumber residential real property? Do PACE financing liens arise by operation of law or contract?

TIER II:

- **QUESTION 6:** The Truth in Lending Act's (TILA) existing ability-to-repay (ATR) requirements apply to "creditors," defined in part as the parties to whom debt obligations are "initially payable on the face" of the agreements.<sup>11</sup> In PACE financing transactions, to which parties may the obligations be made "initially payable on the face" of the financing agreements? Please describe any requirements in State or local law governing to which parties PACE financing obligations may be made initially payable on the face of the financing agreements.
- **QUESTION 11:** Please describe any indemnification agreements that are commonly part of PACE financing transactions, whether involving local governments, private parties administering PACE financing programs, secondary market participants, home improvement companies, or others.
- **QUESTION 13:** Please provide information about what happens to PACE financing obligations when a consumer becomes delinquent or defaults. For example, please provide information about any loss mitigation programs available to consumers, any pre-foreclosure collection attempts, or foreclosure processes when applicable. Which parties are involved, and what are their roles?
- **QUESTION 19:** To the extent not addressed above, please describe the role of State and local governments in PACE financing programs or individual PACE financing transactions following origination. Please identify any State or local government entities with regulatory or oversight authority over PACE financing or industry participants.
- **QUESTION 26:** If existing ATR requirements in TILA and Regulation Z were to apply to PACE financing transactions, please describe any likely effects on State and local governments or bond-issuing authorities.
- **QUESTION 27:** Please describe any likely effects of such application on consumers or PACE financing industry participants.
- **QUESTION 28:** If applied to PACE financing transactions, which specific ATR provisions under TILA and Regulation Z, if any, would conflict with existing State or local legal requirements, and how? What steps could the Bureau take to mitigate those conflicts?
- **QUESTION 29:** Which specific ATR provisions under TILA and Regulation Z would be difficult for market participants to apply to current PACE financing origination practices, bond processes, or laws and practices implicating real property tax systems, and why would they be difficult to apply?

- **QUESTION 33:** Please share your views on whether the Bureau should address the application of TILA and Regulation Z provisions other than the ATR requirements to PACE financing, including any potential impacts on consumers, industry, or other stakeholders that may result from any such application.