

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**
Meeting Date: February 17, 2014

***Discussion and Consideration of Emergency Regulations for the
Residential Energy Efficiency Loan (REEL) Assistance Program***

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Background

Through a series of pilot programs spanning the residential, multifamily, and non-residential market sectors, CAEATFA is partnering with the California Public Utilities Commission (“CPUC”), the investor-owned utilities (“IOUs”), and the Center for Sustainable Energy (“CSE”) to support the development of “new, scalable, and leveraged financing products to offer consumers to help them produce deeper energy efficiency projects than previously achieved through traditional program approaches.”

The pilot programs were established with a myriad of goals, all of which are intended to support the State’s broader energy efficiency and environmental policy goals using an innovative approach. Primarily, the pilots are designed to:

- (a) attract a greater amount of private capital to the energy efficiency retrofit market by reducing risk to lenders;
- (b) broaden the availability of financing to individuals who might not have been able to access it otherwise; and,
- (c) address the upfront cost barrier to energy efficiency retrofit projects.

CAEATFA is creating a streamlined, statewide platform for lenders and contractors to participate in the uptake of energy efficiency projects through increased access to financing. As the manager of the California Hub for Energy Efficiency Financing (“CHEEF”), CAEATFA is developing uniform program requirements, standardized documentation and processes, and a central administrative entity to facilitate investment in energy efficiency projects and implementation of the pilot programs.

In addition, CAEATFA is collaborating with the CPUC, CSE, and the IOUs to deliver a \$10 million marketing, education, outreach and training campaign that leverages the existing Energy Upgrade California efforts and will further encourage lender and contractor participation in these types of projects.

Pilot Program Design

The pilots are structured to use two key mechanisms to support the program goals: credit enhancements and on-bill repayment (“OBR”). Credit enhancements (“CEs”) serve as a risk mitigation to encourage increased lending in energy efficiency retrofits. CEs are used to reduce the lending risk for lenders participating in the program. As a result of this decreased risk, lenders are expected to extend financing options to a wider array of borrower risk profiles, or to enhance the loan terms that they otherwise would have offered for energy efficiency projects.

Several of the pilots will also include on-bill repayment (OBR) mechanisms that will allow borrowers to repay their eligible project financing obligations through a payment on their utility bill. Including OBR in the pilots will help test whether payment on the utility bill will increase debt service performance across market sectors.

Budget

The CPUC allocated approximately \$65.9 million in IOU ratepayer funding for the pilot programs. Funds will be used to support credit enhancements, program administration, and marketing, education, outreach and training. A breakdown of the budget is provided below.

COST CATEGORY	FUNDING AMOUNT
a. CHEEF start-up cost (includes CAEATFA administrative and contracting costs)	\$ 5 million
b. Marketing, education, outreach, training	\$ 10 million
• CSE statewide ME&O plan	\$ 8 million
• CAEATFA outreach to and training of lenders and contractors	\$ 2 million
c. Residential sector (includes CE)	\$ 26 million¹
d. Multi-family sector (includes CE)	\$ 2.9 million
e. Non-residential sector	\$ 14 million
• Small business (includes CE)	\$ 14 million
• Other non-residential (no CE)	\$ 0
f. Information Technology (for IOU IT build-outs to accommodate OBR infrastructure)	\$ 8 million
TOTAL FUNDING FOR EE FINANCING PILOTS	\$ 65.9 MILLION²

CHEEF Infrastructure

Central to the infrastructure needed to implement the CHEEF Pilot Programs are a Master Servicer, Trustee bank, Contractor Manager, and Data Manager. CAEATFA is currently in the process of procuring services for these roles. The Master Servicer will play a key role in the daily administration of the program, accepting lender and loan enrollment applications, and processing on-bill repayment transactions. To maintain the integrity of ratepayer funding, all credit enhancement funds will be held in a Trustee bank and transferred to lender accounts at CAEATFA’s direction.³

In addition, a Contractor Manager will be responsible for training contractors on program

¹ Of the \$26 million allocated for the residential pilot, \$1 million was directed to Pacific Gas & Electric Company to implement IT changes to accommodate the Energy Financing Line Item Charge.

² Note that the CPUC authorized an additional \$9 million reserve, not currently allocated to the budget for the pilot programs.

³ On January 20, 2015, the CAEATFA approved the execution of a contract with Concord Servicing Corporation to act as its Master Servicer and a contract with US Bank Global Corporate Trust Services to provide trustee services under the CHEEF.

requirements and conducting post-project field verifications – for projects not participating in an existing IOU incentive or rebate program -- to ensure that projects are installed in compliance with the regulations.

The Residential Energy Efficiency Loan (“REEL”) Assistance Program

The Residential Energy Efficiency Loan Assistance Program (the “Program”) is the first of the CHEEF pilots to be developed by CAEATFA. The Program targets the residential sector (4 residential units or less), and will consist of a loan loss reserve structure available for eligible loans or retail installment contracts that finance energy efficiency projects. The loan loss reserve is designed to provide a greater incentive for loans made to Low-to-Moderate Income Borrowers, as specified in the Housing and Community Development income requirements determined by county.

Once CAEATFA’s Master Servicer is established, CAEATFA staff (“Staff”) will undertake an additional rulemaking to supplement the REEL Assistance Program regulations to include an Energy Finance Line-Item Charge (“EFLIC”) feature as a sub-pilot in Pacific Gas and Electric Company (“PG&E”) territory. This element offers functionality similar to the OBR mechanism, allowing borrowers to repay their loan obligations through their utility bills.

Program Development

In late 2013, CAEATFA began its involvement in developing the REEL Assistance Program (formerly referred to as the Single Family Loan Program) by consulting with the IOUs in the development of the Single Family Loan Program Implementation Plan, which outlines the basic structure of the Program. Since then, Staff has been working with the CPUC, the IOUs, and various stakeholders on further developing the program structure. CAEATFA solicited stakeholder input on the Program on numerous occasions:

- (a) October 24-28, 2014: Lender and contractor roundtables on proposed program structure in San Francisco, Downey, and by webinar
- (b) December 5, 2014: First draft of proposed regulations posted for public comment
- (c) December 11, 2014: Public workshop on draft of proposed regulations
- (d) January 20, 2015: Second draft of proposed regulations posted for public comment
- (e) February 17, 2015: CAEATFA Board Meeting to consider adoption of proposed regulations

To date, the Authority has received over over 30 sets of public comment. Staff has analyzed and considered all comments and incorporated changes to the emergency regulations when appropriate. The proposed final emergency regulations balance stakeholders’ comments with the statutory, legal and program administration framework as well as the CPUC’s policy intent for the Program.

Program Design

The CPUC highlighted several important program design elements in its Decision Implementing the Energy Efficiency Financing Pilot Programs (“the Decision”).⁴ The REEL Assistance Program emergency regulations further elaborate on Program eligibility criteria, as well as evaluation criteria for enrolling financial institutions, finance lenders, successor servicers, and contractors as participants in the Program.

Overall, the Program is designed to leverage the existing infrastructure the IOUs have in place for energy efficiency rebate and incentive programs (for example, requirements for measure eligibility, contractor participation, project quality assurance, and quality control), while offering an alternative pathway to existing structures.

Following is a summary of the key program design elements included in the proposed emergency regulations.

(a) Eligibility Criteria

Staff solicited and incorporated a significant amount of stakeholder feedback on the eligibility requirements for the Program. The proposed emergency regulations reflect Staff’s effort to balance flexibility to support various lending structures with prudence in using ratepayer funding. While the regulations set minimum thresholds for eligibility requirements, program participants may choose to adopt additional requirements for their projects.

Eligible Improvements

Projects funded through the Program must be used to fund Eligible Energy Efficiency Measures (“EEEMs”), which consist of energy efficiency measures that are eligible for IOU or REN rebate and incentive programs. EEEMs and other related costs such as installation, permitting, and legally required improvements must comprise at least 70% of the total financed cost. With the understanding that borrowers are more likely to install energy efficiency improvements while taking on other home improvements, projects have flexibility to use up to 30% of the financed costs for other related home improvements. To be considered as eligible, projects must be completed on residential properties not to exceed four units, and the property must receive electric and/or gas service from one or more IOUs or Consumer Choice Aggregators (CCAs).

Rebate and incentive program requirements differ across the IOUs; as a result, there will be four separate EEEMs lists to reflect differences in measure eligibility. Staff is working with the IOUs and CSE to make lists EEEMs available online, and to ensure that the information is maintained in an up-to-date and user-friendly format.

Minimum Underwriting Criteria

The regulations include minimum underwriting criteria for loans enrolled in the Program. These thresholds are put in place to safeguard the use of ratepayer funds, while maintaining the intent to allow Participating Financial Institutions (“PFIs”) and Participating Finance Lenders

⁴ CPUC Decision 13-09-044 Implementing the Energy Efficiency Financing Pilot Programs. September 20, 2013.

(“PFLs”) the flexibility to broaden access to financing for a wider range of risk profiles. PFIs and PFLs may choose to be more restrictive in their underwriting, as they deem suitable for their business practices. PFIs and PFLs may enroll loans that meet the following criteria:

- (a) The loan characteristics must align with the criteria that the PFI or PFL specified in its application to enroll as a PFI or PFL under the program.
- (b) Loans must not exceed a maximum loan amount of \$50,000 per unit of the Eligible Property, except where the Borrower has no FICO score, in which case the maximum loan amount is \$35,000.
- (a) Borrowers must have a FICO score of 580 (except when the Borrower has no FICO, Low-to-Moderate Income, and no unexplained derogatory credit reports).
- (b) Borrowers must have a total debt-to-income ratio not exceeding 55%.
- (c) Loans must have an interest rate less than or equal to the rate for new 10-year treasury bonds plus seven hundred and fifty (750) basis points, as of the first day of the calendar quarter

Staff believes that these minimum underwriting criteria appropriately incentivize increased participation in the energy efficiency lending market without providing an overly generous subsidy.

Participating Financial Institutions and Participating Finance Lenders

Insured depository institutions, insured credit unions, and community development financial institutions (collectively “financial institutions”) may enroll to participate in the Program. Finance lenders may also enroll in the Program provided they are licensed by the California Department of Business Oversight and meet additional requirements that are described below in further detail. To participate in the program and enroll loans in the loss reserve, financial institutions and finance lenders must submit an application to CAEATFA including the following information:

- (a) Name, contact information, type of lender, and any relevant regulatory license numbers.
- (b) A description of the loan program that the Participating Financial Institution (“PFI”) or Participating Finance Lender (“PFL”) will offer in conjunction with its participation in the Program, including information on underwriting, eligibility, fees or transaction costs, and a list of counties where the PFI or PFL will make the loan product available.
- (c) An explanation of the benefits to its customers resulting from its participation in the Program, such as lower interest rates, extended terms, or more inclusive underwriting criteria.
- (d) Acknowledgment of and agreement to several terms and conditions of participation in the Program, including CAEATFA’s ability to audit the PFI or PFL’s records related to enrolled loans, and provisions required by CAEATFA’s contract with the IOUs.

The Program is able to leverage an existing, strong regulatory framework to simplify the requirements and application process for financial institutions. However, since finance lenders are not subject to the same level of regulatory oversight, Staff has included additional requirements as safeguards for finance lenders seeking to participate in the Program. To ensure that PFLs are well-established and experienced in complying with consumer lending and privacy requirements, the Program requires that a PFL:

- (a) Maintain general, motor vehicle, and workers' compensation and employer's liability coverage for the duration of participation in the Program.
- (b) Have a net worth in excess of \$1 million and assets in excess of 0.5% of the assets under servicing.
- (c) Demonstrate a proven ability to originate consumer loans or retail installment contracts in accordance with all applicable laws, experience with home improvement financing, and coordination of home improvement financing with contractors and consumers.
- (d) Maintain quality control and management systems to evaluate and monitor the overall quality of financing-related activities, including underwriting reviews and consumer complaint resolution processes.
- (e) Make several representations and warranties to CAEATFA with respect to its good standing, qualifications, lack of proceedings or investigations that would adversely affect its participation in the Program, and internal controls.

These requirements for PFLs are modeled after requirements for participation in similar federal programs such as the U.S. Department of Housing and Urban Development requirements for lender participation in the PowerSaver program. The requirements parallel those of regulated financial institutions.

CAEATFA will have 10 business days to review and approve or reject applications from financial institutions and finance lenders to participate in the Program. Upon approving a PFI or PFL, CAEATFA will instruct the Program's trustee bank to create a loss reserve account for each IOU territory that the PFI or PFL will participate in.

Qualified Contractors

CAEATFA received several public comments addressing the need to allow many contractors into the Program. As this Program will serve a wide range of project types, spanning from single measure emergency appliance replacements to comprehensive whole home retrofits, Staff understands the need to have flexible requirements to support program participation. The proposed regulations require that a Qualified Contractor must:

- hold an active license with the Contractors State License Board to conduct the work that he or she performs; and,
- carry and maintain an occurrence form commercial general liability policy or policies of not less than \$1,000,000 per occurrence. If the policy maintains a policy aggregate, such aggregate shall be not less than twice the occurrence limit; and,
- complete a mandatory training on the Program rules and procedures.

A contractor or contractor company must submit an application to the Authority containing, among other items, business contact information, license number and type(s), and the training session attended to comply with the program requirements. The application also includes various certifications, such as requiring that the Qualified Contractor perform work in compliance with all applicable laws. Contractors will be required to submit proof of insurance to verify that they meet the Program's insurance requirements.

In researching lessons learned and best practices from other energy efficiency financing

programs nationwide, Staff recognized a need to develop an infrastructure for recruiting contractors to participate in the Program and monitoring their performance on projects going through the program. To address this need, CAEATFA will be issuing a request for proposals to hire a Contractor Manager that will:

- provide training to potential contractors;
- monitor the license status of enrolled contractors;
- verify contractor maintenance of insurance requirements; and,
- for those projects not participating in an IOU or REN rebate or incentive program, perform field verifications on a sample of projects to ensure contractors are performing work in accordance with the regulations.

In addition, the regulations include a process by which contractors may be suspended from participating in the program if their licenses become inactive or if they fail to comply with Program requirements. The proposed regulations also create a framework for suspended contractors to appeal their suspension to the Executive Director and to the Board.

(b) Credit Enhancement Structure

As noted above, the REEL Assistance Program will use a loan loss reserve to reduce PFI and PFL risk in making energy efficiency loans. A PFI or PFL builds-up its loss reserve by enrolling loans in the Program. For each loan enrolled in the Program, CAEATFA will contribute a percentage of the principal amount of the loan to the PFI or PFL's loss reserve accounts held at the Trustee bank. This contribution will be 11% of the principal amount of the loan for standard loans. For loans made to borrowers meeting the criteria for Low-to-Moderate Income, CAEATFA will contribute 20% of the principal amount of the loan.

Portfolio Cap and Quarterly Loss Reserve Account Adjustments

The amount of total CE provided will be limited to 11–20% of a PFI, PFL, or Successor Servicer's outstanding portfolio balance. This limit will be calculated using the weighted average of loss reserve contribution ratios, dependent on the types of loans enrolled. On a quarterly basis, the Authority will compare the balance of the Loss Reserve Account to the outstanding principal of enrolled loans in that account, as reported by the PFI, PFI, or Successor Servicer. The Authority will instruct the Trustee to return any excess funds to the IOU's account.

Early-Stage Losses

Staff received comments from stakeholders that early-stage losses, when the Loan Loss Reserve has not yet accumulated enough contributions to cover a loss, are problematic for lenders. To address this, Staff decided that if a PFI or PFL makes its first claim within one year of enrolling its first loan in the Program, the Trustee will disburse the approved claim amount directly from the IOU's account to the PFI or PFL. This first claim will not impact the PFI or PFL's corresponding Loss Reserve Account balance. This coverage of the first claim does not apply to Enrolled Loans where the servicing responsibility has been assumed by a new PFI, PFL, or Successor Servicer.

There are several mechanisms that could be used to address the risk of an early-stage loss. Other options include a pre-funding mechanism that would provide a higher level of loss reserve contribution for loans enrolled early in the PFI or PFL's program participation, or an initial lump sum payment to the reserve from which a lender could draw down for charged-off loans. Staff believes that the approach of covering the first claim within the first year of enrollment was the option that most conservatively used ratepayer funds while addressing the risk of an early-stage loss.

(c) Loan Enrollment

After a PFI or PFL enrolls in the program, they may submit loan enrollment applications on a rolling basis for any closed loans that satisfy the Program requirements. The Authority will accept applications and review them for consistency with Program requirements. Loan enrollment documentation will include:

- (a) an application describing the loan and improvements included in the project;
- (b) a certificate of completion signed by the contractor and the borrower; or, in the case of Self-Installers, a Self-Installer Project Submission;
- (c) an itemized list of improvements and costs;
- (d) a Customer Data Release form; and,
- (e) a signed California Hub for Energy Efficiency Financing Disclosure form.

The Authority will have 10 business days to review loans submitted for eligibility. Upon enrolling a loan, CAEATFA will instruct the trustee bank to transfer a loss reserve contribution to the PFI or PFL's account.

Optional Reservations and Project Pre-Approvals

In an effort to absorb the complexity of the Program and provide PFIs and PFLs with more certainty regarding funding availability and proposed project eligibility, Staff also developed optional reservation and project pre-approval processes. The reservation processes will allow PFIs and PFLs to submit requests to set funding aside for loans that they will submit for later enrollment in the Program.

The project pre-approval will allow PFIs and PFLs to submit a proposed project to the Master Servicer prior to closing the loan. Upon receipt of a pre-approval request, the Master Servicer will conduct a preliminary eligibility check. If the proposed project meets program requirements, loss reserve funds will be set aside for the project's future enrollment in the Program.

Enrollment Term

While the Program does not limit loan terms, loans may be enrolled in the Program for 15 years or their term, whichever is shorter. Staff believes that this flexibility supports longer term loans with lower monthly payments, and aligns with the Program goals of broadening consumer access to financing and supporting the Low-to-Moderate Income sector, while providing more control on the long-term administrative costs of the program than would be the case in the absence of a limit on the enrollment term. After the enrollment term has elapsed, the PFI or PFL may no longer file a claim from the loss reserve to recover for that loan.

Claims

The regulations specify the process for making a claim reimbursement when a PFI, PFL, or Successor Servicer charges-off an Enrolled Loan. PFIs, PFLs, and Successor Servicers may submit claims to the reserve within 180 days of charging off an enrolled loan. The PFI or PFL must follow its standard business practices when charging off the loan and must notify CAEATFA of the charge-off within 60 days. The Program will reimburse up to 90% of the loss on the outstanding principal amount of the enrolled loan, using the funds available in the PFI or PFL's loss reserve account.

(d) Project Requirements

To be eligible for the program, most projects must be performed by contractors who have been approved to participate in the Program. However, in instances where the project scope is less complex, self-installation is permitted consistent with self-installation requirements established in existing IOU or REN rebate programs. Contractors and borrowers will be required to ensure that all applicable permits have been obtained, and that the project has been completed in compliance with Title 24 building codes and all other applicable laws.

Combustion Appliance Safety / Combustion Appliance Zone Testing

As noted above, the program requirements leverage existing structures and expertise by developing project requirements that draw from the IOUs Home Upgrade and Advanced Home Upgrade Programs. Where projects include whole building air sealing, duct sealing and/or replacement, or attic insulation and air sealing, the home must pass a combustion appliance safety or combustion appliance zone (CAS/CAZ) test after the work is complete. Staff believes that this requirement appropriately addresses safety needs without over-burdening potential participants to an extent that inhibits deal flow.

Bill Impact Estimate

Pursuant to the Decision, the contractor will also be required to provide the borrower with a Bill Impact Estimate to inform them of potential energy cost savings resulting from the project. Staff received a significant amount of input from contractors and lenders suggesting that providing such an estimate to the borrower would be problematic. As a result, Staff is collaborating with the CPUC and IOUs to develop a standardized estimate that could be provided to the borrower in the absence of modeled energy savings.

Post-Project Field Verifications

As a method for ensuring the proper use of ratepayer funds, the regulations establish a pathway to confirm that projects going through the Program are completed in compliance with the regulations. As noted above, CAEATFA will competitively select a Contractor Manager to assist in conducting field verifications on projects that do not participate in an IOU or REN rebate/incentive program. Where a CAS/CAZ test was required as part of the project, the Contractor Manager will also perform a test to ensure the safety of the home. Where such testing is required, the Contractor Manager will conduct field verifications for each contractor

using a tiered framework. The Contractor Manager will conduct field verifications on five percent of all other non-rebated or incentivized projects, and on five percent of all projects completed by a Self-Installer.

Projects that participate in an IOU or REN rebate/incentive program will be subject to the quality control and post-project inspection requirements identified in the respective program.

(e) Support for Secondary Market Transactions

To accommodate the secondary market and increase the ability to leverage private capital in the market, the Program will allow PFIs and PFLs to assign their rights to the loan loss reserve to investors who have purchased enrolled loans.

The regulations also allow another financial institution or finance lender to assume the responsibilities for reporting and submitting claims to CAEATFA after being approved as a “Successor Servicer” through a streamlined application.

By allowing this flexibility in lending structures, Staff believes that these two aspects of the program design will support a market-based approach that will have a long-term impact on the availability, affordability, and self-sustainability of energy efficiency loan products.

(f) Reporting

CAEATFA will require that PFIs, PFLs, and Successor Servicers provide a quarterly report to the Authority by the 15th day of the month following the end of the quarter. The reported information will assist the Authority in determining the status of the outstanding Enrolled Loan portfolio, evaluating potential risks for charge-offs, and assessing whether loss reserve adjustments are necessary. For each Enrolled Loan, the quarterly reports will include information such as the Enrolled Loan amount, outstanding balance of the loan, and delinquency status.

On an annual basis, PFIs, PFLs, and Successor Servicers must provide a report to the Authority on any material changes to information or certifications provided in their initial application to the Authority, or indicate that the application remains materially unchanged.

Information gathered through the quarterly and annual reports will be scrubbed of personally identifiable information, aggregated, and made available to the public via an online web portal. The data collected is expected to assist prospective lenders and investors in the retail and secondary markets in better understanding the risk and performance of energy efficiency loan products.

Regulatory Process

Emergency Regulations

Upon Board approval of the proposed final emergency regulations, the formal emergency rulemaking process will begin. Staff will post the notice of emergency rulemaking, a finding of

emergency and the text of emergency regulations to the CAEATFA website. Staff will also provide these documents to all interested parties through the e-mail listserv. Upon submittal of the regulation package to the Office of Administrative Law (“OAL”), emergency regulations will be subject to a five day public comment period. CAEATFA will have until day eight to respond to any public comments that are submitted; and OAL must make a final decision on the tenth day following submission. If on the tenth day OAL approves the emergency regulations, they will be filed with the Secretary of State and become effective upon this filing date. The emergency regulations will be valid for 180 days, during which time CAEATFA will begin the permanent rulemaking process.

Permanent Regulations

The process for approval of permanent regulations will commence by publishing a copy of the emergency regulations in the California Regulatory Notice Register (the “Register”). This starts a 45 calendar day public comment period. After that time, Staff will review and respond to any comments and present the final form of the permanent regulations to the Authority for approval. If there are substantial modifications, the revised regulations must be published in the Register again for a 15 calendar day public comment period before Authority approval. After Authority approval, a permanent rulemaking file is submitted to OAL, and OAL has 30 business days to review the permanent regulations for compliance with the Administrative Procedures Act and the Authority’s statute. Once OAL approves the permanent regulations, they are filed with the Secretary of State and become effective 30 calendar days later.

Tentative Timeline

The timeline below provides estimates for the proposed development and implementation of the REEL Assistance Program. All of the dates are tentative and subject to change at any time.

January 20, 2015	CAEATFA Board approved Master Servicer and Trustee contracts
February 17, 2015	CAEATFA Board reviews and approves emergency regulations
February 25, 2015	Emergency regulations are submitted to OAL five business days after approval by the Board and notice by the Authority
March 7, 2015	OAL decision deadline, emergency regulations in effect for 180 days
Est. Mid-March 2015	CAEATFA begins contractor training and lender outreach
Est. Mid-Late March 2015	Master Servicer and Trustee contracts approved by DGS

<p>Est. Mid-Late April 2015</p>	<p>REEL Assistance Program launches</p> <p>Master Servicer begins enrolling Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers</p>
<p>September 3, 2015</p>	<p>End of 180 Days for emergency regulations⁵</p>
<p>Est. September 2017 (two years after the last CHEEF pilot is expected to launch)</p>	<p>End of REEL Assistance Program pilot term</p>

Recommendation

Staff recommends adoption of a resolution to approve the proposed emergency regulations establishing the Residential Energy Efficiency Loan Assistance Program and authorize Staff to undertake emergency and regular rulemaking proceedings and other actions related to promulgation of the regulations.

Attachment: Proposed Text of Emergency Regulations

⁵ At the end of the initial 180-day period in which the emergency regulations will be effective, CAEATFA may execute up to two additional 90-day extensions for the emergency regulations. Prior to the end of this term, CAEATFA will begin the permanent rulemaking process.

Resolution of the California Alternative Energy and Advanced Transportation Financing Authority Approving Regulations and Authorizing Emergency and Regular Rulemaking Proceedings and Other Actions Related Thereto, Including the Public Notice and Comment Procedures to Implement The Residential Energy Efficiency Loan Assistance Program

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority ("Authority") is authorized by California Public Resources Code Section 26009 to adopt regulations to implement and make specific the statutory provisions governing the Authority; and

WHEREAS, the Authority has determined that, under its Memorandum of Agreement with the California Public Utilities Commission and its contract with the investor-owned utilities to serve as the manager of the California Hub for Energy Efficiency Financing, it is necessary to adopt regulations to implement the Residential Energy Efficiency Loan Assistance Program (the Program).

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority as follows:

Section 1. The proposed form of Regulations, on file with the Authority, is hereby approved. The Chair, Executive Director and Deputy Executive Director are hereby authorized to file the Regulations, with the supporting documentation required by law, with the Office of Administrative Law as emergency regulations in the form currently on file with the Authority.

Section 2. The Chair, Executive Director and Deputy Executive Director are hereby authorized to proceed with the public notice and comment procedures required by California Rulemaking Law prior to submitting emergency and regular regulations to the Office of Administrative Law.

Section 3. The Chair, Executive Director and Deputy Executive Director of the Authority are hereby authorized to take necessary actions, including making any necessary changes to the Regulations to secure approval by the Office of Administrative Law, and to execute and deliver any and all documents necessary or advisable in order to effectuate the purposes of this resolution.

Section 4. This resolution shall take effect immediately upon its approval.

PROPOSED TEXT OF REGULATIONS

FOR CONSIDERATION AT 02/17/15 CAEATFA BOARD MEETING

CALIFORNIA CODE OF REGULATIONS

Title 4. Business Regulations

Division 13. California Alternative Energy and Advanced Transportation Financing Authority

**CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION
FINANCING AUTHORITY REGULATIONS IMPLEMENTING THE
RESIDENTIAL ENERGY EFFICIENCY LOAN ASSISTANCE PROGRAM**

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§10091.1. Definitions.

- (a) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000 of the Public Resources Code) or its agent.
- (b) “Borrower” means an individual or individuals who receive(s) an Eligible Loan from a Participating Financial Institution or Participating Finance Lender for the purpose of making Eligible Improvements to an Eligible Property.
- (c) “Bill Impact Estimate” means an estimate of the anticipated energy cost savings that are expected to result from the installation of Eligible Energy Efficiency Measures, which is provided by the Qualified Contractor to the Borrower prior to work being performed on the Eligible Property.
- (d) “California Hub for Energy Efficiency Financing Disclosure” or “CHEEF Disclosure” means the disclosure described in Section 10092.5.
- (e) “Commission” or “CPUC” means the California Public Utilities Commission.
- (f) “Community Choice Aggregator” or “CCA” is defined in Section 331.1 of the California Public Utilities Code.
- (g) “Customer Data” means all information and data regarding an IOU customer that is furnished, disclosed, or otherwise made available by an IOU to an authorized agent, including, without limitation personal information such as the customer’s name, address, contact information, service agreement number on the customer’s electric bill, user name, password, financial status and social security number and any information regarding the customer’s energy usage or billing. No confidential Customer Data shall be provided to CAEATFA or its Providers except pursuant to a Customer Data Release Form.
- (h) “Customer Data Release Form” is a legal release that is developed and provided by the IOUs, and executed by an IOU’s customer that is required to give authorization to a designated agent to provide Customer Data to the Authority.
- (i) “Eligible Contractor” means a contractor or contractor company with an active license with the Contractors State License Board to do the work he, she, or it performs.
- (j) “Eligible Energy Efficiency Measures” or “EEEMs” means energy efficiency measures identified by the Investor-Owned Utilities and approved by the CPUC as eligible for rebates or incentives. A list of EEEMs will be accessible from the Authority’s website. The list of EEEMs shall include demand response measures to the extent that they are approved for energy efficiency rebates or incentives.
- (k) “Eligible Finance Lender” means a finance lender licensed by the California Department of Business Oversight that meets the requirements specified in Section 10091.3 of these regulations.
- (l) “Eligible Financial Institution” means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in Section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702).
- (m) “Eligible Improvements” means improvements made to Eligible Properties.
 - (1) Eligible Improvements must be installed by Qualified Contractors, except as set forth in Section 10091.10 (b).
 - (2) Eligible Improvements may include:
 - (A) The installation of Eligible Energy Efficiency Measures as specified by the IOU(s) that provide(s) the Eligible Property with the corresponding gas and/or electric service.
 - (B) Related home improvements to the Eligible Property.
 - (2) Eligible Improvements do not include solar photovoltaic, solar thermal or other distributed generation or renewable energy systems.
- (n) “Eligible Loan” means a loan or retail installment contract made by a Participating Financial Institution or Participating Finance Lender to a Borrower to finance Eligible Improvements on an Eligible Property.

- (1) An Eligible Loan must meet the requirements specified in Section 10091.4 of these regulations.
- (2) An Eligible Loan does not include any of the following:
 - (A) A loan secured by an interest in real property.
 - (B) Open end loans (e.g. line of credit, home equity line of credit).
 - (C) A loan for the construction or purchase of residential housing.
 - (D) A loan for the refinancing of existing debt.
- (o) “Eligible Property” means a residential property of no more than four (4) units that receives gas and/or electric service from one or more Investor-Owned Utilities, or Community Choice Aggregators. Rented or leased properties are eligible with the owner’s written consent to have the Eligible Improvements installed.
- (p) “Enrolled Loan” means an Eligible Loan approved by the Authority for enrollment in the Program pursuant to Section 10091.8.
- (q) “Executive Director” means the Executive Director of the Authority or her or his designee.
- (r) “Investor-Owned Utility” or “IOU” collectively referred to as “IOUs” means Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, or Southern California Gas Company.
- (s) “IOU-Program Holding Account” means the account established and maintained by the Trustee at the Authority’s direction to hold funds allocated by an IOU for the Program.
- (t) “IOU-Program Reservation Account” means the account established and maintained by the Trustee at the Authority’s direction to hold funds reserved for PFIs and PFLs.
- (u) “Loss Reserve Account” means an account established and maintained by the Trustee at the Authority’s direction for the benefit of a Participating Financial Institution, Participating Finance Lender or Successor Servicer to hold the Loss Reserve Contribution for Enrolled Loans in a given IOU territory.
- (v) “Loss Reserve Contribution” or “Loan Loss Reserve Contribution” means the financial assistance provided to the Loss Reserve Account pursuant to these regulations for the benefit of a PFI or PFL for each Eligible Loan it enrolls in the Program as described in Section 10091.8, or for the benefit of a Successor Servicer for each Enrolled Loan it purchases pursuant to Section 10091.12 .
- (w) “Loss Reserve Reservation” means funds set aside in an IOU-Program Reservation Account at the request of a PFI or PFL in accordance with Section 10091.7.
- (x) “Low-to-Moderate Income” or “LMI” means income at or below the current annual income limits as determined by the California Department of Housing & Community Development according to county and family size and adopted in Section 6932 of Division 1 of Title 25 of the California Code of Regulations.
- (y) “Participating Finance Lender” or “PFL” means an Eligible Finance Lender that has been approved by the Executive Director to participate in the Program.
- (z) “Participating Financial Institution” or “PFI” means an Eligible Financial Institution that has been approved by the Executive Director to participate in the Program.
- (aa) “Passive Measure” means an EEEM that does not directly use electricity or natural gas including, but not limited to, air sealing, duct sealing, insulation, and window replacements.
- (bb) “Program” means the Residential Energy Efficiency Loan Assistance Program described in these regulations, which is replacing the Single Family Loan Program (SFLP) in this and all subsequent references. The SFLP was established by the CPUC in Decision 13-09-044, and further referenced in the Single Family Loan Program Implementation Plan filed by the IOUs, as well as in Resolution E-4663.
- (cc) “Project Pre-Approval” means the Authority’s pre-approval of a project at the request of a PFI or PFL in accordance with Section 10091.7.
- (dd) “Qualified Contractor” means an Eligible Contractor who has been approved to participate in the Program by the Authority pursuant to Section 10091.5.

- (ee) “Regional Energy Network” or “REN” means a Regional Energy Network authorized by the California Public Utilities Commission.
- (ff) “Self-Installer” means a Borrower who installs any EEEM that may be self-installed pursuant to Section 10091.10(b).
- (gg) “Successor Servicer” means an Eligible Financial Institution or Eligible Finance Lender approved by the Authority pursuant to Section 10091.12 to service Enrolled Loans sold by a PFI or PFL.
- (hh) “Trustee” means the bank or trust company chosen by the Authority to hold or administer some or all of the IOU-Program Holding Accounts and Loss Reserve Accounts.
- (ii) “Unique Program Identifier” or “Unique Program ID” means an identification number associated with a Borrower and/or Eligible Loan created by the Authority and provided to the PFI or PFL at the time of reservation, pre-approval, or enrollment of an Eligible Loan in the Program. The Unique Program ID will be used to identify the corresponding Eligible Loan in all subsequent correspondence between the PFI, PFL, or Successor Servicer and the Authority.

§10091.2. Eligible Financial Institution and Eligible Finance Lender Applications to Participate.

- (a) An Eligible Financial Institution or Eligible Finance Lender seeking to become a Participating Financial Institution (PFI) or Participating Finance Lender (PFL) in the Program, shall submit an enrollment application to the Authority that includes the following information:
 - (1) Name and address of the Eligible Financial Institution or Eligible Finance Lender.
 - (2) Name, business address, business telephone number, email address and title of contact person.
 - (3) Type of financial institution or finance lender, denoting insured depository institution, insured credit union, community development financial institution, or finance lender.
 - (4) A list of the counties in California where its loan program may be available, or an indication that the loan program may be available statewide.
 - (5) Names of the regulatory agency and the insuring agency to which the Eligible Financial Institution or Eligible Finance Lender is accountable and license number(s), if applicable.
 - (6) A detailed description of its loan program(s) to finance Eligible Improvements, including, but not limited to anticipated loan product details, such as collateral required (if any), maximum and minimum loan amounts, interest rates (including maximums and whether fixed or variable), loan terms, property type (owner occupied vs. leased or rented), and a description of underwriting criteria, with reference to any minimum FICO score or maximum total debt-to-income ratio.
 - (7) A description of the transactional activities associated with the loan issuance, including any fees that will be assessed to the borrower or the contractor such as application, loan origination, and UCC-1 filing fees.
 - (8) An indication as to whether the Eligible Financial Institution or Eligible Finance Lender’s participation in the Program will result in benefits to the Borrower in one or more of the following ways:
 - (A) Lower interest rates.
 - (B) Longer loan terms.
 - (C) More inclusive underwriting criteria.
 - (D) Any other advantageous features.
 - (9) A detailed description of the benefits to Borrowers resulting from the Eligible Financial Institution or Eligible Finance Lender’s participation in the Program as indicated in subsection (a)(8) above. This description should include a comparison between the terms, underwriting criteria, interest rates, or other critical features of the loan program(s) described in subsection (a)(6) above and any existing, similar loan product offered by the Eligible Financial Institution or Eligible Finance Lender.

- (10) An acknowledgement and agreement that these regulations constitute a lender services agreement.
- (11) Certification that the Eligible Financial Institution or Eligible Finance Lender is not subject to a cease and desist order or other regulatory sanction from the appropriate federal or state regulatory body, which would impair its ability to participate in the Program.
- (12) The Eligible Financial Institution or Eligible Finance Lender's agreement to follow the Program regulations as set forth in this Article.
- (13) The Eligible Financial Institution or Eligible Finance Lender's agreement to permit an audit, by the Authority, of any of its records relating to Enrolled Loans during normal business hours on its premises, and to supply such other information concerning Enrolled Loans as shall be requested by the Authority.
- (14) The Eligible Financial Institution or Eligible Finance Lender's acknowledgment that the Authority and the State will have no liability to the PFI or PFL under the Program except from funds deposited in the Loss Reserve Account(s) for the PFI or PFL.
- (15) The Eligible Financial Institution or Eligible Finance Lender's agreement to include in its loan documentation the following documents, as applicable to each Eligible Loan submitted for enrollment in the Program: Customer Data Release Form, California Hub for Energy Efficiency Financing Disclosures, Self-Installer Project Submission, and the Certificate of Completion described in Section 10091.8 to be signed by the Borrower and/or Qualified Contractor.
- (16) The Eligible Financial Institution or Eligible Finance Lender's agreement to and acknowledgement of the following, upon enrollment in the Program:
 - (A) The PFI or PFL is solely responsible for identifying and making any and all disclosures and providing periodic reports to its Borrowers as required under applicable laws.
 - (B) The PFI or PFL shall comply with all applicable laws, possess and maintain all required state and federal licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
 - (C) The IOUs are third party beneficiaries of the lender services agreement and may pursue their rights against the PFI or PFL individually. Alternatively, any IOU may, in its sole discretion, authorize CAEATFA or another IOU to pursue such rights (including by instituting legal proceedings or alternative dispute resolution proceedings) on its behalf.
 - (D) The PFI or PFL shall indemnify, defend and hold harmless CAEATFA, each of the IOUs, their affiliates, and each of their respective officers, directors, employees, agents and representatives from and against any and all losses arising in connection with any claim:
 - a. resulting from the negligent or unlawful acts or omissions, or willful or tortious conduct of the PFI or PFL, including any failure of the PFI or PFL, or its agents, to comply with applicable laws in connection with Enrolled Loans;
 - b. resulting from any error or omission by the PFI or PFL or any third party in the calculation or presentation of Enrolled Loan-related interest, fees and charges, the receipt and processing of payments received from customers, or any collection or enforcement action;
 - c. alleging any misrepresentation with respect to the energy savings to be achieved in connection with an Enrolled Loan, or any failure or deficiency in the products, materials or work supplied to a Borrower in connection with an Enrolled Loan; and/or,
 - d. arising from the PFI or PFL's failure or alleged failure to comply with the provisions of the regulations and/or its confidentiality or privacy obligations.
 - (E) The PFI or PFL acknowledges that the IOUs are not responsible for, and shall have no liability for, (i) the energy efficiency improvements funded through the Enrolled Loans supported through the Loss Reserve Accounts, (ii) the assessment of potential benefits and

costs associated with those improvements, (iii) the qualification of PFIs or PFLs, (iv) the PFI or PFL's marketing, and lending policies and practices, or (v) CAEATFA's educational and outreach activities.

- (17) The application shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
 - (18) The application shall be signed by a person authorized to legally bind the Eligible Financial Institution or Eligible Finance Lender, and shall include the signatory's printed name, title and date.
 - (19) Eligible Finance Lenders will also submit evidence of compliance with or a certification that the Eligible Finance Lender meets the additional requirements specified in Section 10091.3.
- (b) Upon receipt of a completed application, the Authority will, within ten (10) business days, review and determine whether additional information is required, or whether the application is sufficient to permit the applicant to be a PFI or PFL. The Authority's decision regarding enrollment shall be final. The Authority will notify the PFI or PFL of its decision and provide a Program-assigned identification number for the PFI or PFL.

§10091.3. Additional Requirements for Finance Lenders

In addition to the requirements set forth in Section 10091.2, to be approved as a Participating Finance Lender, Eligible Finance Lenders must meet the following requirements:

- (a) Maintain and provide evidence of the following insurance coverage:
 - (1) General liability with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Eligible Finance Lender's limit of liability. The policy must include the State of California, its officers, agents, employees and servants as additional insureds, but only insofar as the operations under these regulations are concerned.
 - (2) Motor vehicle liability with limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of a motor vehicle owned, hired, and non-owned motor vehicles.
 - (3) Statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the Program, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 shall be required.
 - (4) All insurance coverage shall be in force for the complete term during which the Eligible Finance Lender is enrolled as a PFL. If insurance expires during this term, a new certificate must be received by the Authority at least ten (10) days prior to the expiration of the insurance. The new insurance must still meet the terms required in this section.
 - (5) All insurance policies shall contain a provision that coverage will not be cancelled without thirty (30) days prior written notice to the State.
 - (6) The PFL is responsible for any deductible or self-insured retention contained within the insurance program.
 - (7) In the event the PFL fails to keep in effect at all times the specified insurance coverage, the Authority may, in addition to any other remedies it may have, terminate the PFL's participation in the Program on the occurrence of such event, subject to the provisions set forth in these regulations.
 - (8) Any insurance required shall be primary, and not excess, to any other insurance carried by the Authority.

- (b) Have net worth in excess of \$1,000,000 and assets that exceed 0.5% of assets under servicing.
- (c) Unless seeking to become a Successor Servicer, demonstrate a proven ability to originate consumer loans or retail installment contracts in accordance with all applicable laws, including related expertise and experience, trained and qualified personnel, and suitable systems, processes and facilities to support the business.
- (d) Demonstrate experience with home improvement financing and the coordination of such financing with home improvement contractors and consumers.
- (e) Maintain quality control and management systems to evaluate and monitor the overall quality of its loan or financing-related activities, including, where applicable, underwriting reviews and consumer complaint resolution processes.
- (f) Hold a California Finance Lender license in good standing with the California Department of Business Oversight.
- (g) Make the following representations, warranties, and covenants to the Authority. These warranties are not limited to matters of which the Eligible Finance Lender had knowledge. Matters that are of public record will be deemed to be known by the Eligible Finance Lender.
 - (1) Organization and Good Standing. The Eligible Finance Lender is duly organized and validly existing under the laws of the state of its organization and California with due power and authority to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted, and had at all relevant times, and has, the power, authority and legal right to participate in this Program.
 - (2) Due Qualification. The Eligible Finance Lender is duly qualified to do business and has obtained all necessary licenses and approvals in all jurisdictions in which the ownership or lease of property or the conduct of its business will require such qualifications.
 - (3) Power and Authority. The Eligible Finance Lender has the power and authority to execute and to carry out the terms of the Program.
 - (4) No Proceedings. There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency nor other governmental instrumentality having jurisdiction over the Eligible Finance Lender or its properties: (i) asserting the invalidity of these regulations, (ii) seeking to prevent the consummation of any of the transactions contemplated by these regulations, or (iii) seeking any determination or ruling that might materially and adversely affect the performance by the Eligible Finance Lender of its obligations under these regulations.
 - (5) Due Experience. The Eligible Finance Lender has the experience and expertise to underwrite, originate, and service loans in accordance with all applicable regulations and laws.
 - (6) Qualified Staff and Adequate Facilities. The Eligible Finance Lender has trained and qualified employees and suitable facilities and operating systems for the performance of the underwriting, origination, and servicing functions required to carry out the Program. Where an Eligible Finance Lender is seeking to become a Successor Servicer, such requirements related to employees, facilities and operating systems shall be sufficient to carry out all servicing functions required to carry out the Program. The Eligible Finance Lender must maintain a written disaster recovery plan that covers the restoration of the facilities, backup and recovery of information in electronic data processing systems. Alternate processing facilities and systems are required to ensure continuous operations. Eligible Finance Lender shall allow the Authority, at no additional cost, to inspect its disaster recovery plan and facilities.
 - (7) Bad Acts. Eligible Finance Lender has established and shall maintain adequate internal audit and management control systems to guard against dishonest, fraudulent or negligent acts by employees and contractors involved in the origination process.

§10091.4. Loan Eligibility and Minimum Underwriting Criteria.

- (a) Loans terms and characteristics must be consistent with the loan program described by the PFI or PFL in its application to participate pursuant to Section 10091.2(a)(6), or any revised program details provided in a report to the Authority pursuant to Section 10091.11(b)(1).
- (b) Loan proceeds must be used for Eligible Improvements to Eligible Properties in accordance with the following requirements:
 - (1) At least 70 percent of the proceeds must be used to fund Eligible Energy Efficiency Measures as specified in Sections 10091.1 (j) and 10091.1 (m)(2)(A), other related costs such as installation, permitting, and legally required improvements.
 - (A) Where a measure is removed from the list of EEEMs or its specification is revised, that measure and specification will continue to be eligible for inclusion under this subsection where the Loan Enrollment Application is submitted within one-hundred and eighty (180) days of its removal or revision. This grace period shall not apply to Project Pre-Approval requests.
 - (2) No more than 30 percent of the proceeds may be used for other related home improvements as described in Section 10091.1 (m)(2)(B).
- (c) The Eligible Loan amount shall not exceed \$50,000 per unit of the Eligible Property. If the Eligible Loan is underwritten without a FICO score pursuant to subsection (e)(2) below, the Eligible Loan amount shall not exceed \$35,000 without regard to the number of units of the Eligible Property.
- (d) The interest rate, as calculated at a time pursuant to the PFI or PFLs standard business practices, shall not exceed the interest rate on new 10-year treasury bonds plus seven hundred and fifty (750) basis points as of the first day of the calendar quarter.
- (e) Borrower FICO score requirements:
 - (1) The Borrower must have a minimum FICO score of 580 except as allowed pursuant to subsection (2) below. For Borrowers with FICO scores between 580 and 640, the PFI or PFL must verify the Borrower's income as part of the underwriting process.
 - (2) Eligible Loans may also be provided to Borrowers with no FICO score and Low-to-Moderate Income, provided they do not have any unexplained derogatory credit reports.
- (f) The Borrower's total debt-to-income ratio shall not exceed fifty-five percent (55%).
- (g) In addition to the underwriting criteria described above, Participating Financial Institutions and Participating Finance Lenders may use a Borrower's utility billing and payment history to aid in underwriting an Eligible Loan.
- (h) A PFI or PFL may establish additional underwriting criteria beyond what is described in this Section. A PFI or PFL has responsibility for underwriting decisions and legal compliance with respect to the Eligible Loans it makes pursuant to these regulations.
- (i) A PFI or PFL may not enroll an Eligible Loan in any substantially similar program.

§10091.5. Contractor Qualification and Management

- (a) To participate in the Program as a Qualified Contractor, an Eligible Contractor must complete a Program training regarding these regulations and the requirements set forth herein offered by the Authority, the IOUs, or the Center for Sustainable Energy, and submit an application to the Authority including the following information:
 - (1) Business name and address of the Eligible Contractor.
 - (2) Name, business address, business telephone number, e-mail address and title of contact person.
 - (3) Contractors State License Board (CSLB) license number.
 - (4) Type(s) of CSLB licenses relevant to the work performed under the Program.

- (5) The date, location and provider of the mandatory training attended by the Eligible Contractor, or an attachment from the provider of the mandatory training containing this information.
- (6) Certification that the Eligible Contractor has no outstanding judgments or liens.
- (7) The Eligible Contractor's agreement to follow the Program regulations as set forth in this Article, including the project requirements set forth in Section 10092.0.
- (8) The Eligible Contractor's agreement to hold and maintain a commercial general liability insurance policy or policies of not less than \$1,000,000 per occurrence throughout their participation in the program. If the policy maintains a policy aggregate, such aggregate shall not be less than twice the occurrence limit. The Eligible Contractor shall submit proof of such insurance in its application to the Authority.
- (9) The Eligible Contractor's agreement to permit an audit, by the Authority, of any of its records relating to the projects financed by Enrolled Loans during normal business hours on its premises, and to supply such other information relating to those projects as shall be requested by the Authority.
- (10) The Eligible Contractor's agreement that its representatives and agents are not hired by the Authority or any of the participating IOUs, and shall not represent themselves as such, or claim association or affiliation with the Authority or any of the participating IOUs in any capacity. Further, the Eligible Contractor shall not make false or misleading claims about any part of the Program or its performance, including energy performance savings, nor engage in fraudulent or deceitful conduct in the sale or installation of measures.
- (11) The Eligible Contractor's acknowledgement that its employees and representatives shall be solely responsible for all representations made to Borrowers regarding the Program or work performed for a Borrower under the Program, and shall be responsible for all sales, installations, warranties, maintenance and service for all products and systems installed.
- (12) The Eligible Contractor's acknowledgement that the Authority and the State will have no liability to the Eligible Contractor under the Program.
- (13) The Eligible Contractor's agreement to and acknowledgement of the following:
 - (A) The Eligible Contractor is solely responsible for identifying and making any and all disclosures required under applicable laws.
 - (B) The Eligible Contractor shall comply with all applicable laws, possess and maintain all required state licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
 - (C) The Eligible Contractor acknowledges, that the IOUs are not responsible for, and shall have no liability for, (i) the energy efficiency improvements funded through the Enrolled Loans supported through the Loss Reserve Accounts, (ii) the assessment of potential benefits and costs associated with those improvements, (iii) the selection of Qualified Contractors, (iv) the Qualified Contractor's marketing policies and practices, or (v) CAEATFA's educational and outreach activities.
- (b) The application shall be signed by a person authorized to legally bind the Eligible Contractor, and shall include the signatory's printed name, title and date.
- (c) Upon receipt of a completed application, the Authority will, within ten (10) business days, review and determine whether additional information is required, or whether the application is sufficient to permit the applicant to be a Qualified Contractor. The Authority's decision regarding enrollment shall be final. The Authority will notify the Qualified Contractor of its decision.
- (d) The Authority will add Qualified Contractors to a list that will be accessible from its website.
- (e) On an annual basis, the Authority may randomly select a sample of Qualified Contractors and conduct an audit to request updated proof of insurance, pursuant to Section 10091.5 (a)(8) above.

- (f) In the event an audit or post-project field verification by the Authority reveals misrepresentation or failure to comply with the requirements set forth in these regulations on the part of a Qualified Contractor, the Authority may suspend the Qualified Contractor. The Executive Director shall provide written notice of the suspension and the right to appeal in accordance with the procedures set forth in paragraphs (1) through (3) below.
- (1) Any Qualified Contractor receiving a notice of suspension shall have the right to submit information to the Authority explaining the results of the post-project field verification and asking that the Executive Director reconsider the suspension within ten (10) business days of receipt of the notice.
 - (2) The Executive Director shall have ten (10) business days to respond to any information submitted pursuant to paragraph (1) of this subdivision either reversing or affirming the suspension. The Executive Director shall provide written notice of the decision and the right to appeal the decision to the Authority pursuant to paragraph (3) of this subdivision.
 - (3) Within ten (10) business days of receipt of the notice from the Executive Director pursuant to paragraph (2) of this subdivision, the contractor shall have the right to seek an appeal to the Authority. The appeal shall be in writing and shall set forth information the contractor believes warrants a reversal of the Executive Director's decision. The Authority shall consider the appeal at the first regularly scheduled meeting occurring at least twenty (20) business days after the appeal is received.

§10091.6. Establishment and Funding of Loss Reserve Accounts.

- (a) Upon the Authority's acceptance of an application from an Eligible Financial Institution or Eligible Finance Lender to be a PFI, PFL, or Successor Servicer, the Authority shall instruct the Trustee to establish a Loss Reserve Account for the PFI, PFL, or Successor Servicer for each IOU territory in which the PFI, PFL, or Successor Servicer will be participating. The Loss Reserve Account(s) will be held by the Trustee and will be used to:
- (1) Receive and hold Loss Reserve Contributions deposited by the Authority for the benefit of a PFI, PFL, or Successor Servicer; and,
 - (2) Pay claims in accordance with Section 10091.9.
- (b) For each of the PFI or PFL's loan enrollments in a particular IOU service territory, the Authority shall direct the Trustee to transfer a Loss Reserve Contribution from the corresponding IOU-Program Holding Account to the corresponding Loss Reserve Account of that PFI or PFL pursuant to Section 10091.8 below.
- (1) Where an Eligible Loan is enrolled that previously received a Loss Reserve Reservation or Project Pre-Approval pursuant to Section 10091.7, the Authority shall direct the Trustee to transfer the Loss Reserve Contribution from the IOU-Program Reservation Account to the appropriate corresponding Loss Reserve Account. If the Loss Reserve Contribution exceeds the Loss Reserve Reservation amount for the Eligible Loan, the remainder of the Loss Reserve Contribution will be transferred from the IOU-Program Holding Account to the Loss Reserve Account, provided funds are available.
- (c) On a quarterly basis, the Authority shall compare the balance of each Loss Reserve Account to the outstanding principal of Enrolled Loans corresponding to that account as reported by the PFI, PFL, or Successor Servicer pursuant to Section 10092.1. The Authority shall instruct the Trustee to return any excess funds to the IOU-Program Holding Account where the Loss Reserve Account balance exceeds the outstanding principal of Enrolled loans to LMI Borrowers multiplied by 20% plus the outstanding principal of Enrolled Loans to non-LMI Borrowers multiplied by 11%.

§10091.7. Optional Loss Reserve Reservation and Project Pre-Approval.

(a) A PFI or PFL may submit a request for a Loss Reserve Reservation to the Authority prior to enrolling an Eligible Loan so that loss reserve funds may be set aside. Funds reserved will be used as the Loss Reserve Contribution for the Eligible Loan upon the approval of a Loan Enrollment Application in accordance with Section 10091.8 below. A Loss Reserve Reservation request shall include the following information:

- (1) The PFI or PFL's name and Program-assigned identification number.
- (2) Loan officer name, business telephone number and e-mail.
- (3) PFI or PFL loan identification number.
- (4) Indication of whether the Borrower is classified as a Low-to-Moderate Income borrower.
- (5) The anticipated Eligible Loan amount.
- (6) The name of the utility providing gas service to the Eligible Property, if applicable.
- (7) The name of the utility providing electric service to the Eligible Property, if applicable.

(b) In addition to requesting a Loss Reserve Reservation pursuant to subsection (a) above, a PFI or PFL may submit a request for a Project Pre-Approval to the Authority prior to enrolling an Eligible Loan to verify the eligibility of proposed measures and other proposed project characteristics. When requesting a Project Pre-Approval, a PFI or PFL shall submit the following information in addition to the information described in subsection (a) above:

- (1) The Borrower's IOU account number(s).
- (2) A list of the proposed Eligible Improvements and the estimated costs for each in the manner specified in Section 10091.8(c)(5).
- (3) The Qualified Contractor's name and company name, or an indication that the Eligible Improvements were installed by a Self-Installer.
- (4) An executed Customer Data Release Form provided by each IOU providing service to the Eligible Property.
- (5) An executed California Hub for Energy Efficiency Financing Disclosure, as described in Section 10091.15.

(c) Upon receipt of a request for Loss Reserve Reservation and/or Project Pre-Approval the Authority will:

- (1) Review the request for completeness and eligibility;
- (2) Determine the Loss Reserve Reservation amount by calculating the Loss Reserve Contribution pursuant to Section 10091.8 below. Where the Eligible Property is served by more than one IOU, the Loss Reserve Reservation set aside in each IOU-Program Reservation Account will be equal to the Loss Reserve Contribution.

(d) The Authority shall approve Loss Reserve Reservation and Project Pre-Approval requests from PFIs or PFLs if the Executive Director determines that the proposed Eligible Loan meets the requirements of this Article. The Authority shall notify the PFI or PFL of approval and reservation, the reservation amount(s) and the Unique Program ID for the proposed Eligible Loan within five (5) business days after receipt by the Authority of all documentation required by this Article. The Executive Director's determination to approve or deny a Loss Reserve Reservation or Loss Reserve Reservation and Project Pre-Approval request shall be final.

(e) Where a Project Pre-Approval request is rejected, but the associated Loss Reserve Reservation request is valid, the Authority will notify the PFI or PFL. In this case, the PFI or PFL shall notify the Authority within five (5) business days whether it will withdraw the Loss Reserve Reservation request or maintain it while it seeks to correct the issues that led to the rejection of the Project Pre-Approval request.

- (f) Upon approving a Loss Reserve Reservation request, the Authority will instruct the Trustee to transfer the Loss Reserve Reservation from the IOU-Program Holding Account to the IOU-Program Reservation Account.
- (g) Funds reserved in the IOU-Program Reservation Account may be returned to the IOU-Program Holding Account under the following circumstances:
 - (1) If a PFI or PFL fails to enroll an Eligible Loan corresponding to a Loss Reserve Reservation in accordance with Section 10091.8 within one hundred eighty (180) days of the reservation approval. The Executive Director may allow a sixty (60) day extension of a reservation upon a written request from a PFI or PFL.
 - (2) Upon enrollment of an Eligible Loan that has received a Loss Reserve Reservation in accordance with this section, funds reserved for that Eligible Loan in excess of the final Loss Reserve Contribution shall be returned to the IOU-Program Holding Account.
 - (3) Upon rejection of the application to enroll an Eligible Loan that has received a Loss Reserve Reservation in accordance with this section.
- (h) The Authority's approval for a Loss Reserve Reservation or a Project Pre-Approval request only remains valid if all other regulatory requirements are met upon final loan enrollment. Loss Reserve Reservations and Project Pre-Approvals are not valid beyond the program expiration.

§10091.8. Loan Enrollment.

- (a) The terms and conditions of Eligible Loans, including interest rates, fees and other conditions, shall be determined solely by agreement between the PFI or PFL and the Borrower.
- (b) A PFI or PFL shall be authorized to enroll an Eligible Loan in the Program, once that loan is closed, by submitting the documents described in subsection (c) below.
- (c) To enroll an Eligible Loan for a project completed by a Qualified Contractor, a PFI or PFL will submit the following documents to the Authority:
 - (1) a Loan Enrollment Application, as described in subsection (e) below;
 - (2) a Certificate of Completion, as described in subsection (f) below;
 - (3) an executed Customer Data Release Form (if not already provided pursuant to Section 10091.7);
 - (4) an executed California Hub for Energy Efficiency Financing Disclosure as described in Section 10091.15 (if not already provided pursuant to Section 10091.7);
 - (5) an itemized list of the Eligible Improvements described in sufficient detail to clearly identify the Eligible Energy Efficiency Measures, indicating whether measures are gas, electric, or without a fuel source, and the associated costs for each Eligible Improvement.
- (d) To enroll an Eligible Loan for a project completed by a Self-Installer, a PFI or PFL will submit the following documents to the Authority:
 - (1) a Loan Enrollment Application, as described in subsection (e);
 - (2) a Self-Installer Project Submission, as described in subsection (g);
 - (3) an executed Customer Data Release Form (if not already provided pursuant to Section 10091.7);
 - (4) an executed California Hub for Energy Efficiency Financing Disclosure as described in Section 10091.15 (if not already provided pursuant to Section 10091.7);
 - (5) an itemized list of the Eligible Improvements described in sufficient detail to clearly identify the Eligible Energy Efficiency Measures, indicating whether measures are gas, electric, or without a fuel source, and the associated costs for each Eligible Improvement;
 - (6) a proof of purchase for the Eligible Improvements.
- (e) The Loan Enrollment Application shall be in a form specified by the Authority and shall include the following information:

- (1) Participating Financial Institution or Participating Finance Lender name and Program-assigned identification number.
 - (2) Loan officer name, business telephone number and e-mail address.
 - (3) An indication as to whether the Eligible Loan received a Loss Reserve Reservation or Project Pre-Approval.
 - (4) Loan Identification number or Unique Program ID, if applicable.
 - (5) An indication of whether the property is owner-occupied, or rented or leased.
 - (6) The number of units for which Eligible Improvements were undertaken.
 - (7) Name of the utility providing electric service to the Eligible Property, if applicable.
 - (8) Name of the utility providing gas service to the Eligible Property, if applicable.
 - (9) The IOU account number(s) for the Eligible Property.
 - (10) Borrower's FICO score range, denoting a score of 580-640, 641-700, 701-760, 761-820, 821 or higher, or no FICO score.
 - (11) An indication whether the Borrower qualifies as a Low-to-Moderate Income Borrower.
 - (12) Borrower's income range, denoting a range of less than \$25,000, \$25,000-\$34,999, \$35,000-\$49,999, \$50,000-\$74,999, \$75,000-\$99,999, \$100,000-\$149,999, or \$150,000 or more.
 - (13) Borrower's total debt-to-income ratio, denoting a range of less than 25%, between 25 and 35%, between 35 and 45%, or between 45 and 55%.
 - (14) Amount of the Eligible Loan being enrolled.
 - (15) Type of the Eligible Loan (e.g. term loan, retail installment contract).
 - (16) Term and maturity date of the Eligible Loan.
 - (17) Interest rate applicable to the Eligible Loan and whether it is fixed or variable.
 - (18) Date the interest rate for the Eligible Loan was finalized.
 - (19) Certification that the loan is an Eligible Loan, and that the Borrower receiving the Eligible Loan meets the Minimum Underwriting Criteria set forth in this Article.
 - (20) Certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
- (f) The Certificate of Completion shall be in a form specified by the Authority and shall include the PFI or PFL's name and Program-assigned identification number as well as the following information:
- (1) Project information to be provided by the Qualified Contractor or Borrower:
 - (A) The street address, city and zip code of the Eligible Property.
 - (B) The name of the utility or utilities providing gas and/or electric service to the Eligible Property.
 - (C) The IOU account number(s) for the Eligible Property.
 - (D) Indication of whether the Qualified Contractor or Borrower has received or will apply for an IOU or REN energy efficiency rebate or incentive for the Eligible Improvements being installed. If the Qualified Contractor or Borrower is seeking a rebate or incentive, identification of the rebate and/or incentive amount received or expected for the project, the name of the corresponding rebate and/or incentive program, and whether the rebate and/or incentive amount will be directly applied towards the cost of the project. In the case of incentives, the expected incentive amount should be the estimated amount as reported by the IOU or REN incentive program at the time of incentive program pre-approval or reservation.
 - (E) The Qualified Contractor's name and company name.
 - (F) The date the Qualified Contractor began work on the Eligible Property.
 - (G) Permit numbers for all permits required by law for the installation of the Eligible Improvements.

- (H) Where the Eligible Improvements required a Combustion Appliance Safety or Combustion Appliance Zone test pursuant to Section 10091.10(f), the following information from the Qualified Contractor or other individual performing the test:
 - a. Name and company name.
 - b. Contractors State License Board license type(s) and number.
 - c. The Building Performance Institute certification type(s) and number, if applicable.
 - d. A list of IOU territories where the Qualified Contractor or individual performing the test is approved to participate in the Energy Upgrade California Home Upgrade Program and/or Advanced Home Upgrade Program, if applicable.
- (I) An indication of whether the Borrower became aware of the financing offered through the Program from the Qualified Contractor, the PFI or PFL, the Energy Upgrade California website, or a description of another source.
- (2) Certification from the Qualified Contractor of the following:
 - (A) He or she is licensed to perform the work for which the Eligible Loan is made and is a Qualified Contractor as identified in Section 10091.5.
 - (B) The improvements installed are Eligible Improvements.
 - (C) The installation complies with all applicable California building standards (all sections of Title 24) and any additional laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred.
 - (D) All permits and approvals required to install the Eligible Improvements have been secured.
 - (E) The Qualified Contractor provided the Borrower with a Bill Impact Estimate.
 - (F) Combustion Appliance Safety or Combustion Appliance Zone testing was completed and passed if required by the project.
- (3) Certification from the Borrower of the following:
 - (A) The Eligible Improvements have been completed to his or her satisfaction.
 - (B) He or she understands that the Authority and its directors, officers, and agents, and the IOUs and their directors, officers and agents, do not guarantee the performance, quality, or workmanship of the Eligible Improvements.
 - (C) The Eligible Loan proceeds were used to pay for Eligible Improvements.
 - (D) Authorization for the Qualified Contractor and Participating Financial Institution or Participating Finance Lender to share information with the Authority, except as required by these regulations, including contract information, data on work performed and Eligible Improvements installed, information regarding the Eligible Loan, and other information relating to or arising from participation in the Program.
 - (E) All permits and approvals required to install the Eligible Improvements have been secured.
 - (F) The Qualified Contractor provided the Borrower with a Bill Impact Estimate.
 - (G) The information regarding rebates and/or incentives provided pursuant to Section 10091.8(f)(1)(D) above, is accurate to the best of his or her knowledge.
 - (H) Acknowledgement and agreement to be subject to random post-project field verifications, as described in Section 10091.10.
- (g) The Self-Installer Project Submission shall be in a form specified by the Authority and shall include the PFI or PFL's name and Program-assigned identification number as well as the following information:
 - (1) Project Information to be provided by the Self-Installer:
 - (A) The street address, city and zip code of the Eligible Property.
 - (B) The name of the utility or utilities providing gas and/or electric service to the Eligible Property.
 - (C) The IOU account number(s) for the Eligible Property.

- (D) Indication of whether the Self-Installer has received or will apply for an IOU or REN energy efficiency rebate or incentive for the Eligible Improvements being installed. If the Self-Installer is seeking a rebate or incentive, identification of the rebate and/or incentive amount received or expected for the project, the name of the corresponding rebate and/or incentive program, and whether the rebate and/or incentive amount will be directly applied towards the cost of the project. In the case of incentives, the expected incentive amount should be the estimated amount as reported by the IOU or REN incentive program.
 - (E) The date the measure was installed on the Eligible Property.
 - (F) An indication of whether the Borrower became aware of the financing offered through the Program from the PFI or PFL, the Energy Upgrade California website, or a description of another source.
- (2) Certification from the Self-Installer of the following:
- (A) The improvements installed are Eligible Improvements.
 - (B) All Eligible Energy Efficiency Measures installed are eligible for self-installation under an IOU or REN rebate program available from the IOU that provides electric or gas service to the Eligible Property.
 - (C) He or she understands that the Authority and its directors, officers, and agents, and the IOUs and their directors, officers and agents, do not guarantee the performance, quality, or workmanship of the Eligible Improvements.
 - (D) The Eligible Loan proceeds were used to pay for Eligible Improvements.
 - (E) Authorization for the Participating Financial Institution or Participating Finance Lender to share information with the Authority, except as required by these regulations, including contract information, data on work performed and Eligible Improvements installed, information regarding the Eligible Loan, and other information relating to or arising from participation in the Program.
- (h) The PFI or PFL shall be authorized to base the information requested in subdivision (e) above upon representations made to it by the Borrower and/or the Self-Installer and/or the Qualified Contractor, provided that no such representation may be relied upon if it is known to be false by the lending officers at the PFI or PFL who are directly involved in the negotiation of the Eligible Loan.
 - (i) Where the Authority determines that a Loan Enrollment Application is incomplete, a PFI or PFL shall be authorized to submit a revised and complete Loan Enrollment Application.
 - (j) The Authority shall, upon receipt of documentation as required under this section from the PFI or PFL, have (10) ten business days to enroll the Eligible Loan if the Executive Director determines that the Eligible Loan meets the requirements of this Article. The Executive Director's determination whether an Eligible Loan shall be enrolled in the Program shall be final.
 - (k) Upon enrollment of an Eligible Loan:
 - (1) The Authority will determine the Loss Reserve Contribution:
 - (A) For Enrolled Loans to Borrowers with Low-to-Moderate Income, the Loss Reserve Contribution shall be twenty percent (20%) of the principal amount of the Enrolled Loan.
 - (B) For all other Enrolled Loans, the Loss Reserve Contribution shall be eleven percent (11%) of the principal amount of the Enrolled Loan.
 - (C) Where the Borrower or Self-Installer has indicated that she or he will seek an IOU or REN rebate or incentive for the Eligible Energy Efficiency Measures being installed, but will not be applying the rebate and/or incentive amount directly to the cost of the project, the principal amount shall be reduced by the anticipated or actual rebate or incentive amount as reported on the Certificate of Completion pursuant to Section 10091.8(f)(1)(D) or on the Self-Installer

Project Submission pursuant to Section 10091.8(g)(1)(D) for the purposes of calculating the Loss Reserve Contribution.

- (D) Where the Eligible Property is served by more than one IOU, the Loss Reserve Contribution shall be split between the PFI or PFL's Loss Reserve Accounts for the corresponding IOUs.
 - 1. Using the itemized list of Eligible Improvements described in Section 10091.8(c)(5), the Authority will calculate the percentage cost of gas EEEMs and electric EEEMs relative to the total EEEMs cost.
 - 2. For Passive Measures:
 - a. the percentage cost for gas and electric will be divided equally if the other EEEMs installed include both gas and electric EEEMs.
 - b. the percentage cost will be assigned solely to gas or electric consistent with the other measures if the other EEEMs installed include only gas or only electric EEEMs.
 - 3. These percentages will be applied to the Loss Reserve Contribution to determine the amount contributed from each IOU to each of the PFI or PFL's Loss Reserve Accounts.
- (2) The Authority will instruct the Trustee to transfer the Loss Reserve Contribution in accordance with Section 10091.6.
- (3) The Authority will notify the PFI or PFL of the enrollment, the Unique Program ID corresponding to the Eligible Loan, the Loss Reserve Contribution transferred, and how those contributions were split between accounts, if applicable.
- (l) Without regard to the term and maturity date of the Eligible Loan, the term of enrollment in the Program shall not exceed fifteen (15) years.
- (m) If upon review of the documentation provided by the PFI or PFL pursuant to this section, it appears that through inadvertence the loan does not comply with program requirements concerning Eligible Improvements as set forth in Section 10091.4(b), the Authority in its sole discretion may reduce the Enrolled Loan amount to bring the Enrolled Loan into compliance with the requirements of Section 10091.4(b).

§10091.9. Claims.

- (a) A PFI, PFL, or Successor Servicer shall be authorized to make a claim for reimbursement for up to ninety percent (90%) of a loss from the outstanding principal amount of an Eligible Loan prior to the liquidation of collateral, or realization on personal or other financial guarantees or from other sources.
- (b) A PFI, PFL, or Successor Servicer shall notify the Authority within sixty (60) days of charging off an Enrolled Loan.
- (c) To make a claim, the PFI, PFL, or Successor Servicer shall submit a claim application to the Authority within one hundred eighty (180) days of the date of charge off of an Enrolled Loan. The claim application shall include the following information:
 - (1) Name and Program-assigned identification number of the PFI, PFL, or Successor Servicer.
 - (2) Name, address, business telephone number and e-mail address of contact person.
 - (3) Unique Program ID number of the Enrolled Loan.
 - (4) Original principal amount of the Eligible Loan.
 - (5) Outstanding principal amount at the time of charge-off.
 - (6) Amount of charge-off.
 - (7) Amount of claim.
 - (8) Date of charge-off.
 - (9) If the loan is secured, a statement of whether the PFI, PFL, or Successor Servicer has commenced enforcement proceedings.

- (10) If a PFI, PFL, or Successor Servicer files a claim while one or more claims are already pending the Authority's review, a statement of the priority of payment of the claim compared to the other claims in the event the balance of the Loss Reserve Account is not sufficient to pay all claims.
 - (11) Certification that notice was filed with the Authority as required by Section 10091.9(b), and certification that such charge-off was made in a manner consistent with the PFI, PFL, or Successor Servicer's usual methods for taking action on loans which are not enrolled as Eligible Loans under the Program.
 - (12) The claim application shall be signed by a person authorized to bind the Participating Financial Institution, Participating Finance Lender, or Successor Servicer and shall include the signatory's printed name, title and date.
- (d) All claims will be paid net of any recovery made by the PFI, PFL, or Successor Servicer prior to the filing of the claim. If, subsequent to the payment of a claim by the Authority, the PFI, PFL, or Successor Servicer recovers from the Borrower, from liquidation of collateral or from any other source, amounts for which the PFI, PFL, or Successor Servicer was reimbursed by the Authority, the PFI, PFL, or Successor Servicer shall promptly pay to the Authority or its agent, for deposit in the IOU-Program Holding Account, the amount received, net of reasonable and customary costs of collection, that in aggregate exceeds the amount needed to fully cover the PFI, PFL, or Successor Servicer's loss on the Enrolled Loan. The PFI, PFL, or Successor Servicer may retain recoveries that exceed reimbursements to the Loss Reserve Account.
 - (e) The Authority shall approve claims within thirty (30) calendar days of the Authority's receipt of a completed and qualified claim request; provided, however, that the Executive Director shall be authorized to reject a claim if it is determined that the representations and warranties provided by the PFI, PFL, or Successor Servicer pursuant to Section 10091.8 at the time of enrolling the Eligible Loan were false, or where the PFI, PFL, or Successor Servicer is not in compliance with its obligations, including reporting obligations, under these regulations. The Authority, upon providing written notice to the PFI, PFL, or Successor Servicer, may defer approval of claims up to an additional thirty (30) calendar days if the Authority requires more information in order to determine if the claim shall be paid. Prior to authorizing a disbursement from a Loss Reserve Account, the Authority may request documentation from the PFI, PFL, or Successor Servicer that the loan was an Eligible Loan.
 - (f) Upon approval of a claim, the Authority shall direct the Trustee to disburse the approved claim amount to the PFI, PFL, or Successor Servicer within five (5) business days.
 - (1) Where a PFI or PFL makes its first claim request within one (1) year of enrolling its first loan in the Program, the Authority will instruct the Trustee to withdraw the approved claim amount from the IOU-Program Holding Account and disburse those funds to the PFI or PFL. This claim reimbursement will not affect the PFI or PFL's corresponding Loss Reserve Account balance. This provision shall not apply to Enrolled Loans where the servicing responsibility has been assumed by a new PFI, PFL, or Successor Servicer pursuant to Section 10091.12.
 - (2) For all other approved claims, the Authority will instruct the Trustee to withdraw the approved claim amount from the PFI, PFL, or Successor Servicer's corresponding Loss Reserve Account.
 - (3) Where an approved claim corresponds to an Enrolled Loan that received a split Loss Reserve Contribution pursuant to Section 10091.8(k)(1)(D) above, the claim will be reimbursed from each IOU-Program Holding Account in the case of subsection (1) above or each Loss Reserve Account in the case of subsection (2) above, in the same proportion.

§10091.10. Project Requirements.

- (a) All Eligible Improvements financed by the Program must meet applicable quality assurance requirements as outlined in this section.

- (b) Where work is performed by a Self-Installer, all Eligible Improvements must be eligible for self-installation under an IOU or REN rebate program available from the IOU that provides electric or gas service to the Eligible Property.
- (c) Except where work is performed by a Self-Installer, the contractor performing the work must be a Qualified Contractor as of the date he or she began work on the Eligible Property as noted on the Certificate of Completion pursuant to Section 10091.8.
- (d) The Qualified Contractor must ensure all applicable permits and approvals have been obtained and must comply with all applicable laws for the work being performed.
- (e) The Qualified Contractor must provide the Borrower with a Bill Impact Estimate.
- (f) A Combustion Appliance Safety or Combustion Appliance Zone test must be performed after the work is complete by a contractor who is approved to participate in the Energy Upgrade California Home Upgrade or Advanced Home Upgrade program in the corresponding IOU territory; or certified by the Building Performance Institute (BPI) as a Building Analyst, Envelope Professional, Heating Professional, Air Conditioning and Heat Pump Professional, or BPI GoldStar Contractor where a project includes three or more EEEMs including at least one of the measures described in (1) through (3) below and the Eligible Property contains one or more combustion appliances. The Eligible Property must pass this test prior to enrollment of the Eligible Loan.
 - (1) Whole building air sealing.
 - (2) Duct sealing and/or duct replacement.
 - (3) Attic insulation and air sealing.
- (g) The Authority may conduct field verifications at the Eligible Property within one-hundred and eighty (180) days of enrolling the Eligible Loan to verify that the Eligible Improvements were installed in accordance with these regulations.
- (h) The Authority shall notify the Borrower at least ten (10) business days prior to conducting a field verification.
- (i) Field verifications may be completed on a random sample of projects that have not received an IOU or REN energy efficiency rebate or incentive for each applicable EEEM installed. The frequency of the verifications shall depend on the Qualified Contractor's participation in the Program and the type of Eligible Improvements installed:
 - (1) For projects that require a Combustion Appliance Safety or Combustion Appliance Zone test pursuant to Section 10091.10, the Authority shall conduct field verifications according to the following tiers:
 - (A) Tier I: The Authority shall verify one-hundred percent (100%) of projects performed by the Qualified Contractor and funded by Enrolled Loans. Upon completing five (5) consecutive inspections with no substantive issues, the Authority will begin verifying the Qualified Contractor's work according to Tier II as described in subsection (i)(1)(B) below.
 - (B) Tier II: The Authority shall verify twenty percent (20%) of projects performed by the Qualified Contractor and funded by Enrolled Loans. Upon completing twenty (20) consecutive inspections with no substantive issues, the Authority will begin verifying the Qualified Contractor's work according to Tier III as described in subsection (i)(1)(C) below.
 - (C) Tier III: The Authority shall verify five percent (5%) of projects performed by the Qualified Contractor and funded by Enrolled Loans.
 - (D) If at any point the Authority finds substantive issues in the field verifications, the Authority shall provide written notice to the Qualified Contractor of any issues that may need to be addressed. Upon the third such notice, the Authority shall begin verifying the Qualified Contractor's work according to the previous tier.

- (2) For projects that do not require a Combustion Appliance Safety or Combustion Appliance Zone test, the Authority shall conduct field verifications on five percent (5%) of projects performed by the Qualified Contractor and funded by Enrolled Loans. If at any point the Authority finds substantive issues in the field verifications, the Authority shall provide written notice to the Qualified Contractor of any issues that may need to be addressed.
- (3) For projects completed by Self-Installers, the Authority shall conduct field verifications on five percent (5%) of all projects participating in the Program that contain Eligible Improvements installed by a Self-Installer.
- (j) Except as set forth in subparagraph 1 below, if the Authority finds that the Eligible Improvements were not installed in accordance with these requirements or that the Qualified Contractor misrepresented information related to the work, the Authority may suspend the Qualified Contractor from Program participation pursuant to the processes described in Section 10091.5 of these regulations and/or may notify other government agencies and entities.
 - (1) Where Eligible Improvements are installed by a Self-Installer, if the Authority finds that the Eligible Improvements were not installed in accordance with these requirements or that the Self-Installer misrepresented information related to the work, the Authority may notify other government agencies and entities.

§10091.11. Reporting.

- (a) PFIs, PFLs, and Successor Servicers shall provide a quarterly report to the Authority on the status of each Enrolled Loan by the 15th day of the month following the end of the quarter.
 - (1) These reports shall include the name and identification number of the PFI, PFL, or Successor Servicer and the following information for each Enrolled Loan:
 - (A) The Unique Program ID number.
 - (B) The Enrolled Loan amount.
 - (C) The total amount of the loan outstanding.
 - (D) The delinquency status.
 - (E) Any inchoate losses or acceleration notices.
 - (2) Closed Enrolled Loans shall be reported in the month the Borrower pays or the PFI, PFL, or Successor Servicer charges off the loan as a zero balance. Once the PFI, PFL, or Successor Servicer has reported the Enrolled Loan as having a zero balance, it does not need to be included on future monthly reports.
- (b) No later than January 15th of each year:
 - (1) PFIs, PFLs, and Successor Servicers shall provide a report to the Authority on any material changes to information or certifications provided in the initial application to participate or indicating that all statements made in the application remain materially unchanged.
 - (2) PFLs and Successor Servicers that are Eligible Finance Lenders shall also provide evidence of current licenses and insurance.
- (c) If a PFI, PFL, or Successor Servicer becomes subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, the PFI, PFL, or Successor Servicer shall inform the Authority in writing within thirty (30) calendar days of such action.
- (d) If a PFI, PFL, or Successor Servicer changes the loan term of an Enrolled Loan within the allowed term of enrollment in the Program, the PFI, PFL, or Successor Servicer must notify the Authority in the subsequent quarterly report. Under no circumstances shall the Authority provide additional Loss Reserve Contributions for an Eligible Loan whose loan term has changed, nor will the Authority extend the time for which a claim may be filed beyond the fifteen (15) years set forth in Section 10091.8(1).

- (e) If a PFI, PFL, or Successor Servicer charges off an Enrolled Loan, the PFI, PFL, or Successor Servicer shall notify the Authority within sixty (60) days pursuant to Section 10091.9(b).

§10091.12. Sale of Enrolled Loans.

A PFI or PFL may sell an Enrolled Loan or portfolio of Enrolled Loans at its discretion.

- (a) A PFI or PFL may, in conjunction with the sale of Enrolled Loans, collaterally assign rights to proceeds from the Loss Reserve Account associated with those Enrolled Loans. In such cases, the PFI or PFL shall:
- (1) retain all reporting obligations relative to participation in the Program as set forth in Section 10091.11, unless a new servicer has agreed to do so pursuant to subsection (b) below;
 - (2) remain the sole entity that can file a claim for reimbursement from the loss reserve pursuant to Section 10091.9, unless a new servicer has agreed to do so pursuant to subsection (b) below; and,
 - (3) report the collateral assignment to the Authority within three (3) business days.
- (b) A PFI, PFL, Eligible Financial Institution, or Eligible Finance Lender approved to be a Successor Servicer pursuant to subsection (c) below may also assume new servicing responsibility for existing Enrolled Loans. In such cases:
- (1) The original PFI or PFL will report the change in servicing to the Authority within three (3) business days.
 - (2) The new servicer shall notify the Authority in writing within three (3) business days that it agrees to assume the reporting obligations for the Enrolled Loan(s) pursuant to Section 10091.10, and will be responsible for filing any claims pursuant to Section 10091.9.
 - (3) The Authority will instruct the Trustee to transfer the corresponding Loss Reserve Contributions for the purchased Enrolled Loan(s) from the original PFI or PFL's Loss Reserve Account to the Loss Reserve Account of the new PFI, PFL, or Successor Servicer.
- (c) An Eligible Financial Institution or Eligible Finance Lender seeking to become a Successor Servicer will submit an enrollment application to the Authority that includes the following:
- (1) Name and address of the Eligible Financial Institution or Eligible Finance Lender.
 - (2) Name, business address, business telephone number, e-mail address and title of contact person.
 - (3) Type of Eligible Financial Institution or Eligible Finance Lender, denoting insured depository institution, insured credit union, community development financial institution, or California Finance Lender.
 - (4) Names of the regulatory agency and the insuring agency to which the Eligible Financial Institution or Eligible Finance Lender is accountable and license number(s), if applicable.
 - (5) Certification that the Eligible Financial Institution or Eligible Finance Lender is not subject to a cease and desist order or other regulatory sanction from the appropriate federal or state regulatory body, which would impair its ability to participate in the Program.
 - (6) The Eligible Financial Institution or Eligible Finance Lender's agreement to follow the Program regulations as set forth in this Article.
 - (7) The Eligible Financial Institution or Eligible Finance Lender's agreement to permit an audit, by the Authority, of any of its records relating to Enrolled Loans during normal business hours on its premises, and to supply such other information concerning Enrolled Loans as shall be requested by the Authority.
 - (8) The Eligible Financial Institution or Eligible Finance Lender's acknowledgment that the Authority and the State will have no liability to it under the Program except from funds deposited in its Loss Reserve Account(s) pursuant to Section 10091.12(b)(3) above.
 - (9) An acknowledgement and agreement that these regulations constitute a lender services agreement.

- (10) The Eligible Financial Institution or Eligible Finance Lender's agreement to and acknowledgement of the following, upon enrollment in the Program:
- (A) The Successor Servicer is solely responsible for identifying and making any and all disclosures and providing periodic reports to its borrowers as required under applicable laws.
 - (B) The Successor Servicer shall comply with all applicable laws, possess and maintain all required state and federal licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
 - (C) The IOUs are third party beneficiaries of the lender services agreement and may pursue their rights against the Successor Servicer individually. Alternatively, any IOU may, in its sole discretion, authorize CAEATFA or another IOU to pursue such rights (including by instituting legal proceedings or alternative dispute resolution proceedings) on its behalf.
 - (D) The Successor Servicer shall indemnify, defend and hold harmless CAEATFA, each of the IOUs, their affiliates, and each of their respective officers, directors, employees, agents and representatives from and against any and all losses arising in connection with any claim:
 - a. resulting from the negligent or unlawful acts or omissions, or willful or tortious conduct of Successor Servicer, including any failure of the Successor Servicer, or its agents, to comply with applicable laws in connection with Enrolled Loans;
 - b. resulting from any error or omission by the Successor Servicer or any third party in the calculation or presentation of Enrolled Loan-related interest, fees and charges, the receipt and processing of payments received from Borrowers, or any collection or enforcement action;
 - c. alleging any misrepresentation with respect to the energy savings to be achieved in connection with a Enrolled Loan, or any failure or deficiency in the products, materials or work supplied to a Borrower in connection with an Enrolled Loan; and/or,
 - d. arising from the Successor Servicer's failure or alleged failure to comply with the provisions of the regulations and/or its confidentiality or privacy obligations.
 - (E) The Successor Servicer acknowledges, that the IOUs are not responsible for, and shall have no liability for, (i) the energy efficiency improvements funded through the Enrolled Loans supported through the Loss Reserve Accounts, (ii) the assessment of potential benefits and costs associated with those improvements, (iii) the qualification of PFIs, PFLs, or Successor Servicers, (iv) the PFI, PFL, or Successor Servicer's marketing, and lending policies and practices, or (v) CAEATFA's educational and outreach activities.
- (11) The application shall be signed by a person authorized to legally bind the Successor Servicer, and shall include the signatory's printed name, title and date.
- (12) Eligible Finance Lenders seeking to enroll as a Successor Servicer must also submit evidence of compliance with or a certification that the Eligible Finance Lender meets the additional requirements specified in Section 10091.3.
- (d) Upon receipt of a completed application, the Authority will, within ten (10) business days, review and determine whether additional information is required, or whether the application is sufficient to enroll the applicant as a Successor Servicer. The Authority's decision regarding enrollment shall be final. The Authority will notify the Successor Servicer of its decision and provide a Program-assigned identification number for the Successor Servicer.

§10091.13. Termination and Withdrawal.

- (a) A PFI, PFL, or Successor Servicer may withdraw from the Program after giving written notice to the Authority. Such notice shall specify either:

- (1) That the PFI, PFL, or Successor Servicer waives any further interest in the Loss Reserve Account(s) (including for the reason that all Enrolled Loans covered by the Loss Reserve Account have been repaid or sold to a different PFI, PFL, or Successor Servicer's portfolio); or,
 - (2) That the PFI or PFL will not enroll any further loans under the Program but that the Loss Reserve Account(s) shall continue in existence to secure all Enrolled Loans that were enrolled prior to such notice.
- (b) The remaining balance in the Loss Reserve Account(s) shall be distributed to the appropriate IOU-Program Holding Account upon receipt of a notice under Section 10091.13(a)(1) or receipt of a notice from a PFI or PFL that has withdrawn pursuant to subsection (a)(2) certifying that all Enrolled Loans secured by the Loss Reserve Account(s) have been repaid and that there are no pending claims for reimbursement under Section 10091.9.
- (c) The Executive Director shall be authorized to terminate participation of a PFI, PFL, or Successor Servicer in the Program, by notice in writing, upon the occurrence of any of the following:
- (1) Entry of a cease and desist order, regulatory sanction, or any other action against the PFI, PFL, or Successor Servicer by a regulatory agency that may impair its ability to participate in the Program; or
 - (2) Failure of the PFI, PFL, or Successor Servicer to abide by the Law or this Article; or
 - (3) Failure of the PFI or PFL to enroll any Eligible Loans under the Program for a period of one (1) year; or
 - (4) Failure of the Successor Servicer to assume servicing of any Enrolled Loans under the Program for a period of one (1) year; or
 - (5) Provision of false or misleading information regarding the PFI, PFL, or Successor Servicer to the Authority, or failure to provide the Authority with notice of material changes in submitted information regarding the PFI, PFL, or Successor Servicer.
- (d) In the event of such termination, the PFI, PFL, or Successor Servicer shall not be authorized to enroll any further Eligible Loans, but all previously Enrolled Loans shall continue to be covered by the Loss Reserve Account(s) until they are paid, claims are filed, or the PFI, PFL, or Successor Servicer withdraws from the Program pursuant to Section 10091.13(a). If the terminated PFI, PFL, or Successor Servicer fails to report to the Authority pursuant to Section 11 for sixty (60) days, the remaining balance in the PFI, PFL, or Successor Servicer's Loss Reserve Account(s) may be distributed to the appropriate IOU-Program Holding Account(s).

§10091.14. Reports of Regulatory Agencies.

The Executive Director shall be authorized to seek information directly from any federal or state regulatory agency concerning any PFI, PFL, Successor Servicer, or Qualified Contractor participating in the Program.

§10091.15. California Hub for Energy Efficiency Financing Privacy Rights Disclosure.

The Borrower will be required to sign affirming that he or she has read and acknowledges the following privacy rights disclosure:

State and federal laws protects the Borrower's right to privacy regarding information pertaining to you. The Residential Energy Efficiency Loan Assistance Program ("Program") as approved by the California Public Utilities Commission and administered by the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA") requires the following information be provided by individuals applying for loans to be enrolled in the Program:

- (1) Information disclosing the fact that you are a customer of the lender.

- (2) The loan or account number associated with the loan.
- (3) Name, address, social security number, and contact information.
- (4) Financial status and underwriting criteria, including but not limited to credit scores.
- (5) The amount of and terms for repayment of the loan.
- (6) Information regarding your loan payment history.
- (7) The equipment or improvements funded with the proceeds of the loan.
- (8) Service agreement number on your utility bill, monthly energy use and utility account payment history.
- (9) Usernames and passwords.

The information will be provided by your lender to CAEATFA or a contractor acting on its behalf. The information will be maintained by CAEATFA or its contractor for the life of the loan. The information will be combined with energy usage information provided by your utility

The information provided to CAEATFA may be released to other state agencies and the federal government pursuant to interagency agreements or if required by law. The information provided to CAEATFA will be released in an anonymized form aggregated with information from other loan recipients throughout the state to make both loan and energy efficiency project performance available to the public. The information released to the public will be anonymized and aggregated to reduce (but may not eliminate) the risk of anyone viewing the data making an association between specific information and the provider of that information.

The officials responsible for maintaining the information provided regarding your loan are program personnel at the agency or its contractors. You have the right of access to records established from the information provided to the agency as it pertains to you.