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April 25, 2016

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Director Cordray:

I write to seek your assistance with a matter of consumer protection that may not currently be under examination by the Consumer Financial Protection Bureau regarding Property Assessed Clean Energy (PACE) lending.

Let me begin by stating my unwavering support for consumers' ability to access credit for energy efficient and seismic-retrofitting modifications to their homes. My concern regarding PACE lending, however, stems from the following specific issues: (1) the lack of consumer disclosure requirements imposed on issuers; (2) the issuers' lack of underwriting standards and compliance; and (3) the issuers' receipt of super-priority liens on consumers' homes.

Under current California state law, PACE financing allows homeowners wishing to make improvements to enter a voluntary contractual assessment in exchange for a loan that funds the improvement. PACE lenders, however, are not subject to many of the same consumer protection laws that apply to traditional lenders. PACE lenders are currently not required to file proper disclosures with the consumers, as traditional lenders currently do under the *Truth In Lending Act*, nor are PACE lenders required to adhere to traditional underwriting standards when issuing one of these loans.

Finally, PACE lenders are granted super-priority liens on consumers' homes. Repayment of the loan is accomplished through a tax assessment itemized within the borrower's local property tax bill. Yet, the Federal Housing Finance Agency

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does not accept purchases of loans with priority lien status attached to it, limiting the consumer's ability to receive refinancing or eventually sell the property unless the PACE loan is paid off in its entirety.

The California Legislature is currently considering Assembly Bill 2693, which will require consumers to receive the same *Truth in Lending Act* disclosures about PACE loans as they are required to receive in connection with any other home equity loan, and will also reduce the lenders' super-priority lien status. This bill, however, will not address the lack of underwriting standards or compliance.

The CFPB has worked tirelessly to correct the underwriting standards of traditional lenders. With a proper investigation and examination of potential consumer abuses associated with PACE loans, which is in the scope of the Bureau's charter, I believe we can find a sound solution that will protect consumers from potential abuses, while allowing the public access to affordable clean energy and efficiency lending products. I look forward to working with you on this issue and hope to bring about an effective consumer protection policy.

Sincerely,



Brad Sherman
Member of Congress