

April 8, 2019

Director Kathy Kraninger
Consumer Financial Protection Bureau
1700 G St. N.W.
Washington, D.C. 20552

Re: Acceptance of Consumer Complaints about PACE

Dear Director Kraninger:

We are writing to request that the Consumer Financial Protection Bureau open its consumer complaint procedure to accept complaints about Property Assessed Clean Energy (PACE) loans.

We understand that when consumers currently submit complaints involving PACE financing to the Bureau, they receive the following response:

We are unable to send your complaint to the company for a response. We reviewed your complaint and weren't able to forward it to the company for a response either because the company is not on our complaint system, or because we do not currently handle complaints about this product or issue.

Consumers who have submitted complaints to the Bureau about PACE have informed us that their complaints cannot be found on the public Consumer Complaint Database. This suggests that in addition to not forwarding PACE complaints for a company response, the Bureau is not publishing information in the database about PACE complaints that could be alerting other consumers to potential problems.

One of the six statutory "primary functions" of the Bureau is the "collecting, investigating, and responding to consumer complaints." 12 U.S.C. § 5511(c)(2). The Dodd-Frank Act requires the Bureau to establish a unit to "facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services." 12 U.S.C. § 5493(b)(3)(A).

Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amends the Truth in Lending Act (TILA) to require that the Bureau issue regulations relating to PACE financing. To the extent there was any doubt before (which we do not think there was), this legislation makes clear that the Bureau has authority over PACE financing, which should include handling complaints about the product and issue.

Consumers who are having trouble with PACE loans would benefit from the Bureau's involvement in forwarding their complaints to the PACE provider in the same manner that other consumers do. This is especially important given the unclear status of any regulatory oversight of PACE lenders and the fact that PACE loans can lead consumers, especially seniors, to lose their homes.

Consumer complaints have also proved to be a helpful resource for the Bureau in developing the mortgage servicing rules under RESPA and TILA. Now that the Bureau has issued an ANPR on PACE, consumer complaints similarly would be valuable to those in the Regulations office who are working on the PACE rulemaking.

Including PACE complaints in the public database would also be helpful to state and local authorities, communities considering PACE programs, advocates, researchers and others just as the complaints database is helpful in other areas.

For the above reasons, we greatly appreciate if you would instruct the Consumer Response office to immediately begin accepting complaints about PACE, forwarding them to PACE providers, monitoring the type of problems and publishing them in the database. In modifying the complaint website to accommodate PACE complaints, it is important to consider that some consumers may not identify the product under the label "PACE." For example, California consumers often refer to PACE loans as HERO, which is the name that Renovate America has given to its PACE product (Home Energy Renovation Opportunity). Also, not all of these loans involve energy-related work. For example, PACE loans are used for water conservation, hurricane hardening, and fire prevention.

Thus, one approach may be to modify the current product name for "Mortgage" to be more inclusive, such as "Mortgage or other home finance." A new sub-product under mortgage could be added for "PACE" and the other current sub-product for "Other type of mortgage" could be changed to "Other type of mortgage or real estate finance" for consumers who do not identify the product as PACE. This change would also be helpful for other new types of home finance that may not be mortgages. Modifications to the issue options should also be made. Under "what type of problem" for the new PACE sub-product, the categories that currently exist for mortgages could be used as modified, such as: Applying for a PACE loan; Closing on a PACE loan; Trouble during payment process; Struggling to pay PACE loan. And a new category should be added: Trouble refinancing or selling.

Should you have any questions or if you would like additional information, please feel free to contact John Rao at 617-542-8010 or jrao@nclc.org.

Thank you for consideration of this matter.

Very truly yours,

Allied Progress
Americans for Financial Reform Education Fund
Arkansans Against Abusive Lending
Bet Tzedek Legal Services
California Low-Income Consumer Coalition
California Reinvestment Coalition
Center for Responsible Lending

Connecticut Fair Housing Center
Consumer Action
Consumer Federation of America
Consumer Reports
East Bay Community Law Center
Emerson Law Firm, LLC
Florida Alliance for Consumer Protection
Georgia Watch
Housing and Economic Rights Advocates
Jacksonville Area Legal Aid, Inc.
Montana Organizing Project
National Association for the Advancement of Colored People
National Association of Consumer Advocates
National Community Stabilization Trust
National Consumer Law Center
National Fair Housing Alliance
National Housing Law Project
National Housing Resource Center
North Carolina Justice Center
Pennsylvania Utility Law Project
Philadelphia Solar Energy Association
Public Justice Center
Public Law Center
Public Utility Law Project of New York
The Greenlining Institute
The Leadership Conference on Civil and Human Rights
TURN - The Utility Reform Network
U.S. PIRG
University of California, Irvine Consumer Law Clinic
Virginia Citizens Consumer Council
West Virginia Center on Budget and Policy
Woodstock Institute