

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

***Request to Approve Regulations for the Affordable Multifamily Energy Efficiency Financing
Program under the Regular Rulemaking Process***

Meeting Date: Tuesday, April 21, 2020

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REQUEST

Staff requests approval to adopt the Affordable Multifamily Energy Efficiency Financing Program (“AMF” or the “Program”) regulations (“Regulations”) which will be submitted to the Office of Administrative Law with the Certificate of Compliance, completing the regular rulemaking process that initially began with the adoption of emergency regulations in May 2019. The proposed Regulations include recommended modifications made since the Board last approved the Program Regulations in April 2019, under the emergency rulemaking process. The modifications incorporate lessons learned from early Program implementation and are intended to improve Program design and operational efficiency.

BACKGROUND

On behalf of the California Public Utilities Commission (“CPUC”), the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA”) is the administrator of the California Hub for Energy Efficiency Financing (“CHEEF” or the “Hub”) and responsible for launching several energy efficiency financing pilot programs (“Pilots”). The Pilots were authorized through CPUC Decision 13-09-044 (“D.13-09-044”) to support the state’s broader energy efficiency and environmental policy goals, including:

- Leveraging third party, private capital for energy efficiency retrofits to buildings;
- Achieving energy savings;
- Reaching underserved populations, including low-moderate income (“LMI”) and renters, small businesses, and affordable multifamily properties; and
- Testing whether finance as a strategy can yield more energy savings than traditional utility rebate and incentive programs.

The CHEEF is comprised of four Pilots launching sequentially:

1. **Residential Energy Efficiency Loan Assistance Program (“REEL”)**: Established in regulations in August 2015, enrolling its first loan in July 2016, and improved in 2017 as a result of CPUC Decision 17-03-026. REEL underwent a third-party evaluation in 2019, and is currently awaiting CPUC consideration and adoption of a Resolution transitioning REEL into a full program, with administrative funding through FY 2021-22.
 - ✓ REEL currently has seven active lenders participating in the program;
 - ✓ Financed 646 loans valued at \$11 million with an average loan size of \$17,000;

- ✓ 53.4% of loans were for projects in LMI census tracts; and
 - ✓ 413 participating contractors across the state.
2. **Commercial/Small Business Energy Efficiency Financing Program (“SBF”):** Established in regulations in December 2018, with its first loan enrolled in July 2019.
- ✓ As of August 2019, three lenders were enrolled in this program, with its first financing enrolled in July 2019;
 - ✓ The pilot more formally launched in October 2019, when an online project platform was established for users; and
 - ✓ Financed four loans to date, totaling \$582,475.
 - ✓ 51 enrolled contractors and project developers are enrolled in the program.
3. **Affordable Multifamily Energy Efficiency Financing Program (AMF):** Established in regulations in May 2019, and opened for business in August 2019.
- ✓ The first lender was enrolled in August 2019; and
 - ✓ Initial outreach and project development is underway, with the first loan enrollment expected by the end of 2020.
4. **On-Bill Repayment functionality (“OBR”):** Anticipated to be included as a feature of SBF and AMF in 2020. The OBR-only pilot, targeted toward the MUSH (Municipal, University, School, and Hospital) market, was not launched in 2019, and may be considered for implementation by the CPUC at a later date.
- ✓ Test whether this functionality is an effective tool to strengthen lender and borrower participation in energy efficiency retrofits.

AMF is the third Pilot to be developed by CAEATFA staff (“Staff”) under the Hub. This Program targets the affordable multifamily property sector and offers finance companies a credit enhancement in the form of a loss reserve contribution for every enrolled efficiency agreement. Staff has worked diligently to create a program that is easy to use, designed to attract and support a variety of finance companies offering a range of products, and fills a gap in the energy efficiency financing market. In addition to attracting finance companies, the Program is designed to generate significant uptake amongst contractors, project developers, and customers.

Key design principles include:

- *Program must be streamlined and easy to use.* Over numerous conversations with affordable multifamily developers, energy equity advocates, and other stakeholders, a dominant theme emerged: keep the program simple and flexible to integrate and fill gaps in existing affordable multifamily energy rebate and incentive programs. In addition, energy efficiency program implementers constantly struggle with the balance between ensuring that projects are likely to result in energy savings while not hampering participation with complex requirements, paperwork, and reporting. Many of the policy decisions related to the Program design are related to striving for this balance.
- *Program integrates with IOU, Regional Energy Network (“REN”), Community Choice Aggregator (“CCA”), and state energy efficiency, demand response, or distributed*

generation programs (collectively “Program Partners”), but must also meaningfully test a non-rebate pathway to savings. In the effort to keep the Program simple and streamlined, the Program allows energy measures identified by Program Partners to be eligible in the Program. Another main goal of the Program is to determine whether financing alone, without traditional rebates or incentives, will yield energy savings. To that end, the Program also provides an extensive Energy Saving Measure List (“ESM List”) of pre-approved measures.

- *Program must work with the complicated financing structure of affordable multifamily properties and the affordable multifamily energy efficiency market.* Affordable multifamily properties have complicated financing structures with multiple lienholders and tax equity investors making it very challenging to assume additional debt. In response, the Program allows savings-based payment agreements that base the payment amount on energy savings. With savings-based payment agreements, the payment amount must be less than the amount saved by the customer, making the project cash flow positive. Further, the Program does not allow a lender to use the property as security for the financing agreement, except for a UCC-1.
- *Program is designed to fill a need that is not currently being filled.* The Program is designed to fill gaps in project financing or finance projects in their entirety. For example, if an affordable multifamily property owner utilizes the state administered Low-Income Weatherization Program (“LIWP”), a Program Partner, to fund a portion of energy savings measures on a project, this Program, which integrates with LIWP, can be an option to finance the remaining energy savings measures of the project. Another state administered program, Solar on Multifamily Affordable Housing (“SOMAH”), provides energy audits prior to installing solar though does not provide any funding for the installation of energy savings measures. This Program can be an option to finance the energy savings measures identified in that energy audit.
- *Program is designed to remove barriers for customers.* Staff recognizes that many affordable multifamily property owners have limited resources to stay abreast of energy efficiency rebate and incentive programs, and might have limited financing options. Many do not have the cash reserves to make the investment in energy efficiency retrofits. The Program is designed to address some of these barriers, such as to integrate easily with existing Program Partner offerings where there is ongoing and continued outreach to affordable multifamily property owners. Further, Staff will assist affordable multifamily property owners through the Program’s financing process. As mentioned earlier, the Program offers financing options that do not require any upfront customer investment and that present “cash-flow positive” solutions.

PROGRAM STATUS

AMF Regulations were considered and approved by the CAEATFA Board in April 2019 and reviewed and approved by the Office of Administrative Law (“OAL”) in May 2019. After approval by OAL, Staff immediately began efforts to elicit applications from finance and service entities to participate in the Program. Staff began outreach to Program Partners, who work

directly with affordable multifamily property owners on energy related projects (energy efficiency, solar, etc.), inquiring about properties and/or projects that could benefit from and utilize the AMF Program, and continue to work to develop a project pipeline. In August 2019, the first finance entity enrolled in the Program.

CPUC Decision 17-03-026 issued in 2017, set a deadline which required that all Pilots launch by the end of 2019. In this decision, “launch” of each Program was defined as having a Project enrolled. Since that time, Staff worked diligently to improve REEL and launch the SBF Pilot programs, while also working to develop and implement the AMF Program. However, despite extensive progress made toward Program implementation and launch—including the enactment of regulations and onboarding the first finance company—Staff realized that this deadline would not be reached for the AMF Program. On December 11, 2019, Staff submitted a request to the CPUC for a one year extension to enroll the first financing under the AMF Program (through the end of 2020) to accommodate the implementation schedule and address the complexity and constraints within the affordable multifamily structures and industry. On December 24, 2019, the CPUC approved Staff’s requested extension.

Staff continues outreach to additional finance and service entities and several have expressed interest to participate in the Program. Meanwhile, Staff has set up internal procedures and processes to enroll a project, and is working with program stakeholders to identify a pipeline and strengthen integration. Staff is on track and will continue to work diligently to enroll a project prior to the end of 2020.

During discussions with interested stakeholders during early implementation, Staff recognized a need to clarify language in the Regulations to more clearly convey to the public that the Program accommodates both financing and equipment service agreements. As affordable multifamily debt structures can be complicated with little to no room to add additional financing, service agreements are an off-balance sheet option where the energy measures and installation are provided as a service and can be paid for through the actual energy savings. As a result, modifications to the Regulations were made during the 45-day public comment period. Staff presented the modifications at a public hearing on March 17, 2020, and a 15-day public comment period following the hearing.

REGULATORY ACTIONS AND TIMELINE

Emergency Rulemaking

Program Regulations were originally approved by the CAEATFA Board on April 16, 2019 and adopted by OAL through the emergency rulemaking process on May 5, 2019.

The emergency Regulations were approved for readoption by OAL effective November 6, 2019. A second readoption of the emergency Regulations was approved by OAL effective February 5, 2020.

During this time, Staff interacted closely with stakeholders and Program participants, which provided the opportunity to receive additional input regarding Program design, including recommendations for Program modifications, which will enable participation of a greater number

of finance and service entities and attract greater involvement from participants to help the Program scale.

Certificate of Compliance

Staff has concurrently been working on completing the regular rulemaking process. A Notice of Proposed Rulemaking, Initial Statement of Reasons, and Program Regulations were published in the California Regulatory Notice Register on January 31, 2020. Publication in the California Regulatory Notice Register began the final steps of the emergency rulemaking process and initiated a 45-day public comment period. The 45-day public comment period ended on March 16, 2020. No written comments were received.

On March 17, 2020, Staff presented proposed Regulation modifications in a public hearing and sought input and comments for a period of 15 days. Staff received no comments or input during the comment period. The modifications are reflected in the attached redlined Regulations and are based on participant feedback and lessons learned during early Program implementation and are designed to improve Program uptake and execution. Following Board approval, Staff will take all necessary steps to timely submit the Regulations, with the accompanying Certificate of Compliance and other related documents to OAL to complete the regular rulemaking process.

Staff believes the lack of input during both comment periods is due to the incorporation of industry feedback into Program design which was received during early Program implementation.

Recent Program Development Timeline

March, 2017	CPUC issued D.17-03-026, granting CAEATFA increased authority over, and flexibility in, Pilot program design.
November 7, 2017	A public workshop held seeking input into the proposed AMF Program structure.
November, 2017 – January, 2019	Staff conducted research and engaged stakeholders for input on the proposed Program design. Staff revised the Program structure based on input that was received while attending various affordable multifamily housing industry convenings.
February 26, 2019	Draft of proposed Program regulations presented for public comment.
April 16, 2019	Board approved emergency Regulations.
May 5, 2019	OAL approved emergency Regulations. Emergency Regulations in effect for 180 days.
August 21, 2019	First service company enrolled in the Program.
October 31, 2019	OAL approved first readoption of emergency Regulations with an effective date of November 6, 2019. Emergency Regulations in effect for an additional 90 days.

January 30, 2020	OAL approved second, and final, readoption of emergency Regulations with an effective date of February 5, 2020. Emergency Regulations in effect for an additional 90 days.
January 31, 2020	OAL approved and published Program Regulations, Initial Statement of Reasons, and Notice of Proposed Rulemaking in the California Regulatory Notice Register. Forty-five (45) day public comment period on proposed Program Regulations began On January 31, and ended on March 16, 2020.
March 17, 2020	Staff held public workshop presenting modifications to Program Regulations after the 45-day public comment period.
March 18, 2020	Additional fifteen (15) day public comment period began on proposed modifications to Program Regulations. The comment period ended on April 2, 2020, and no comments were received.

PROPOSED MODIFICATIONS TO REGULATIONS

While the attached proposed Regulations are similar to those approved by this Board in April 2019, Staff has made several modifications. The recommended modifications balance stakeholders’ input with the statutory, legal, and administrative frameworks as well as the CPUC’s guidance for the Program.

The most substantive modifications are described below, the majority of which clarify the Program’s intent to allow for service agreements, as well as a clarification of the approval or denial of claims and claim calculation. Additional non-substantive changes, not described below, include minor edits and reorganization of some text to improve clarity and readability for Program participants and stakeholders. All proposed modifications are included in the redlined Regulation text, and are found in Attachment A.

§10093.1: Definitions.

This section defines and describes the terms used throughout the Affordable Multifamily Energy Efficiency Finance Program Regulations.

- §10093.1(n): “*Eligible Affordable Multifamily Financing Customer*” changed to “*Eligible Affordable Multifamily Customer*”
- §10093.1(cc): “*Finance Provider Applicant*” changed to “*Finance or Service Entity Applicant*”
- §10093.1(dd): “*Finance Provider Entity*” changed to “*Finance or Service Entity*”

These definitions were modified to clarify that various types of financing agreements, including service agreements are allowed in the Program. Note that where these defined terms appear throughout the Regulations, they have been updated to this modified wording. While Staff has modified the way that these finance or service entity are referred to in the Program, all qualification requirements which must be met at the time an entity enrolls, remain unchanged.

- §10093.1(o): “Eligible Financing Agreement” changed to “Eligible Efficiency Agreement” and the details of product moved to §10093.4
- §10093.1(p): “Eligible Lease” or “Eligible Equipment Financing Agreement” details of the product moved to §10093.4
- §10093.1(q): “Eligible Loan” details of the product moved to §10093.4
- §10093.1(s): “Eligible Savings-Based Payment Agreement” details of the product moved to §10093.4
- §10093.1(t): “Eligible Service Agreement” details of the product moved to §10093.4
- §10093.1(z): “Enrolled Financing Agreement” changed to “Enrolled Efficiency Agreement”

Several definitions of the types of finance and service products eligible in the Program were moved from the “Definitions” section in §10093.1 to Section 10093.4, which describes “Eligible Efficiency Agreements.” These changes enable a more streamlined and efficient read of the Regulations.

§10093.2. Finance or Service Entity Enrollment.

The title of this section was changed from “Finance Entity Enrollment” to “Finance or Service Entity Enrollment” to align with the modified definitions and Regulation text.

§10093.4. Eligible Efficiency Agreements.

The title of this section was changed from “Eligible Financial Products” to “Eligible Efficiency Agreements” to reflect the fact that more than traditional financings are eligible in the Program and that each agreement enrolled in the Program addresses energy efficiency.

Further, certain defined terms for eligible products were moved to this section, as noted above in §10093.1, to improve Regulation readability.

§10093.6. Agreement Submittal and Enrollment.

The title of this section was changed from “Financing Submittal and Enrollment” to “Agreement Submittal and Enrollment” to reflect the modified definitions and Regulation text.

- §10093.6(b)(2)(B)(iii): *Data relating to Eligible Loans and Eligible Leases or Eligible Equipment Financing Agreements*

This subsection was modified to include any additional fees charged to a contractor, not just to the customer, in order to gather a more complete view of the fees associated with these product types.

§10093.8. Claims.

This section details the requirements for claims to be submitted by a Finance or Service Provider Entity and the process the Authority follows when either approving or denying claims.

- §10093.8(f): *Approving or Denying a Claim*
In approving or denying a claim on an Enrolled Efficiency Agreement, criteria is set that directs the Authority to reject a claim if it is determined that the Energy Efficiency

Agreement for which the claim is made did not comply with Program regulations, including compliance with the products approved by the Authority to be offered in the Program by the Enrolled Finance or Service Entity. Staff determined it was necessary to include reference to §10093.2(e) which allows the Finance or Service Entity to make changes to their product offerings in the Program with the Authority’s approval. Upon submission of a claim, Staff will verify that the agreement complied with the product approved to be offered in the Program, including any approved modifications to those products.

- *§10093.8(i): Subsequent Recoveries*
Enrolled Finance or Service Entities are required to follow their normal business practices related to enforcement and recovery efforts if an agreement defaults and a claim is submitted. In the event a Finance or Service Entity recovers monies associated with an Enrolled Efficiency Agreement after the Authority has paid a claim related to that agreement, certain amounts of those recovered monies are required to be paid to the Authority. These changes clarify how the amount that must be paid to the Authority is calculated. The changes also make explicit the maximum amount that must be paid.

§10093.9. Sale, Transfer, and Assignment of Enrolled Efficiency Agreements and Transfer of Program Roles.

The title of this section was changed from “Sale and Transfer of Enrolled Financings and Transfer of Program Roles” to “Sale, Transfer, and Assignment of Enrolled Efficiency Agreements and Transfer of Program Roles” to reflect the other modifications made to the Regulation text.

REGULATORY PROCESS

Tentative Anticipated Timeline

All of the future dates below are tentative and subject to change.

April 21, 2020	CAEATFA Board considers and approves proposed Program Regulations.
May 5, 2020	Staff submits Program Regulations to the Office of Administrative Law for review. OAL has 30 business days to review the Regulations.
June 17, 2020 (30 business days after date above)	OAL’s decision for the adoption of Program Regulations. Regulations become effective after filing with the California Secretary of State.

RECOMMENDATION

Staff recommends the adoption of a resolution to approve the adoption of the Regulations with additional modifications for the Affordable Multifamily Energy Efficiency Financing Program and the authorization of Staff to undertake rulemaking proceedings and other actions related to promulgation of the Regulations.

Attachments: Attachment A: Proposed Regulations. Modifications to the text for Board consideration are shown with ~~strike through~~ and underline.

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED
TRANSPORTATION FINANCING AUTHORITY APPROVING MODIFICATIONS TO
REGULATIONS AND OTHER RELATED ACTIONS TO IMPLEMENT THE
AFFORDABLE MULTIFAMILY ENERGY EFFICIENCY FINANCING PROGRAM**

April 21, 2020

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 modifications to the current program regulations (the “Regulations”) to implement the Affordable Multifamily Energy Efficiency Finance Program (the “Program”).

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

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

Section 2. The Chair and 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 and completing the rulemaking process.

Section 3. The Chair and 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.

CALIFORNIA CODE OF REGULATIONS
Title 4. Business Regulations
Division 13. California Alternative Energy and Advanced Transportation Financing Authority

Note: Article 7 and the following sections are being adopted.

ARTICLE 7. Affordable Multifamily Energy Efficiency Financing Program

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Section 10093.1. Definitions.

- (a) “Ancillary Elements”: Project components that fall outside a Scope of Work. These components may include:
 - (1) Distributed Generation; and/or
 - (2) Capitalized Interest.
- (b) “Authority”: California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code.
- (c) “Bill Impact Estimate” (BIE): An estimate of the anticipated energy cost savings that are expected to result from the installation of Energy Saving Measures, which is provided to the Eligible Affordable Multifamily ~~Financing~~ Customer prior to work being performed on the Eligible Property(ies).
- (d) “Capitalized Interest”: Accrued interest from a previous finance agreement for a Project (such as a construction loan or down payment loan) where the interest has been added to the Total Financed Amount of an Eligible ~~Financing~~ Efficiency Agreement.
- (e) “CHEEF Financing Identifier” or “CHEEF Financing ID”: An identification number associated with an Enrolled ~~Financing~~ Efficiency Agreement created by the Authority and provided to the Finance or Service Provider Entity at the time the financing is approved for enrollment in the Program.
- (f) “Claim-Eligible Charge-Off Amount”: The Total Charge-Off Amount multiplied by the Claim-Eligible Ratio.
- (g) “Claim-Eligible Financed Amount”: The portion of the Total Financed Amount that is eligible for reimbursement in the event of a charge-off. The Claim-Eligible Financed Amount is limited to \$1 million. Non-Energy Components are limited to 30% of the dollar value of the total Claim-Eligible Financed Amount. The Claim-Eligible Financed Amount is equal to the Total Financed Amount less any:
 - (1) Distributed Generation; and
 - (2) Non-Energy Components beyond the allowable 30%.
- (h) “Claim-Eligible Ratio”: The ratio of the original Claim-Eligible Financed Amount to the original Total Financed Amount.
- (i) “Commission” or “CPUC”: The California Public Utilities Commission established pursuant to Article XII of the California Constitution.
- (j) “Community Choice Aggregator” (CCA): A Community Choice Aggregator as defined in Section 331.1 of the California Public Utilities Code.
- (k) “CSLB”: The California Contractors State License Board established pursuant to Article 1 (commencing with Section 7000) of Chapter 9 of Division 3 of the Business and Professions Code.

- (l) “Demand Response” (DR): Reductions, increases, or shifts in electricity consumption by customers in response to either economic or reliability signals. Economic signals come in the form of electricity prices or financial incentives, whereas reliability signals appear as alerts when the electric grid is under stress and vulnerable to high prices. Demand Response programs aim to respond to these signals and maximize ratepayer benefit.
- (m) “Distributed Generation” (DG): Technologies that generate or store energy at or near the site where it will be used. Distributed Generation may serve a single structure or it may be part of a microgrid. Technologies classified as Distributed Generation systems include, but are not limited to: solar photovoltaic, solar thermal, wind power, hydropower, biomass, fuel cells, combined heat and power, and battery storage.
- (n) “Eligible Affordable Multifamily ~~Financing~~ Customer”: An entity or individual who enters into an Eligible ~~Financing~~ Efficiency Agreement with a Finance ~~or Service~~ Provider Entity for the purpose of completing a Project. The entity or individual must own and not reside at the Eligible Property and must not have filed for bankruptcy within the last five years or have any outstanding judgments or liens.
- (o) “Eligible ~~Financing~~ Efficiency Agreement”: An agreement ~~made~~ between a Finance ~~or Service~~ Provider Entity and an Eligible Affordable Multifamily ~~Financing~~ Customer to ~~finance pay for a~~ Project. ~~The agreement must be for improvements to an existing building and may not be for the construction or purchase of a building. The agreement must meet the definition of either an Eligible Lease or Eligible Equipment Financing Agreement, Eligible Loan, Eligible Service Agreement, or Eligible Savings-Based Payment Agreement.~~ The Eligible ~~Financing~~ Efficiency Agreement must meet the requirements specified in Section 10093.4.
- (p) “Eligible Lease” or “Eligible Equipment Financing Agreement”: ~~An agreement between that provides the an~~ Eligible Affordable Multifamily ~~Financing~~ Customer ~~and a Finance or Service Entity as described in Section 10093.4(a)(1). with Energy Saving Measures in exchange for payments in amounts that are due according to a schedule established in the agreement. The payments must result in full satisfaction of the obligation. Such payments are made to the Finance Provider Entity or its assignee for a specified term. Title to the equipment may transfer at the beginning or end of the term.~~
- (q) “Eligible Loan”: ~~An financing agreement between an Eligible Affordable Multifamily Customer and a Finance or Service Entity as described in Section 10093.4(a)(2). An agreement that provides the Eligible Affordable Multifamily Financing Customer with ownership of Energy Saving Measures in exchange for payments in amounts that are due according to a schedule established in the agreement. Such payments must result in full satisfaction of the obligation. Such payments are made to the Finance Provider Entity or its assignee for a specified term. Eligible Loans must be closed end loans; no revolving lines of credit will qualify.~~
- (r) “Eligible Property”: A multifamily property that is:
- (1) Supplied with gas and/or electric service by one or more Investor-Owned Utility(ies), Electric Service Provider(s) (ESPs) as described in California Public Utilities Code Section 394(a), or Community Choice Aggregator(s);
 - (2) Five or more units;
 - (3) Subject to a recorded affordability deed restriction or covenant, with at least 5 years remaining on the recorded affordability deed restriction or covenant, such that the property owner is required to keep rents affordable; and

- (4) Restricted to occupancy for at least 50% of the total units to households meeting the requirements of the income limits no greater than “moderate”, published annually in the California State Income Limits by the California Department of Housing & Community Development 25 CCR § 6932.
- (s) “Eligible Savings-Based Payment Agreement”: An ~~service~~ agreement between an Eligible Affordable Multifamily Customer and a Finance or Service Entity as described in Section 10093.4(a)(3). ~~that provides the Eligible Affordable Multifamily Financing Customer with Energy Saving Measures in exchange for regular payments to the Finance Provider Entity or the Finance Provider Entity’s assignee. The term may be specified by a number of months or may run until payments have reached a specified amount. The agreement must satisfy each of the following criteria:~~
- ~~(1) Savings will be measured and verified no less than annually;~~
 - ~~(2) Total monthly energy and efficiency charges for the Eligible Affordable Multifamily Financing Customer must be projected to be "cash flow positive" based on industry-accepted estimates, meaning: allowing for seasonal variations, the combined monthly energy expense (gas and electric) along with all projected monthly Eligible Savings-Based Payment Agreement charges is projected to be less than the Eligible Affordable Multifamily Financing Customer's pre-project monthly energy expense;~~
 - ~~(3) The Eligible Affordable Multifamily Financing Customer will share in benefits if actual savings exceed projected savings; and~~
 - ~~(4) The Eligible Affordable Multifamily Financing Customer does not bear risk in the event that savings are less than projected.~~
- (t) “Eligible Service Agreement”: An agreement between an Eligible Affordable Multifamily Customer and a Finance or Service Entity as described in Section 10093.4(a)(4). ~~that provides the Eligible Affordable Multifamily Financing Customer with the use of Energy Saving Measures as well as ongoing service and maintenance of that equipment in exchange for regular payments to the Finance Provider Entity or the Finance Provider Entity’s assignee for a specified term. Title does not transfer to the Affordable Multifamily Financing Customer during the term of the agreement. The agreement must include either:~~
- ~~(1) A guarantee of functionality for any Energy Saving Measures and Non-ESMs; or~~
 - ~~(2) A guarantee of energy savings. Equipment functionality or energy savings must be measured no less than annually.~~
- (u) “Energy Efficiency” (EE): An energy using appliance, equipment, control system, or practice for which the installation or implementation results in reduced grid-supplied energy use while maintaining a comparable or higher level of energy service as perceived by the customer.
- (v) “Energy Saving Measure” (ESM): Any Energy Efficiency or Demand Response measure, as defined, including alterations and improvements that are legally or practically required to complete the installation of the Energy Saving Measure. This includes energy audits that meet the Authority's requirements as specified on the Energy Saving Measure List. An ESM must utilize or conserve a fuel provided by an IOU/CCA/ESP at the Eligible Property.
- (w) “Energy Saving Measure Identifier” or “ESM ID”: A unique identifier assigned by the Authority to each measure contained within the ESM List.
- (x) “Energy Saving Measure List” or “ESM List”: The list of pre-qualified Energy Saving Measures, with corresponding requirements, fuel-savings type designations, and Self-Installer

eligibility, published by the Authority in 4 CCR §10092.14, with the exception of the measure named “IOU/REN/CCA Rebate – Other” listed in the regulation.

- (y) “Energy Service Provider” (ESP): An Electric Service Provider as defined in Section 218.3 of the California Public Utilities Code.
- (z) “Enrolled ~~Financing~~ Efficiency Agreement”: An Eligible ~~Financing~~ Efficiency Agreement approved for enrollment in the Program pursuant to Section 10093.6(b).
- (aa) “Enrollment Date”: The date that the Trustee has funded the Finance ~~or Service Provider~~ Entity's Loss Reserve Account for the Enrolled ~~Financing~~ Efficiency Agreement.
- (bb) “Executive Director” (ED): The Executive Director of the Authority or its designee.
- (cc) “Finance ~~or Service Provider~~ Entity Applicant”: ~~(FPA)~~ The Primary Finance ~~or Service Provider~~ Entity Applicant and Affiliate Finance ~~or Service Provider~~ Entity Applicant, if any, collectively.
 - (1) “Primary Finance ~~or Service Provider~~ Entity Applicant”: As described in Section 10093.2(a)(1).
 - (2) “Affiliate Finance ~~or Service Provider~~ Entity Applicant”: As described in Section 10093.2(a)(2).
- (dd) “Finance ~~or Service Provider~~ Entity”: ~~(FPE)~~ The Primary Finance ~~or Service Provider~~ Entity and the Affiliate Finance ~~or Service Provider~~ Entity, if any, collectively.
 - (1) “Primary Finance ~~or Service Provider~~ Entity”: Primary Finance ~~or Service Provider~~ Entity Applicant approved for participation in the Program. It may be approved along with an Affiliate Finance ~~or Service Provider~~ Entity, as specified in Section 10093.2(a).
 - (2) “Affiliate Finance ~~or Service Provider~~ Entity”: The Affiliate Finance ~~or Service Provider~~ Entity Applicant approved for participation in the Program along with a Primary Finance ~~or Service Provider~~ Entity, as specified in Section 10093.2(a).
- (ee) “Financial Institution”: Any insured depository institution, insured credit union, or Community Development Financial Institution (CDFI), 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), or a Financial Development Corporation as the term "Corporation" is defined in California Corporations Code §14003(f), or any non-bank entity supervised by the Federal Reserve.
- (ff) “Investor-Owned Utility” (IOU): Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, or Southern California Gas Company, collectively referred to as “IOUs”.
- (gg) “IOU Custom”: A program offered by the IOUs, RENs, or CCAs in which measures require pre-approval, and incentives are based on unique project characteristics.
- (hh) “IOU Deemed”: A program offered by the IOUs, RENs, or CCAs in which eligible measures and rebate amounts are pre-determined. For the purpose of this definition, IOU Deemed includes the following prescriptive program types: downstream, midstream, upstream, and direct install.

- (ii) “Loss Reserve Account”: An account established and maintained by the Trustee at the Authority’s direction to hold the Loss Reserve Contribution for Enrolled ~~Finaneing~~ Efficiency Agreements for the benefit of a Finance ~~or Service Provider~~ Entity.
- (jj) “Loss Reserve Account Representative”: As described in Section 10093.2(b)(6).
- (kk) “Loss Reserve Contribution”: The credit enhancement contributed to the Loss Reserve Account for each Enrolled ~~Finaneing~~ Efficiency Agreement in the Program pursuant to Section 10093.7(c).
- (ll) “Marketing Representative”: As described in Section 10093.2(b)(7).
- (mm) “Non-Energy Components”: All Non-ESMs, Capitalized Interest, as well as any fees for services from a Program Partner on a single Project.
- (nn) “Non-ESMs”: Any equipment, alteration, or improvement that does not fall under the definition of an Energy Saving Measure. A measure included on the ESM List may not be considered a Non-ESM, with the exception that Non-ESMs include measures that would otherwise be considered an ESM but do not utilize or conserve fuel provided by an IOU, CCA or ESP. Non-ESMs do not include Distributed Generation.
- (oo) “Program”: The Affordably Multifamily Energy Efficiency Financing Program described in the regulations within this Article.
- (pp) “Program Holding Account”: The account established and maintained by the Trustee at the Authority’s direction to hold funds allocated by the IOUs for the Program.
- (qq) “Program Identifier” or “Program ID”: A number assigned by the Authority or its agent(s) that represents a program administered by the Authority.
- (rr) “Program Partner”: An entity that administers and/or implements a State of California or IOU, REN, or CCA multifamily property Energy Efficiency, Demand Response, or Distributed Generation program.
- (ss) “Project”: One or more Scopes of Work as well as any Ancillary Elements at one or more Eligible Properties, financed in whole or in part under a single Eligible ~~Finaneing~~ Efficiency Agreement.
- (tt) “Regional Energy Network” (REN): Regional Energy Network granted authorization by the California Public Utilities Commission under Decision 12-05-015 and later defined in Decision 12-11-015.
- (uu) “Scope of Work”: The Energy Saving Measures and/or Non-ESMs installed by a contractor or Self-Installer as reported to the Authority and part of a Project.
- (vv) “Scope of Work Completion Date”: Date that a contractor or Self-Installer completes installation of its Scope of Work.
- (ww) “Self-Installer”: An Eligible Affordable Multifamily ~~Finaneing~~ Customer who installs any measures pursuant to the requirements in Section 10093.5(c).

- (xx) “Total Charge-Off Amount”:
- (1) For Eligible Leases or Eligible Equipment Financing Agreements and for Eligible Loans, the Total Charge-Off Amount equals the outstanding principal balance at the time of charge-off.
 - (2) For Eligible Service Agreements and Eligible Savings-Based Payment Agreements, the Total Charge-Off Amount equals the total initial installation amount paid to contractor(s) divided by the number of months in the term multiplied by the number of months remaining in the term. Ongoing monthly service charges are excluded from the Total Charge-Off Amount.
- (yy) “Total Financed Amount”: The total amount funded by the Finance ~~or Service Provider~~ Entity toward the Project. The Total Financed Amount does not include charges for ongoing service and/or maintenance and does not include any interest payments or ongoing finance charges.
- (1) For Eligible Leases or Eligible Equipment Financing Agreements and Eligible Loans, the original principal amount as disclosed to the Eligible Affordable Multifamily ~~Financing~~ Customer through loan or lease documentation or the job addendum.
 - (2) For Eligible Service Agreements and Eligible Savings-Based Payment Agreements, the total installation amount paid to the installing contractor and/or disclosed on the job addendum, inclusive of equipment, taxes, labor, and shipping costs and exclusive of ongoing service and oversight payments by Eligible Affordable Multifamily ~~Financing~~ Customer.
- (zz) “Trustee”: The financial institution chosen by the Authority to hold or administer some or all of the Program Holding Accounts and Loss Reserve Accounts.

Authority: Section 26006 and 26009, Public Resources Code
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.2. Finance or Service Entity Enrollment.

- (a) Descriptions of Finance or Service~~Provider Entity~~ Applicant and Entity Program Roles
- (1) The “Primary Finance or Service~~Provider Entity~~ Applicant” is the financing company that is applying to the Program for enrollment as a Finance or Service~~Provider~~ Entity and includes any business organization that is managed, owned, or controlled by the applicant which will perform one or more of the Program roles. The Primary Finance or Service~~Provider Entity~~ Applicant may fulfill all of the Program roles (described in Section 10093.2(b)(1) – (7)) themselves, or the entity may invite an Affiliate Finance Provider Applicant (as described in Section 10093.2(a)(2)) to apply to fulfill some of the roles. Additionally, the Primary Finance or Service~~Provider Entity~~ Applicant may invite a Marketing Representative to fulfill the Marketing Representative role described in Section 10093.2(b)(7). If there are two or more entities fulfilling Program roles together, it will be the ~~finance~~ entity that plans to fulfill the “~~Financing or Servicing~~Agreement Submittal” role that will be the Primary Finance or Service~~Provider Entity~~ Applicant. The Primary Finance or Service~~Provider Entity~~ Applicant must meet requirements described in Section 10093.2(c) and must be a signatory to the Program application.
 - (2) The “Affiliate Finance or Service~~Provider Entity~~ Applicant” is a potential co-applicant along with the Primary Finance or Service~~Provider Entity~~ Applicant. It may fulfill one or more of the roles of the Program described in Section 10093.2(b)(1) – (7). The Affiliate Finance or Service~~Provider Entity~~ Applicant must meet the requirements described in Section 10093.2(c) and must be a signatory to the Program application.
 - (3) “Finance or Service~~Provider Entity~~ Applicant” means the Primary Finance or Service~~Provider Entity~~ Applicant and the Affiliate Finance or Service~~Provider Entity~~ Applicant collectively.
 - (4) “Primary Finance or Service~~Provider Entity~~” means a Primary Finance or Service~~Provider~~ Applicant who has been accepted for enrollment in the Program. The Primary Finance or Service~~Provider Entity~~ must fulfill all the Program roles described in Section 10093.2(b)(1) – (7) themselves, or this entity may fulfill Program roles along with an Affiliate Finance or Service~~Provider Entity~~ and, potentially, an additional entity serving as Marketing Representative. If there are two entities fulfilling Program roles together, it will be the ~~finance~~ entity that fulfills the ~~Financing or Servicing~~Agreement Submittal role that will be determined to be the Primary Finance or Service~~Provider Entity~~.
 - (5) “Affiliate Finance or Service~~Provider Entity~~” means an Affiliate Finance or Service~~Provider~~ Applicant that has been accepted for enrollment in the Program to fulfill Program roles along with the Primary Finance or Service~~Provider Entity~~.
 - (6) “Finance or Service~~Provider Entity~~ (FPE)” means the Primary Finance or Service~~Provider Entity~~ and the Affiliate Finance or Service~~Provider Entity~~ collectively.
- (b) Finance or Service~~Provider~~ Entity Roles Within the Program
- (1) “Underwriting”
 - (A) Means following Program regulations for approving projects and financing for customers pursuant to Section 10093.4(b) and Section 10093.5 as well as following the credit and underwriting criteria submitted by the Finance or Service~~Provider Entity~~ Applicant pursuant to Section 10093.2(c)(3) that were approved by the Authority as part of the application process.
 - (B) The Underwriting role must be performed by either the Primary Finance or Service~~Provider~~Entity or the Affiliate Finance or Service~~Provider Entity~~.
 - (2) “Origination”
 - (A) Means ~~originating and engaging in financing origination, including~~ executing the legal contract for repayment of the Enrolled ~~Financing~~Efficiency Agreement with the Eligible

- Affordable Multifamily ~~Financing~~ Customer, getting Program forms signed and certified by the Eligible Affordable Multifamily ~~Financing~~ Customer, following Program regulations related to eligible products as well as adhering to product terms approved by the Authority as part of the application process.
- (B) The Origination role must be performed by either the Primary Finance ~~or Service Provider~~ Entity or Affiliate Finance ~~or Service Provider~~ Entity.
- (3) “~~Agreement Financing~~ Submittal”
 - (A) Means providing data, documentation, and certifications related to the Project, the ~~Eligible Financing Enrolled Efficiency~~ Agreement, and the Eligible Affordable Multifamily ~~Financing~~ Customer, and submitting these data, documentation, and certifications to the Authority for enrollment in the Program.
 - (B) The specific documentation and data points required at ~~Financing or Servicing Agreement~~ Submittal are described in Section 10093.6(b)(1)-(2).
 - (4) “Servicing”
 - (A) Means conducting a customer service operation to on-board all ~~Eligible Financing Enrolled Efficiency~~ Agreements into the servicer's servicing system, handling customer inquiries regarding ~~Eligible Financing Enrolled Efficiency~~ Agreements already under servicing, sending out regular financing billing statements, collecting and applying payments, handling requests for modifications, collections where necessary, and distributions to investors where applicable.
 - (B) The Servicing role must be performed by either the Primary Finance ~~or Service Provider~~ Entity or the Affiliate Finance ~~or Service Provider~~ Entity.
 - (5) “Monthly Reporting”
 - (A) Means supplying the Authority with a regular report of required data related to financing applications, performance, and sale of financings as described in Section 10093.10.
 - (B) The Monthly Reporting role must be performed by either the Primary Finance ~~or Service Provider~~ Entity or Affiliate Finance ~~or Service Provider~~ Entity.
 - (6) “Loss Reserve Account Representative”
 - (A) Means the Finance ~~or Service Provider~~ Entity for whom the Loss Reserve Account(s) will be opened, and the sole entity that can file a claim in the event of a charge-off.
 - (B) The Loss Reserve Account Representative role must be performed by either the Primary Finance ~~or Service Provider~~ Entity or the Affiliate Finance ~~or Service Provider~~ Entity.
 - (7) “Marketing Representative”
 - (A) Means the entity that is publicly listed on Program websites and marketing materials as a result of participation in the Program.
 - (B) The Marketing Representative role must be performed by either the Primary Finance ~~or Service Provider~~ Entity or the Affiliate Finance ~~or Service Provider~~ Entity, or by an additional entity.
 - (C) The Marketing Representative must sign the acknowledgements and certifications in Section 10093.2(c)(4), (5), and (7).
- (c) Application to Participate in the Program. A Primary Finance ~~or Service Provider~~ Entity Applicant must submit a complete enrollment application to the Authority signed by a person authorized to legally bind the Primary Finance ~~or Service Provider~~ Entity Applicant and shall include the signatory's name, title, and date. Where the Primary Finance ~~or Service Provider~~ Entity Applicant wishes to apply along with an Affiliate Finance ~~or Service Provider~~ Entity Applicant, the Affiliate Finance ~~or Service Provider~~ Entity Applicant must also submit an application signed by a person authorized to legally bind the Affiliate Finance ~~or Service Provider~~ Entity Applicant and provide their name, title, and date. Both the Primary Finance ~~or Service Provider~~ Entity Applicant and the Affiliate Finance ~~or Service Provider~~ Entity Applicant must sign the acknowledgements, certifications, and

representations of the Finance ~~or Service Provider~~ Entity Applicant, below. All applications must include a certification that all of the information provided is true and correct to the best of the signatory's knowledge. A complete enrollment application includes the following information, disclosures, acknowledgements, certifications, and representations in a format to be specified by the Authority:

- (1) Information
 - (A) For the Primary Finance ~~or Service Provider~~ Entity Applicant:
 - (i) Name, address, and website URL of the Primary Finance ~~or Service Provider~~ Entity Applicant.
 - (ii) Name, title, phone number, and e-mail address of the Program contact person for the Primary Finance ~~or Service Provider~~ Entity Applicant.
 - (iii) The name(s) and e-mail address(es) of individual(s) who are authorized to provide and certify data and submit Eligible ~~Financing~~ Efficiency Agreements for enrollment in the Program on behalf of the Primary Finance ~~or Service Provider~~ Entity Applicant.
 - (iv) Type of finance entity, e.g., insured depository institution, insured credit union, Community Development Financial Institution, California Finance Lender, or other type.
 - (v) Name(s) of any regulatory agency(ies) and any insuring agency(ies) to which the Finance ~~or Service Provider~~ Entity Applicant is accountable and license number(s), if applicable.
 - (B) For the Affiliate Finance ~~or Service Provider~~ Entity Applicant, if applicable:
 - (i) Name, address, and website URL of the Affiliate Finance ~~or Service Provider~~ Entity Applicant.
 - (ii) Name, title, phone number, and e-mail address of the Program contact person for the Affiliate Finance ~~or Service Provider~~ Entity Applicant.
 - (iii) Type of finance entity, e.g., insured depository institution, insured credit union, Community Development Financial Institution, California Finance Lender, or other type.
 - (iv) Name(s) of any regulatory agency(ies) and any insuring agency(ies) to which the Finance ~~or Service Provider~~ Entity Applicant is accountable and license number(s), if applicable.
 - (C) For the Marketing Representative, if different than the Finance ~~or Service Provider~~ Entity Applicant:
 - (i) Name, address, and website URL of the Marketing Representative.
 - (ii) Name, title, phone number, and e-mail address of the Program contact person.
- (2) Disclosures. The Finance ~~or Service Provider~~ Entity Applicant must disclose the following:
 - (A) If there are to be separate entities applying to be the Primary Finance ~~or Service Provider~~ Entity and Affiliate Finance ~~or Service Provider~~ Entity, which of the two entities will perform the Underwriting, Origination, Servicing, Monthly Reporting, and Loss Reserve Account Representative roles;
 - (B) The name of the entity that will be the Marketing Representative;
 - (C) The name of the entity funding the Projects that are to be enrolled in the Program;
 - (D) The name of the finance agreement counterparty(ies) or the service agreement counterparty(ies) who will be named on the closing documentation provided to the Eligible Affordable Multifamily ~~Financing~~ Customer;
 - (E) The assignee(s) of repayment streams, if any; and

- (F) The Finance ~~or Service Provider Entity~~ Applicant's intent as to what it will do with the Enrolled ~~Finaneing~~Efficiency Agreements, if known, (e.g. hold, sell, transfer, participate, etc.) and the identity of a purchaser, if applicable.
- (3) Proposed Products. To participate in the Program, the Finance ~~or Service Provider Entity~~ Applicant must provide a description of proposed financial product(s), including:
- (A) A detailed description of the products the Finance ~~or Service Provider Entity~~ Applicant is proposing to offer, including, but not limited to, the type of financing product and its relationship to the categories of Eligible ~~Finaneing~~Efficiency Agreements, collateral requirements (if any), minimum and maximum financed amounts, interest rates (including whether they are fixed or variable), terms, service or maintenance charges, fees, prepayment penalties, and a description of customer eligibility and underwriting criteria. These product offerings must be certified by at least one of the Finance ~~or Service Provider Entity~~ Applicants.
- (B) A description of the geographic area(s) in California where the financing program(s) will be available.
- (C) An explanation of how the Loss Reserve Contribution will be utilized to provide benefits to Eligible Affordable Multifamily ~~Finaneing~~ Customers compared to the Finance ~~or Service Provider Entity~~ Applicant's typical product offerings in one or more of the following ways:
- (i) Broadened approval criteria;
 - (ii) Longer terms;
 - (iii) Larger amounts available to finance;
 - (iv) Better rates; and/or
 - (v) Other advantageous terms.
- (4) Acknowledgements of the Finance ~~or Service Provider Entity~~ Applicant and the Marketing Representative. The application must include the Finance ~~or Service Provider Entity~~ Applicant's acknowledgements contained within this Subsection, signed by a person authorized to legally bind the Finance ~~or Service Provider Entity~~ Applicant. If the Finance ~~or Service Provider Entity~~ Applicant will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's acknowledgements below, signed by a person authorized to legally bind the Marketing Representative.
- (A) The Authority has made no representations, promises, or guarantees pertaining to the volume, quantity, or quality of financing ~~or service~~ agreements issued under the Program.
- (B) It, its representatives, and agents are not hired by the Authority or any of the participating IOUs, and must not represent themselves as such, or claim association or affiliation with the Authority or any of the participating IOUs in any capacity.
- (5) Certifications of the Finance ~~or Service Provider Entity~~ Applicant and Marketing Representative. The application must include the Finance ~~or Service Provider Entity~~ Applicant's certifications of this Subsection signed by a person authorized to legally bind the Finance ~~or Service Provider Entity~~ Applicant. The Finance ~~or Service Provider Entity~~ Applicant certifies that once it is enrolled in the Program as a Finance ~~or Service Provider Entity~~ it will follow ~~Section 10093.2(c)(5)subsections~~ (A)-(G) below. If the Finance ~~or Service Provider Entity~~ Applicant will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's certifications of this Section, except for ~~Section 10093.2(c)(5) subsection~~ (D), signed by a person authorized to legally bind the Marketing Representative.

- (A) It 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.
 - (B) The person signing the application is authorized to legally bind the Finance Provider Applicant, and must include the signatory's printed name, title, and date.
 - (C) All Finance ~~or Service Provider~~ Entity Applicants that are not Financial Institutions must comply with the additional requirements specified in Section 10093.3.
 - (D) The regulations within this Article constitute a lender services agreement between the Finance ~~or Service Provider~~ Entity and the Authority.
 - (E) It must follow the Program regulations as set forth herein.
 - (F) It must permit an audit by the Authority of any of its records relating to Enrolled ~~Financing~~ Efficiency Agreements during normal business hours on its premises, and must supply such other information concerning Enrolled ~~Financing~~ Efficiency Agreements as may be requested by the Authority. Additionally, the Finance ~~or Service Provider~~ Entity must permit an audit of its records relating to how it is representing the Program to the public, including, but not limited to, web and print collateral, marketing scripts, and marketing materials.
 - (G) The Authority and the State of California have no liability to the Finance ~~or Service Provider~~ Entity under the Program except ~~from for~~ funds deposited in the Loss Reserve Account(s) for the Finance ~~or Service Provider~~ Entity.
- (6) In addition to the certifications listed in Section 10093.2(c)(5), the application must include the following certifications of the Primary Finance ~~or Service Provider~~ Entity Applicant. These certifications must be signed by a person authorized to legally bind the Finance ~~or Service Provider~~ Entity Applicant, that upon enrollment in the Program as a Finance ~~or Service Provider~~ Entity and for all forthcoming Eligible ~~Financing~~ Efficiency Agreements submitted for enrollment in the Program, the Finance ~~or Service Provider~~ Entity Applicant agrees that:
- (A) It will provide the documentation required in Section 10093.6(b)(1), the data required in Section 10093.6(b)(2), and will secure the certifications ~~of the Eligible Affordable Multifamily Financing Customer as~~ described in Section 10093.6(b)(3); ~~(B) and/or (C);~~
 - (B) The Eligible Affordable Multifamily ~~Financing~~ Customer will be provided with a Bill Impact Estimate;
 - (C) The Eligible ~~Financing~~ Efficiency Agreement will comply with all Program regulations;
 - (D) The Claim-Eligible Financed Amount will not include any costs for Distributed Generation;
 - (E) It will submit copies of approved permits by the relevant permitting agency required to complete each Scope of Work;
 - (F) If the entirety of the Claim-Eligible Financed Amount has not yet been funded at the time of submittal, that it will be funded within 30 calendar days of submittal; and
 - (G) If after submittal, the Primary Finance ~~or Service Provider~~ Entity determines it will not fund the entirety of the Claim-Eligible Financed Amount, that it will notify the Authority within 10 business days of this determination.
- (7) Representations of the Finance ~~or Service Provider~~ Entity Applicant and Marketing Representative.
- The application must include the Finance ~~or Service Provider~~ Entity Applicant's representation, warranty, and covenant contained in this Section, signed by a person authorized to legally bind the Finance ~~or Service Provider~~ Entity Applicant. If the Finance ~~or Service Provider~~ Entity Applicant will not be filling the Marketing Representative role, the application must

additionally include the Marketing Representative's representation, warranty, and covenant below, signed by a person authorized to legally bind the Marketing Representative. Upon enrollment in the Program:

- (A) It must retain all records relating to each Enrolled ~~Finaneing~~Efficiency Agreement for the term of financing.
 - (B) It is solely responsible for identifying and making all disclosures and providing periodic reports to its Eligible Affordable Multifamily~~Finaneing~~ Customer(s) as required under applicable finance laws.
 - (C) It must comply with all applicable finance laws, possess and maintain all required state and federal licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
 - (D) It indemnifies, defends, and holds harmless the Authority, each of the IOUs, their affiliates, and each of its respective officers, directors, employees, agents, and representatives (each of which is an express beneficiary of this indemnity) from and against any and all losses arising in connection with any claim:
 - (i) Resulting from the negligent or unlawful acts or omissions, or willful or tortious conduct including, but not limited to, any failure of the Finance ~~or ServiceProvider~~ Entity, or its agents, to comply with applicable finance laws in connection with Enrolled ~~Finaneing~~Efficiency Agreements;
 - (ii) Resulting from any error or omission by the Finance ~~or ServiceProvider~~ Entity or any of its agents in the calculation or presentation of principal repayments or interest with respect to an Enrolled ~~Finaneing~~Efficiency Agreement, fees and charges, the receipt and processing of payments received from Eligible Affordable Multifamily ~~Finaneing~~ Customers or any collection or enforcement action;
 - (iii) Alleging any breach of a representation, warranty, or covenant by such Finance ~~or ServiceProvider~~ Entity;
 - (iv) Alleging any misrepresentation by the Finance ~~or ServiceProvider~~ Entity or its agents with respect to the energy savings to be achieved in connection with an Enrolled ~~Finaneing~~Efficiency Agreement, or any failure or deficiency in the products, materials, or work supplied to a Eligible Affordable Multifamily~~Finaneing~~ Customer in connection with an Enrolled ~~Finaneing~~Efficiency Agreement; and/or
 - (v) Arising from the Finance ~~or ServiceProvider~~ Entity's breach or alleged breach of the regulations within this Article and/or its confidentiality or privacy obligations under the regulations within this Article or with respect to the Program.
 - (E) The Finance ~~or ServiceProvider~~ Entity agrees that the IOUs are not responsible for, and will have no liability for:
 - (i) The energy efficiency improvements funded through the Enrolled ~~Finaneing~~Efficiency Agreement(s) supported through the Loss Reserve Account(s);
 - (ii) The assessment of potential benefits and costs associated with those improvements;
 - (iii) The qualification of the Finance ~~or ServiceProvider~~ Entity;
 - (iv) The Finance ~~or ServiceProvider~~ Entity's marketing and/or lending policies and practices; or
 - (v) The Authority's educational and outreach activities.
- (d) Application Process
- (1) Upon receipt of a completed application, the Authority will, within fifteen business days, review and determine whether additional information is required, or whether the application is

sufficient to permit the Finance ~~or Service Provider~~ Entity Applicant to be a Finance ~~or Service Provider~~ Entity.

- (2) The Authority's decision regarding enrollment will be final.
- (3) The Authority will notify the Finance ~~or Service Provider~~ Entity Applicant of its decision and provide a Program ~~assigned i~~ Identifier if enrolled as a Finance ~~or Service Provider~~ Entity.

(e) Changes to Product Terms

- (1) If, after being approved to participate in the Program, a Finance ~~or Service Provider~~ Entity wishes to make changes to products offered that will affect the benefits to Eligible Affordable Multifamily ~~Financing~~ Customers (as described in Section 10093.2(c)(3), ~~and Section 10093.4(a)~~), the changes must be approved by the Authority.

(f) Finance ~~or Service Provider~~ Entity Withdrawal and Termination

- (1) A Finance ~~or Service Provider~~ Entity may withdraw from the Program after giving written notice, signed by a person authorized to legally bind the Finance ~~or Service Provider~~ Entity to the Authority. Such notice must specify either:
 - (A) That the Finance ~~or Service Provider~~ Entity waives any further interest in the Loss Reserve Account(s) and the reason for the Finance ~~or Service Provider~~ Entity's withdrawal from the Program (including that all Enrolled ~~Financing Efficiency~~ Agreements covered by the Loss Reserve Account(s) have been repaid or sold to a different Finance ~~or Service Provider~~ Entity's portfolio); or,
 - (B) That the Finance ~~or Service Provider~~ Entity will not enroll any further Eligible ~~Financing Efficiency~~ Agreements under the Program but that the Loss Reserve Account(s) will continue in existence to secure all Enrolled ~~Financing Efficiency~~ Agreements that were enrolled prior to such notice, and the reason for the Finance ~~or Service Provider~~ Entity's withdrawal from the Program.
- (2) For any such notice received pursuant to Section 10093.2(f)(1)(A) ~~(A)~~, the remaining balance in the Finance ~~or Service Provider~~ Entity's Loss Reserve Account(s) will be distributed to the appropriate Program Holding Account(s).
- (3) The Executive Director may terminate participation of a Finance ~~or Service Provider~~ Entity in the Program, by notice in writing, upon the occurrence of any of the following:
 - (A) Entry of a cease and desist order, regulatory sanction, or any other action against the Finance ~~or Service Provider~~ Entity by a regulatory agency or court with jurisdiction over the Finance ~~or Service Provider~~ Entity;
 - (B) Failure of the Finance ~~or Service Provider~~ Entity to abide by applicable finance law or the regulations within this Article;
 - (C) Failure of the Finance ~~or Service Provider~~ Entity to service or enroll any Eligible ~~Financing Efficiency~~ Agreements under the Program, as applicable, for a period of one year;
 - (D) Failure of the Finance ~~or Service Provider~~ Entity to report to the Authority pursuant to Section 10093.10 for sixty calendar days; or
 - (E) Providing false or misleading information regarding the Finance ~~or Service Provider~~ Entity, or an Enrolled ~~Financing Efficiency~~ Agreement, to the Authority, or failure to provide the Authority with notice of material changes in submitted information regarding the Finance ~~or Service Provider~~ Entity.
- (4) In the event of such termination, the Finance ~~or Service Provider~~ Entity must not enroll any further Eligible ~~Financing Efficiency~~ Agreements, but all previously Enrolled ~~Financing Efficiency~~ Agreements will continue to be covered by the Loss Reserve Account(s) until the entity is paid, claims are filed, or the Finance ~~or Service Provider~~ Entity withdraws from the Program pursuant to Section 10093.2(f)(1)(A).

- (5) A terminated Finance ~~or Service Provider~~ Entity must continue to report on Enrolled ~~Financing~~ Efficiency Agreements pursuant to Section 10093.10.
- (6) If a terminated Finance ~~or Service Provider~~ Entity fails to report to the Authority pursuant to Section 10093.10 for sixty calendar days, the remaining balance in the Finance ~~or Service Provider~~ Entity's Loss Reserve Account(s) may be distributed to the appropriate Program Holding Account(s).

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.3. Additional Requirements for Entities that are not Financial Institutions.

In addition to the requirements set forth in Section 10093.2(c), to be approved as a Finance or Service Provider Entity, Finance or Service Provider Entity Applicants who are not Financial Institutions as defined in the regulations in this Article must meet the requirements described in this Section in a format to be specified by the Authority. All representations, warranties, and covenants in this Section must be signed by a person authorized to legally bind the Finance or Service Provider Applicant, and must be true and correct to the best of the signatory's knowledge.

- (a) Net Worth: The Finance or Service Provider Entity Applicant must demonstrate to the Authority that it has a net worth of no less than \$1 million.
- (b) Quality Control: The Finance or Service Provider Entity Applicant must demonstrate to the Authority that it maintains quality control and management systems to evaluate and monitor the overall quality of its financing-related activities, including, where applicable, underwriting reviews, and consumer complaint resolution processes.
- (c) Underwriting Qualifications: If the Finance or Service Provider Entity Applicant will perform the Underwriting role for the Program, it must provide the following to the Authority:
 - (1) Demonstrated experience, in writing, with underwriting commercial financing;
 - (2) Demonstrated experience, in writing, with equipment financing and the coordination of such financing with contractors and customers;
 - (3) Written description of its underwriting process; and
 - (4) Demonstrated qualifications, in writing, of the Finance or Service Provider Entity Applicant and key positions and associated job duties with regard to underwriting.
- (d) Origination Qualifications: If the Finance or Service Provider Entity Applicant will perform the Origination role for the Program, it must provide the following to the Authority:
 - (1) Proof of at least \$20 million in committed capital for general financing activities or demonstrate in writing that it has originated at least \$20 million in financing or service agreements similar to Eligible Financing Efficiency Agreements or 20 transactions in financing or service agreements similar to Eligible Financing Efficiency Agreement
 - (2) Demonstrated ability, in writing, to originate commercial financing in accordance with all applicable finance laws, including related expertise and experience, trained and qualified personnel, and suitable systems, processes, and facilities to support the business;
 - (3) Demonstrated experience, in writing, with equipment financing and the coordination of such financing with contractors and customers; and
 - (4) Sample transaction documentation.
- (e) Servicing Qualifications: If the Finance or Service Provider Entity Applicant will perform the Servicer role under the Program, it must provide the following to the Authority:
 - (1) Demonstrated capacity, in writing, for, and experience with, servicing the type of product(s) the Finance or Service Provider Entity Applicant will be providing and general customer service; and
 - (2) A description of key positions and associated job duties, software, and systems used by the Finance or Service Provider Entity Applicant in performing servicing of Enrolled Financing Efficiency Agreements.

- (f) Insurance: The Finance or Service Provider Entity Applicant must maintain and provide evidence of the following insurance coverage:
- (1) General liability with limits of not less than \$1 million per occurrence for bodily injury and property damage liability combined. The policy must include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance must apply separately to each insured against whom a claim is made or suit is brought subject to the Finance or Service Provider Entity Applicant'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 the regulations within this Article are concerned.
 - (2) Companies that utilize vehicles for business purposes shall maintain motor vehicle liability with limits of not less than \$1 million per accident. Such insurance must cover liability arising out of 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 million are required.
 - (4) All insurance coverage must be in effect for the complete term during which the Finance or Service Provider Entity Applicant is enrolled as a Finance or Service Provider Entity. If insurance expires during this term, a new certificate must be received by the Authority at least ten business days prior to the expiration of the insurance. The new insurance must meet the terms required in this Section.
 - (5) The Finance or Service Provider Entity is responsible for ensuring that coverage will not be cancelled without thirty days' prior written notice to the Authority.
 - (6) The Finance or Service Provider Entity is responsible for any deductible or self-insured retention contained within the insurance policy.
 - (7) Once enrolled, the Finance or Service Provider Entity has the obligation to keep in effect at all times the insurance coverage specified in the regulations within this Article. If this obligation is not met, the Authority may, in addition to any other remedies it may have, terminate the Finance or Service Provider Entity's participation in the Program, subject to the provisions set forth in the regulations in this Article.
 - (8) Any insurance meeting the requirements of the regulations within this Article must be primary, and not excess, to any other insurance carried by the Authority.
- (g) Representations of Finance or Service Provider Entity Applicants and Marketing Representatives. The application must include the Finance or Service Provider Entity Applicant's representation, warranty, and covenant contained in this Section, signed by a person authorized to legally bind the Finance or Service Provider Entity Applicant. If the Finance or Service Provider Entity Applicant will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's representation, warranty, and covenant below. These representations, warranties, and covenants are not limited to matters of which the Finance or Service Provider Entity Applicant and/or Marketing Representative had knowledge. Matters that are of public record will be deemed to be known by the Finance or Service Provider Entity Applicant and/or Marketing Representative.
- (1) The Finance or Service Provider Entity Applicant 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 has had at all relevant times and continues to have the power, authority, and legal right to participate in this Program.
 - (2) The Finance or Service Provider Entity Applicant 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) The Finance ~~or Service Provider~~Entity Applicant has the power and authority to execute and to carry out the terms of the Program.
- (4) There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency nor other governmental instrumentality having jurisdiction over the Finance ~~or Service Provider~~Entity Applicant or its properties:
 - (A) Asserting the invalidity of the regulations within this Article;
 - (B) Seeking to prevent the consummation of any of the transactions contemplated by the regulations within this Article; or
 - (C) Seeking any determination or ruling that might materially and/or adversely affect the performance by the Finance ~~or Service Provider~~Entity Applicant of its obligations under the regulations within this Article.
- (h) The Finance ~~or Service Provider~~Entity Applicant must make the following representations, warranties, and covenants to the Authority, signed by a person authorized to legally bind the Finance ~~or Service Provider~~Entity Applicant. These representations, warranties, and covenants are not limited to matters of which the Finance ~~or Service Provider~~Entity Applicant had knowledge. Matters that are of public record will be deemed to be known by the Finance ~~or Service Provider~~Entity Applicant.
 - (1) The Finance ~~or Service Provider~~Entity Applicant has, and must maintain throughout its enrollment in the Program as a ~~n-FPE~~Finance or Service Entity, trained and qualified employees and suitable facilities and operating systems for the performance of the Underwriting, Origination, and Servicing functions, as applicable, required to administer the Program.
 - (2) For a Finance ~~or Service Provider~~Entity Applicant planning to fill the Servicing role, the Finance ~~or Service Provider~~Entity Applicant has established, and must maintain throughout its enrollment in the Program as a ~~n-FPE~~Finance or Service Entity, 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. The Finance ~~or Service Provider~~Entity must allow the Authority, at no additional cost to the Authority, to inspect its disaster recovery plan and facilities.
 - (3) For a Finance ~~or Service Provider~~Entity Applicant planning to fill the Origination role, the Finance ~~or Service Provider~~Entity Applicant has established, and must maintain throughout its enrollment in the Program as a ~~n-FPE~~Finance or Service Entity, adequate internal audit and management control systems to guard against dishonest, fraudulent, or negligent acts by employees and contractors involved in the origination process.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.4. Eligible ~~Financial Products~~ Efficiency Agreements.

- (a) The agreement must be for improvements to an existing building and may not be for the construction or purchase of a building.
- (b) The agreement must meet the definition of one of the following products:
 - (1) "Eligible Lease" or "Eligible Equipment Financing Agreement" is an agreement that provides the Eligible Affordable Multifamily Customer with the use of Energy Saving Measures in exchange for payments in amounts that are due according to a schedule established in the agreement. The payments must result in full satisfaction of the obligation. Such payments are made to the Finance or Service Entity or its assignee for a specified term. Title to the equipment may transfer at the beginning or end of the term.
 - (2) "Eligible Loan" is an agreement that provides the Eligible Affordable Multifamily Customer with ownership of Energy Saving Measures in exchange for payments in amounts that are due according to a schedule established in the agreement. Such payments must result in full satisfaction of the obligation. Such payments are made to the Finance or Service Entity or its assignee for a specified term. Eligible Loans must be closed end loans; no revolving lines of credit will qualify.
 - (3) "Eligible Savings-Based Payment Agreement" is an agreement that provides the Eligible Affordable Multifamily Customer with the use of Energy Saving Measures in exchange for regular payments to the Finance or Service Entity or the Finance or Service Entity's assignee. The term may be specified by a number of months or may run until payments have reached a specified amount. The agreement must satisfy each of the following criteria:
 - (a) Savings will be measured and verified no less than annually;
 - (b) Total monthly energy and efficiency charges for the Eligible Affordable Multifamily Customer must be projected to be "cash flow positive," based on industry-accepted estimates, meaning: allowing for seasonal variations, the combined monthly energy expense (gas and electric) along with all projected monthly Eligible Savings-Based Payment Agreement charges is projected to be less than the Eligible Affordable Multifamily Customer's pre-project monthly energy expense;
 - (c) The Eligible Affordable Multifamily Customer will share in benefits if actual savings exceed projected savings; and
 - (d) The Eligible Affordable Multifamily Customer does not bear risk in the event that savings are less than projected.
 - (4) "Eligible Service Agreement" is an agreement that provides the Eligible Affordable Multifamily Customer with the use of Energy Saving Measures as well as ongoing service and maintenance of that equipment in exchange for regular payments to the Finance or Service Entity or the Finance or Service Entity's assignee for a specified term. Title does not transfer to the Affordable Multifamily Customer during the term of the agreement. The agreement must include either:
 - (a) A guarantee of functionality for any Energy Saving Measures and Non-ESMs; or
 - (b) A guarantee of energy savings. Equipment functionality or energy savings must be measured no less than annually.
- (c) ~~(a)~~ Disclosure. For the purposes of this Section, Savings-Based Payment Agreements will satisfy the requirements set forth in subsections (1) and (2) below with the ~~FPE's~~ Finance or Service Entity's provision of a good-faith estimate of the total cost of the Project, based on industry-accepted methods and assumptions used to estimate energy savings, due to the fact that monthly payments will be variable under these agreements. For all financial products, the Finance or Service Provider Entity must disclose to the Eligible Affordable Multifamily ~~Financing~~ Customer either:

- (1) An annual percentage rate (APR) (inclusive of any fees) as well as any advance payments which the Eligible Affordable Multifamily ~~Financing~~ Customer is required to pay; or
 - (2) The total cost of the Project for the Eligible Affordable Multifamily ~~Financing~~ Customer comprised of monthly payments multiplied by the number of months in the agreement plus any fees [(monthly payments * number of months in the agreement) + fees]. Monthly payments should be inclusive of, but not limited to, equipment and installation repayment, and any charges for financing, services, maintenance, or oversight of equipment.
- (d) ~~(b)~~ Other Provisions. In addition to meeting the specific definitions of either an Eligible Lease or Eligible Equipment Financing Agreement, Eligible Loan, Eligible Service Agreement, or Eligible Savings-Based Payment Agreement, the following provisions apply to Eligible ~~Financing~~ Efficiency Agreements:
- (1) Interest rates, if applicable, may be fixed or variable.
 - (2) Refinancing agreements are acceptable only if both the original and refinancing agreements are for the same Project and the Eligible ~~Financing~~ Efficiency Agreement is submitted for enrollment in the Program within 180 calendar days after the Scope of Work Completion Date pursuant to Section 10093.6(a)(2).
 - (3) The agreement must not be a revolving line of credit.
 - (4) Fees must be reasonable and in accordance with industry standards.
 - (5) The security interest must not be real property except for a UCC-1 fixture filing.
 - (6) The Claim-Eligible Financed Amount of the Enrolled ~~Financing~~ Efficiency Agreement must not be enrolled in a substantially similar program.
 - (7) In addition to the general requirements stated above, terms and characteristics of the Eligible ~~Financing~~ Efficiency Agreement must be consistent with the product(s) described by the ~~FPE~~ Finance or Service Entity in its application to participate in the Program pursuant to Section 10093.2(c)(3) and approved by the Authority.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.5. Project Eligibility.

- (a) General eligibility. Any Project receiving financing through the terms of the Program must comply with the following eligibility requirements:
 - (1) The Eligible Affordable Multifamily ~~Financing~~ Customer must be provided with a Bill Impact Estimate (BIE).
 - (2) The Project must have at least one ESM meeting the requirements described in Section 10093.5(b).
 - (3) All Project components must be installed by contractors with an active CSLB license that is relevant to the work performed unless the components meet the requirements for self-installation as described in Section 10093.5(c).
 - (4) The Project must comply with all applicable local, state, and federal laws, rules, regulations, and ordinances, including, but not limited to, Title 24 of the California Code of Regulations.
 - (5) All permits required to complete each Scope of Work must be approved by the relevant permitting agency.
- (b) Measure Eligibility. There are two methods by which a measure may qualify as an Energy Saving Measure for Program purposes. Each measure must satisfy either method.
 - (1) ESM List Method - The measure to be installed at the Eligible Property meets the criteria the Authority has specified on the ESM List.
 - (A) For each installed ESM, the installing contractor name(s) and active CSLB license number(s) must be provided to the Authority.
 - (2) Program Partner Method – The measure to be installed at the Eligible Property has been determined to meet the definition of an ESM by a Program Partner.
- (c) Self-Installers
 - (1) An Eligible Affordable Multifamily ~~Financing~~ Customer may install, or have installed, without a licensed contractor:
 - (A) Energy Saving Measures which have been identified on the ESM List as eligible for self-installation; and
 - (B) Non-ESMs.
- (d) Quality Assurance/Quality Control
 - (1) For both measure eligibility methods, in order to verify that Scopes of Work were installed in accordance with the regulations within this Article, within one year after the Enrollment Date of an Eligible ~~Financing~~Efficiency Agreement, the Authority may conduct one or more of:
 - (A) A review of data and documentation (desktop review);
 - (B) A field verification at the Eligible Property(ies); or
 - (C) Photo verification.
 - (2) The Authority shall notify the Eligible Affordable Multifamily ~~Financing~~ Customer at least ~~ten~~ 10 business days prior to conducting a field verification.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.6. Agreement ~~Financing~~ Submittal and Enrollment.

- (a) Timing of Submittal and Enrollment
- (1) Once all permits required to complete each Scope of Work have been approved by the relevant permitting agency, all Scopes of Work are completed, and the Finance or Service Provider Entity has closed the agreement with the Eligible Affordable Multifamily Customer, a complete financing or servicing submittal may be submitted for enrollment as described in Section 10093.6(b), to the Authority.
 - (2) The Eligible Financing Efficiency Agreement must be submitted within 180 calendar days after the last Scope of Work Completion Date on the Project.
 - (3) Within 10 business days of receipt of a complete set of data elements, documentation, and certifications as described in Section 10093.6(b), for an Eligible Financing Efficiency Agreement, the Authority will enroll or deny the Eligible Financing Efficiency Agreement in the Program and communicate this information to the Finance or Service Provider Entity.
- (b) Complete Financing Agreement Submittal Requirements
- (1) Documentation. A complete financing submittal must include the following documentation provided to the Authority by the Eligible Affordable Multifamily Financing Customer and/or Finance or Service Provider Entity:
 - (A) IOU service confirmation: The utility bill(s) provided by any of the Investor Owned Utilities at the Eligible Property(ies) for any gas or electric service.
 - (B) Eligible Affordable Multifamily Financing Customer data authorization: A signed California Hub for Energy Efficiency Financing Privacy Rights Disclosure Form as described in Section 10093.11.
 - (C) Invoice(s): Copy of the final invoice(s) which has/have been or will be supplied to the Eligible Affordable Multifamily Financing Customer for the Scope(s) of Work and any Distributed Generation, if applicable.
 - (D) Permits: Copies of all permits that were required to complete each Scope of Work. Permits must be approved by the relevant permitting agency.
 - (E) Copy of the recorded affordability deed restriction or covenant showing income restriction and family size.
 - (F) If an ESM qualifies through the Program Partner Method, a copy of the Program Partner reservation letter and energy audit.
 - (2) Data. A completed submittal includes the following data provided to the Authority in a format approved by the Authority:
 - (A) Data provided by the Eligible Affordable Multifamily Financing Customer and/or the Finance or Service Provider Entity:
 - (i) The following data related to the Project:
 - a. The Scope of Work Completion Date for any work performed on the Project.
 - b. If the Project qualifies through the ESM List Method, the name(s) and CSLB number(s) of the contractor company(ies) who performed the installation(s).
 - c. Whether the installation of any measure resulted in a fuel switch.
 - d. Whether permits were needed for any measure in each Scope of Work.
 - e. The total cost of all ESMs, Non-ESMs, and DG measures, if not indicated on the customer invoice(s).
 - (ii) The following data related to the Eligible Affordable Multifamily Financing Customer:
 - a. Name or the business entity name,
 - b. Name, e-mail address, and phone number of the contact,
 - c. Number of years in operation, and

- d. An indication of how the entity is organized, e.g., sole proprietorship, corporation, or LLC.
- (iii) The following data related to each Eligible Property:
 - a. Street address, city, and ZIP code.
 - b. Total number of units, number of units reserved for income restricted tenants, family size, and the income category as set forth in Section 6932 of Title 25 of the California Code of Regulations, corresponding to each unit.
 - c. Number of years remaining on the recorded affordability deed restriction or covenant.
 - d. Number of units and/or common spaces in which ESMs were installed.
 - e. The unit number of each unit in which ESMs were installed.
- (iv) The following data related to Projects for which the Eligible Affordable Multifamily ~~Financing~~ Customer is seeking an IOU, REN, or CCA rebate or incentive:
 - a. The rebate or incentive amount.
- (B) Data provided solely by the Finance ~~or Service Provider~~ Entity:
 - (i) The following data related to the Project:
 - a. The amount of any Capitalized Interest included in the Total Financed Amount.
 - (ii) The following data related to all Eligible ~~Financing~~ Efficiency Agreements:
 - a. The Finance ~~or Service Provider~~ Entity's internal financing or service agreement number.
 - b. An indication as to whether the financing or service agreement is an Eligible Loan, Eligible Lease or Eligible Equipment Finance Agreement, Eligible Energy Service Agreement, or an Eligible Savings-Based Payment Agreement.
 - c. The name of the representative of the Finance ~~or Service Provider~~ Entity who submitted the agreement to the Authority.
 - d. The Total Financed Amount.
 - e. Origination date.
 - f. Whether an advanced payment was required of the Eligible Affordable Multifamily ~~Financing~~ Customer, and if so, the number of months covered by the payment.
 - g. Whether a security interest was taken against the financing or service agreement, and if so, an indication of the type of security interest taken.
 - h. Date the financing or service agreement funded, or is anticipated to fund.
 - i. Term of the financing or service agreement and its maturity date or its contractual end date.
 - j. Monthly finance agreement payment amount including principal, interest if applicable, and any maintenance, oversight, and service charges.
 - (iii) The following data relating to Eligible Loans and Eligible Leases or Eligible Equipment ~~Financing~~ Agreements:
 - a. Interest rate applied to the financing or service agreement and whether the rate is fixed or variable.
 - b. Any additional fees charged to the Eligible Affordable Multifamily ~~Financing~~ Customer and/or contractor.
 - (iv) The following data related only to Service Agreements and Savings-Based Payment Agreements:
 - a. Monthly charges for ongoing service and maintenance related to the upkeep or performance of all installed measures.

- (3) Certifications. A completed financing or servicing submittal includes the following certifications provided to the Authority:
- (A) Finance or Service Provider Entity Certifications. Certification from the Primary Finance or Service Provider Entity of the following:
- (i) All data provided by the Primary Finance or Service Provider Entity is true and correct to the best of its knowledge.
- (B) Eligible Affordable Multifamily Financing Customer Certification. Certification, signed by a person authorized to legally bind the Eligible Affordable Multifamily Financing Customer of the following:
- (i) Each Scope of Work has been installed and completed to its satisfaction;
 - (ii) Contractor(s) who completed the Scope(s) of Work holds the relevant license(s) to perform the installation(s);
 - (iii) It understands that the Authority and its directors, officers, and agents, and the IOUs and its directors, officers and agents, do not guarantee the performance, quality, or workmanship of any installation in the Project;
 - (iv) The Eligible Financing Efficiency Agreement funds were, or will be, used to pay for the eligible Project;
 - (v) All permits required to complete each Scope of Work have been approved by the relevant permitting agency;
 - (vi) The Program Partner or Finance or Service Provider Entity has provided the Eligible Affordable Multifamily Financing Customer with a Bill Impact Estimate;
 - (vii) Acknowledgement and agreement to be subject to random post-project verifications, as described in Section 10093.5(d); and
 - (viii) Certification that all of the information provided by the Eligible Affordable Multifamily Financing Customer is true and correct to the best of its knowledge.
- (C) Self-Installer Certification, if applicable. Certification, signed by the Self-Installer, of the following:
- (i) The improvements installed are listed as eligible for self-installation on the ESM List or qualify as Non-ESM building improvements.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.7. Credit Enhancement.

- (a) Establishment of Accounts. Upon the Authority's acceptance of an application from a Finance or Service Provider Applicant to be a Finance or Service Provider Entity, the Authority shall instruct the Trustee to establish a Loss Reserve Account(s) for the Finance or Service Provider Entity. 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 Finance or Service Provider Entity; and
 - (2) Pay claims in accordance with Section 10093.8.
- (b) At the Loss Reserve Account Representative's request, the Authority will establish up to three Loss Reserve Accounts for the Finance or Service Provider Entity.
- (c) Contributions to Loss Reserve Accounts
- (1) For each of the Finance or Service Provider Entity's Enrolled Financing Efficiency Agreements, the Authority shall direct the Trustee to transfer a Loss Reserve Contribution from the Program Holding Account to the Loss Reserve Account of that Finance or Service Provider Entity.
 - (2) 15% of the Claim-Eligible Financed Amount will be contributed for each Enrolled Efficiency Agreement ~~financing agreement~~. However, for each FPE Finance or Service Entity, the first and second Enrolled Financing Efficiency Agreement will receive a contribution of 30% of the Claim-Eligible Financed Amount. In all circumstances the Claim-Eligible Financed Amount must not exceed \$200,000 per Enrolled Financing Efficiency Agreement.
 - (3) If the Primary Finance or Service Provider Entity notifies the Authority pursuant to Section 10093.2(c)(6)(G) that it determined not to fund the Enrolled Financing Efficiency Agreement, the Authority will recover the Loss Reserve Contribution for that Enrolled Financing Efficiency Agreement by transferring the funds back to the Program Holding Account and the financing or servicing agreement will be removed from the Program.
 - (4) If the Primary Finance or Service Provider Entity notifies the Authority pursuant to Section 10093.2(c)(6)(G) that it determined to fund less than the Claim-Eligible Financing Amount as reported at the time of submittal, the Authority will recover any excess contribution to the Loss Reserve Account by transferring the funds back to the Program Holding Account.
- (d) Annual Rebalance. Once per fiscal year ending June 30, the Authority shall instruct the Trustee to rebalance a Finance or Service Provider Entity's Loss Reserve Account, if necessary, and move funds from the FPE's Finance or Service Entity's Loss Reserve Account into the Program Holding Account.
- (e) Methodology. The initial rebalance amount will be the sum of the original Loss Reserve Contributions associated with Enrolled Financing Efficiency Agreements that were paid off in full during the fiscal year.
- (1) If the FPE Finance or Service Entity did not make any claims as provided under Section 10093.8 during the fiscal year, the initial rebalance amount will not be changed and the funds will be transferred from the FPE's Finance or Service Entity's Loss Reserve Account to the Program Holding Account.
 - (2) If the FPE Finance or Service Entity made one or more claims as provided under Section 10093.8 during the fiscal year, and the total claim amount is less than the initial rebalance amount, the final rebalance amount will equal the initial rebalance amount less the claim(s) amount.

- (3) If the ~~FPE~~ Finance or Service Entity made one or more claims as provided under Section 10093.8 during the fiscal year, and the total claim amount is more than the initial rebalance amount, there will be no rebalance.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.8. Claims.

- (a) A Finance ~~or Service Provider~~ Entity may submit a claim for an Enrolled ~~Financing Efficiency~~ Agreement when all of the following conditions are met:
- (1) The claim is submitted within 10 years from the Enrollment Date;
 - (2) The Eligible Affordable Multifamily ~~Financing~~ Customer has defaulted on the Enrolled ~~Financing Efficiency~~ Agreement and the ~~FPE Finance or Service Entity~~ has charged off some or all of the outstanding Claim-Eligible Financed Amount;
 - (3) The Finance ~~or Service Provider~~ Entity has taken reasonable steps in accordance with industry standards to seek recoveries through liquidation of collateral and any personal guarantees, if applicable; and
 - (4) The Finance ~~or Service Provider~~ Entity is in compliance with Program regulations including, but not limited to, the reporting requirements in Section 10093.10.
- (b) In the event of a charge-off, the Finance ~~or Service Provider~~ Entity may submit a claim for up to 90% of the Claim-Eligible Charge-Off Amount.
- (c) Claims will be paid net of any recovery and proceeds that the Finance ~~or Service Provider~~ Entity has obtained prior to the filing of the claim such that the Finance ~~or Service Provider~~ Entity will recoup no more than 100% of the Claim-Eligible Charge-Off Amount. Unless as described in Section 10093.8(d), a payment for a particular claim is limited to the funds in the Finance ~~or Service Provider~~ Entity's Loss Reserve Account(s) at the time that the claim is approved by the Authority.
- (d) If there are not sufficient funds in the Finance ~~or Service Provider~~ Entity's Loss Reserve Account to cover 90% of the Claim-Eligible Charge-Off Amount at the time of a claim, the Loss Reserve Account Representative may ask that future contributions to the Loss Reserve Account (when new financings are enrolled) be paid out as part of the original claim until the end of the next annual rebalancing.
- (e) Claim Applications. Claim applications must be submitted by the Loss Reserve Account Representative to the Authority within 180 calendar days of the date of charge-off of an Enrolled ~~Financing Efficiency~~ Agreement. To make a claim, a Finance ~~or Service Provider~~ Entity must be in compliance with the Program regulations, including, but not limited to, the reporting requirements in Section 10093.10. The claim application must include the following information provided by the Finance ~~or Service Provider~~ Entity in a format to be specified by the Authority:
- (1) ~~(A)~~ Total ~~C~~harge-~~O~~ff ~~A~~mount and claim amount requested.
 - (2) ~~(B)~~ Whether or not enforcement proceedings have commenced.
 - (3) ~~(C)~~ Loss Reserve Trustee Account number(s) from which the claim payment will be made.
 - (4) ~~(D)~~ The loss reserve payee.
 - (5) ~~(2)~~ If the Enrolled ~~Financing Efficiency~~ Agreement is secured, a statement of whether the Finance ~~or Service Provider~~ Entity has commenced enforcement proceedings;
 - (6) ~~(3)~~ Certification that the claim was submitted as required by Section 10093.8(a) and certification that such charge-off was made in a manner consistent with the Finance ~~or Service Provider~~ Entity's usual methods for taking action on financing ~~or service~~ agreements which are not Enrolled ~~Financing Efficiency~~ Agreements under the Program;
 - (7) ~~(4)~~ Certification that the Finance ~~or Service Provider~~ Entity will comply with reporting requirements on recoveries and proceeds, as set forth in Section 10093.10(b)(8);

- (8) ~~(5)~~ Certification that all of the information provided is true and correct to the best of the signatory's knowledge; and
- (9) ~~(6)~~ The claim application must be signed by the Loss Reserve Account Representative and shall include the signatory's printed name, title, and date.
- (f) The Authority will 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 any of the acknowledgements, certifications, representations, and warranties provided by the Finance ~~or Service Provider~~ Entity pursuant to Section 10093.2(c)(4) - (7) and Section 10093.3(g) and (h) at the time of application to the Program were false, or if the ~~Eligible Financing Enrolled Efficiency~~ Agreement claimed upon does not conform to financing product(s) submitted in the application to participate in the Program pursuant to Section 10093.2(c)(3) or as modified by any updates per Section 10093.2(e) or a subsequent update pursuant to Section 10093.10(f), or if the Finance ~~or Service Provider~~ Entity is not in compliance with its obligations, including reporting obligations, under the regulations within this Article. The Authority, upon providing written notice to the Finance ~~or Service Provider~~ Entity, may defer approval of claims up to an additional thirty 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 relating to the original Enrolled ~~Financing Efficiency~~ Agreement, the servicing file, and the default.
- (g) Upon approval of a claim, the Authority will direct the Trustee to disburse the approved claim amount from the Finance ~~or Service Provider~~ Entity's Loss Reserve Account to the Loss Reserve Account Representative within ~~five~~ 5 business days.
- (h) The Loss Reserve Representative may request that the Trustee disburse funds to a third party of its choosing. Such request to disburse funds to a third party must be made by the Loss Reserve Account Representative to the Authority, in writing, at the time of the submission of the claim application.
- (i) If, subsequent to the payment of a claim ~~to by~~ the Authority, the Finance ~~or Service Provider~~ Entity recovers ~~from the Eligible Affordable Multifamily Financing Customer~~, from liquidation of collateral, personal guarantees, or from any other source, any amounts associated with the Enrolled Efficiency Agreement, for which the Finance or Service Provider Entity must promptly pay to the Authority or its agent, for deposit in the Finance or Service Entity's Loss Reserve Account, any amount recovered, less reasonable and customary costs of collection, and less the balance of the Claim-Eligible Charge-Off Amount not paid to the Finance or Service Entity by the Authority on the claim. Per claim, the maximum amount that a Finance or Service Entity will be required to pay to the Authority, from amounts recovered, is the amount the Authority paid to the Finance or Service Entity from the Finance or Service Entity's Loss Reserve Account for the claim, applied to have recouped from the Authority, the Finance Provider Entity must promptly pay to the Authority or its agent, for deposit in the 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 Finance Provider Entity's loss on the Claim-Eligible Charge-Off Amount.

Authority: Section 26006 and 26009, Public Resources Code
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.9. Sale ~~and~~ or Transfer of Enrolled ~~Finaneings~~Finaneing Efficiency Agreements and Transfer of Program Roles.

- (a) A Finance ~~or Service Provider~~ Entity may sell, transfer, or assign an Enrolled ~~Finaneing~~ Finaneing Efficiency Agreement or the associated repayments of an Enrolled ~~Finaneing~~ Finaneing Efficiency Agreement in whole or in part, or a portfolio of Enrolled ~~Finaneing~~Finaneing Efficiency Agreements, in whole or in part. The sale must be reported to the Authority pursuant to Section 10093.10.
- (b) The Primary Finance ~~or Service Provider~~ Entity and Affiliate Finance ~~or Service Provider~~ Entity may transfer between themselves the roles of Monthly Reporting, Loss Reserve Account Representative, and ~~Finaneing~~Finaneing Agreement Submittal by notifying the Authority in writing. If the ~~Finaneing~~Finaneing Agreement Submittal role transfers, the entity performing the ~~Finaneing~~Finaneing Agreement Submittal role will become the new Primary Finance ~~or Service Provider~~ Entity.
- (c) If the Primary Finance ~~or Service Provider~~ Entity or Affiliate Finance ~~or Service Provider~~ Entity wish to transfer any of the roles it has been approved to perform, and/or disclosed that it will perform, to a new entity, the new entity must apply to the Program as a Primary Finance ~~or Service Provider~~ Entity Applicant or Affiliate Finance ~~or Service Provider~~ Entity Applicant and be approved by the Authority for enrollment in the Program. At any time, no more than one entity may serve as Primary Finance ~~or Service Provider~~ Entity and at any time, no more than one entity may serve as Affiliate Finance ~~or Service Provider~~ Entity for any Finance ~~or Service Provider~~ Entity. Once approved, the new entity must assume all of the roles filled by the departing Finance ~~or Service Provider~~ Entity.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.10. Reporting.

- (a) The Finance ~~or Service Provider~~ Entity must report to the Authority, on a monthly basis, on the status of each Enrolled ~~Financing Efficiency~~ Agreement as well as on financing applications and decisions for the Program. The report is due to the Authority on or before the fifth business day of the month, except the report will be due on the sixth business day of the month if a bank holiday occurs in the first week of the month.
- (b) The report must include the following data points in a format approved by the Authority for Enrolled ~~Financing Efficiency~~ Agreements:
 - (1) Whether ~~it the financing agreement~~ is current, 30 days, 60 days, or 90 days past due, fully satisfied, or charged off.
 - (2) Any changes to the maturity date or contractual end date, payment amount, and/or interest rate.
 - (3) The current outstanding financed amount.
 - (4) Whether ~~the financing agreement it~~ was sold, transferred, or assigned to a third party and the date of such sale, transfer, or assignment.
 - (5) If ~~the financing agreement it~~ was sold, transferred, or assigned, the name of the purchaser, transferee, or assignee and whether the transaction was in whole or in part.
 - (6) Date(s) and amount(s) of any charge-off(s) and whether enforcement proceedings have begun.
 - (7) Any anticipated losses and whether acceleration notices have been sent.
 - (8) Amount of any recoveries or proceeds from charged-off financings.
- (c) Once a Finance ~~or Service Provider~~ Entity has reported an Enrolled ~~Financing Efficiency~~ Agreement as having a zero balance, it does not need to continue reporting on that agreement in future reports.
- (d) For Savings-Based Payment Agreements where the payment amount fluctuates monthly, the Finance ~~or Service Provider~~ Entity must report changes to the monthly payment amount annually, no later than February 6 for the January monthly report.
- (e) The report must also include the number of completed applications received and the number approved for the Program during the prior month.
- (f) No later than January 15~~th~~ of each year:
 - (1) The Finance ~~or Service Provider~~ Entity must 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) Finance ~~or Service Provider~~ Entities that are not Financial Institutions must also provide written evidence of current licenses and insurance.
- (g) If a Finance ~~or Service Provider~~ Entity becomes subject to a cease and desist order or other regulatory sanction from an appropriate federal or state regulatory body, the ~~FPE~~ Finance or Service Entity must inform the Authority in writing within ~~ten~~ 10 business days of such action.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

Section 10093.11. California Hub for Energy Efficiency Financing Privacy Rights Disclosure.

The Eligible Affordable Multifamily ~~Financing~~ Customer authorizes the IOU(s), California Public Utilities Commission (CPUC), Program Partners, and the Finance ~~or Service Provider~~ Entity to share information with the Authority, as required by the regulations within this Article, including contact information, data on work performed and improvements installed on the Project, any and all IOU, REN, CCA rebate data, information regarding the Eligible ~~Financing~~ Efficiency Agreement, and other information relating to or arising from participation in the Program. An authorized representative of the Eligible Affordable Multifamily ~~Financing~~ Customer will be required to affirm that it has read and acknowledges the following privacy rights disclosure in a format to be specified by the Authority:

- (a) As a result of your participation in an energy efficiency financing program as administered by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), CAEATFA may come into possession of some or all of the following information:
 - (1) Information disclosing the fact that you are a customer of the finance company.
 - (2) Your financing or service agreement or the account number associated with your financing or service agreement.
 - (3) Your name, address, and contact information.
 - (4) Your financial status and underwriting criteria.
 - (5) The amount of and terms for repayment of your financing or service agreement.
 - (6) Information regarding your financing or service agreement payment history.
 - (7) The equipment or improvements funded with the proceeds of your financing or service agreement.
 - (8) Utility rebate and/or incentive data including, but not limited to, rebate or incentive amount, program project name and identifier, and approval date.
 - (9) The account and service agreement number on your utility bill, monthly energy use, and utility account payment history.
 - (10) Energy savings data from your project.
- (b) The information may be provided to CAEATFA by the CPUC or your utility(ies) or your finance company or a contractor acting on their behalf. The information may be combined with energy usage information provided by your utility(ies) to the CPUC, who may then provide such information to CAEATFA. The information provided to CAEATFA may be released to the Investor-Owned Utilities (IOUs), other state agencies, and the federal government pursuant to contracts, interagency agreements, or if required by law. The information provided to CAEATFA will be released in an anonymized form, aggregated with information from other financing recipients throughout the state to make both financing 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. Information that cannot be anonymized and aggregated will not be released to the public.
- (c) In addition to the anonymized and aggregated release of information contemplated above, CAEATFA may contact ~~financing~~ customers or may release individual ~~financing~~ customer names, addresses, and phone numbers that will enable the IOUs or the CPUC or individuals acting on their behalf to contact ~~financing~~ customers. The purpose of the release and contact will be limited to inviting ~~financing~~ customers to participate in surveys or to arrange visits to ~~financing~~ customers' properties to evaluate various aspects of the program. The officials responsible for maintaining the information provided regarding your financing or service agreement 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.

- (d) By your affirmation to this Privacy Rights Disclosure, you represent and warrant that you are a duly authorized representative of the ~~financing~~customer and that you have the authority to agree to the terms of this Privacy Rights Disclosure on behalf of the ~~financing~~customer.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code