

FINDING OF EMERGENCY

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

Title 4, Division 13, Article 5 (commencing with Section 10091.1)

Finding of Emergency

Pursuant to California Public Resources Code 26009, the regulations being adopted herewith by the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) as emergency regulations (“Emergency Regulations”) are, by legislative mandate, deemed to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Authority and Reference

Authority: Public Resources Code Section 26009. Section 26009 of the Public Resources Code authorizes the Authority to adopt emergency regulations necessary for the immediate preservation of the public peace, health, safety, or general welfare in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Reference: Public Resources Code Sections 26003(a)(3)(A), 26003(a)(8)(A), 26003(a)(6) and 26040. On September 19, 2013, the CPUC approved Decision 13-09-044 and requested the Authority act as the master administrator of the California Hub for Energy Efficiency Financing (“CHEEF”), funded by ratepayer funds collected by the four investor-owned utilities—Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company (collectively, the “IOUs”). CAEATFA’s purpose is to advance the State’s goals of reducing the levels of greenhouse gas emissions, increasing the deployment of sustainable and renewable energy sources, implementing measures that increase the efficiency of the use of energy, creating high quality employment opportunities, and lessening the State’s dependence on fossil fuels. The Authority’s statute enables it to provide financial assistance to various participating parties that carry out eligible projects. In July 2014, CAEATFA received Legislative budget authority to administer the CHEEF functions, and subsequently entered into a Memorandum of Agreement with the CPUC, and a receivables contract with the IOUs.

Informative Digest

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA”) and requires CAEATFA to establish programs to provide financial assistance to participating parties for projects related to alternative energy sources and advanced transportation projects. Existing law authorizes CAEATFA to receive and utilize grants or loans

from the federal government, a public agency, or any other source for carrying out the purposes of the Act.

Pursuant to this statutory authority, CAEATFA is the administrator of the California Hub for Energy Efficiency Financing (“CHEEF”) under a Memorandum of Agreement with the Public Utilities Commission (“CPUC”), known as the Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs, Decision 13-09-044. The GoGreen Home Program is one of several energy efficiency financing programs as part of that Memorandum of Agreement.

GoGreen Home launched in 2016 as a pilot program and, throughout early development and implementation, CAEATFA advocated for specific changes to the CHEEF programs to broaden their relevance to the private market and streamline operations for participants. These efforts were necessary, from CAEATFA’s perspective, to facilitate more energy efficiency projects and expand GoGreen Home to reach more customers. In March 2017, the CPUC issued Decision 17-03-026, which granted CAEATFA some additional flexibility to amend GoGreen Home from previous CPUC guidance. Leveraging this flexibility, CAEATFA implemented amendments through an emergency rulemaking process that began in 2017 and ended with a certificate of compliance in September 2018.

In April 2020, the CPUC issued Resolution E-5072 that approved GoGreen Home’s transition from a pilot program to a full program and permits CAEATFA to improve GoGreen Home in order to facilitate scaling. CPUC Decision 21.08.006 supported further expansion by authorizing GoGreen Home to utilize non-IOU ratepayer sources of funding for credit enhancements in order to set up more consistent project eligibility across utility jurisdictions. Under Decision 21.08.006, and through a rulemaking process that was completed in 2022, CAEATFA brought on the TECH Clean California program in 2022 and the City of Palo Alto Utilities (CPAU) in October 2023 as additional sources of credit enhancement funding, which has allowed GoGreen Home to finance electric projects in electric POU territories and to offer GoGreen Home for the first time to CPAU customers, which were previously excluded due to not receiving any IOU fuel services.

More recently, CPUC Decision 23-08-022 authorized additional expansion opportunities by allowing CAEATFA to use IOU ratepayer funds to credit enhance loans for comprehensive energy measures like solar, battery storage, and EV chargers. CAEATFA will also seek alternative sources of funding to credit enhance comprehensive energy measures. This measure expansion will be formalized in another regulation modification proposal planned for early 2024.

The benefits of this proposed regulatory action will be to owners and renters of residential homes, including single-family properties, condominiums, townhomes, and apartments. GoGreen Home mitigates the risk of default for Lenders by providing a credit enhancement for enrolled loans in the form of a Loss Reserve Contribution. This protection enables participating Lenders to offer more attractive financing terms, such as reduced interest rates, longer terms, and larger amounts to a broader group of Borrowers. A proposed modification enabling CAEATFA to channel funds for Interest Rate Buy-Downs (IRBDs) will increase the attractiveness and affordability of GoGreen Home loans with even lower promotional interest rates.

The regulation amendments respond to challenges, lessons learned, and extensive stakeholder feedback received while implementing GoGreen Home. The GoGreen Home program has seen significant growth in recent years and the modifications support CAEATFA's intentions to facilitate more efficient deployment of credit enhancement funding and support further growth and scale. The amendments:

- Restructure the way Loss Reserve Contributions are calculated to more accurately reflect Borrower risk while ensuring Participating Lenders receive adequate risk coverage
- Establish a new methodology for rebalancing Loss Reserve Accounts to facilitate more efficient Loss Reserve funding recapture and redeployment
- Set a framework to allow GoGreen Home to channel external funding for Interest Rate Buy Downs (IRBDs)

As part of the ongoing administration of GoGreen Home, CAEATFA staff regularly solicited feedback from participating Lenders and conducted much forecasting and analysis of loan performance over the seven years that GoGreen Home has been enrolling loans and paying claims, in order to understand the scope and downstream effects of proposed changes to the Loss Reserve Contribution and rebalancing methodologies. During this regulation amendment process, CAEATFA surveyed and engaged key stakeholders for feedback, and conducted a public workshop on October 23, 2023, followed by a five-day public comment period. Stakeholder feedback is represented in these proposed modifications.

CAEATFA has reviewed existing regulations on this topic and has concluded that the proposed regulations are not inconsistent or incompatible with existing state regulations.

The substantive amendments, and their objectives and rationales, for each section of the regulations are as follows:

§10091.1: Definitions

This Section defines and describes the terms used throughout the GoGreen Home regulations.

§10091.1(i): "Credit-Challenged Borrower" was modified to expand the ceiling of high-risk credit scores from 640 to 700.

Necessity: CAEATFA's initial designation of a higher risk Credit-Challenged Borrower was a credit score of 640 and below. Lenders and industry data indicate that defaults start to occur at a statistically significant pace for Borrowers with credit scores 680 and below, not 640 and below. CAEATFA has long-established reporting buckets of 580-640 and 641-700, so to better account for the risks that Lenders face lending to Borrowers with a 680 score or below, while staying congruent with our existing reporting structure, CAEATFA found it reasonable to raise the credit risk categorization of a Credit-Challenged Borrower to 700.

§10091.1(j): "Credit-Challenged Program" was removed.

Necessity: CAEATFA removed the Credit-Challenged Program for Lenders. The Credit-Challenged Program was an optional program that Lenders could choose to opt into. If they opted in, Lenders would receive a 20% Loss Reserve Contribution for loans made to Borrowers

who qualify as a Credit-Challenged Borrower by specifically designating the loan as “Credit-Challenged” at loan enrollment. In order to reduce operational burdens for Lenders, CAEATFA has decided to automatically deploy a 20% Loss Reserve Contribution for loans to Borrowers meeting the definition of a Credit-Challenged Borrower, rather than make Lenders request it each time.

§10091.1(w): “Interest Rate Buy-Down” or “IRBD” was added as a defined term.

Necessity: CAEATFA added the capability to deploy funds for Interest Rate Buy-Downs (IRBDs) in a new section. This funding would be channeled through CAEATFA via external funders to buy down the interest rates of Eligible Loans to make financing more feasible and attractive to Borrowers. See the description of the addition of Section 10091.17 below for more information.

§10091.1(aa): “Low-to-Moderate Income” was modified as a defined term.

Necessity: This subsection was modified to remove household income as a trigger for a Borrower contribution of 20%. The higher Loss Reserve Contribution percentage is meant to support Lenders making loans to Borrowers who they may perceive as riskier. However, program experience has shown that Lenders are rarely adjusting their credit approval process based on the Borrower’s household income and “Low Household Income” is rarely reported as a reason for a higher Loss Reserve Contribution rate because it is difficult for a Lender to reliably ascertain; income data can only be requested of an individual, not a household. This adjustment thus aligns with typical Lender practices of Borrower assessment during underwriting. As low credit score is a very reliable indicator of Borrower risk that can be assessed solely on the Borrower and not the household, CAEATFA is targeting changes in other areas of the regulations to focus on credit score when defining areas of Lender risk worthy of a higher Loss Reserve Contribution.

CAEATFA is also clarifying the source of the definition of "area median income" to be more accurate.

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

This section outlines the processes by which an Eligible Financial Institution (“EFI”) or Eligible Finance Lender (“EFL”) applies to become a Participating Financial Institution (“PFI”) or Participating Finance Lender (“PFL”), describing the information it must provide in its application and responsibilities under GoGreen Home. This section has removed an enrollment attachment for EFI/EFL applicants as detailed below.

§10091.2(d)(6): This section was amended to remove the Credit-Challenged Program for Lenders to opt-in to as part of participation in GoGreen Home

Necessity: With the removal of the Credit-Challenged Program (see the modification to §10091.1(j) in the Definitions section above) this is a necessary cleanup. Lenders will no longer need to apply for this program to receive the 20% Loss Reserve Contribution for Credit-Challenged Borrowers as the higher contribution will now be automated based on reported Borrower credit score for each enrolled loan.

§10091.5. Loan Eligibility and Minimum Underwriting Criteria

This Section lays out the criteria a loan must meet to be eligible under the Program. It was designed to safeguard the use of ratepayer funds while maintaining the intent to allow Lenders the flexibility to broaden access to financing to a wider set of Borrowers while mitigating risk.

§10091.5(h): This subsection was amended to clarify that Lenders have no more than 5 business days to adjust their systems or processes to match the maximum allowable rate based on quarterly updates of the 10-year Treasury bonds.

Necessity: The maximum interest rate allowed to be charged by Lenders follows the interest rate on 10-year Treasury bonds and is updated quarterly based on the current rate of the bond. Lenders who run loan programs with more automation and technological and public-facing marketing components report needing a few days following every quarterly update to adjust the maximum rate across their system. This clarification specified a deadline by which all Lenders must adjust their processes and systems to reflect the new rate in their marketing materials and/or their underwriting/origination processes to prevent being out of compliance with GoGreen Home regulations.

§10091.7. Establishment and Funding of Loss Reserve Accounts

This section outlines the process by which each Lender's Loss Reserve Account(s) is established and funded under GoGreen Home by the Trustee Bank. Each time a loan is enrolled, CAEATFA makes a Contribution to the Lender's Loss Reserve Account based on calculating a percentage of the loan principal that is eligible to be reimbursed to the Lender in the event of a claim (the "Claim-Eligible Principal Amount"). What percentage is used to calculate the Loss Reserve Contribution amount depends on several factors about the loan and the Borrower. Modifications to those percentages are proposed below.

§10091.7(b)(1)(A)(i) This subsection was amended to clarify that only Microloans shall receive a 20% Loss Reserve Contribution when made to Borrowers who qualify as Low-to-Moderate Income (LMI) based on census tract.

Necessity: CAEATFFA has seven years of loan performance data for loans that are not Microloans which indicates there is no direct correlation between loan performance and LMI Borrower status. Hence, we removed LMI Borrower based on census tract as a trigger for a 20% Loss Reserve Contribution for loans that are not Microloans.

Microloans, however, were only introduced in 2021 and have not yet been widely utilized by all GoGreen Home Lenders. Feedback from Lenders whose business model is centered on issuing Microloans indicate more time is needed to analyze loan performance based on census tract.

Microloans are any loan with a Claim-Eligible Principal Amount under \$5,000, and thus are a unique financial product for many Lenders to offer. Therefore, CAEATFA finds it reasonable to keep the 20% Loss Reserve Contribution trigger for LMI Borrowers receiving Microloans. CAEATFA will continue to monitor Microloan performance based on Borrower census tract.

§10091.7(b)(1)(A)(ii) This subsection was amended to clarify that Microloans to Borrowers who are not Credit-Challenged Borrowers or LMI Borrowers shall receive an 11% Loss Reserve contribution.

Necessity: CAEATFA has seven years of loan performance data for loans that are not Microloans. The data indicates that for these loans a transition from an 11% to 5% Loss Reserve Contribution is appropriate for Borrowers who do not qualify as Credit-Challenged Borrowers. Hence, we propose to lower the contribution percentage for loans to non-Credit Challenged Borrowers or which are not Microloans to 5%. See the proposed modification discussed in §10091.7(b)(1)(D) below.

Microloans, however, were only introduced in 2021 and have not yet been widely utilized by all GoGreen Home Lenders. Feedback from Lenders whose business model is centered on issuing Microloans indicates that more time to analyze loan performance and loss reserve coverage is needed. Therefore, CAEATFA finds it is reasonable to keep the 11% Loss Reserve Contribution for Microloans made to Borrowers in non-LMI census tracts or who are not Credit-Challenged (those Borrowers shall receive a 20% contribution, as described above in §10091.7(b)(1)(A)(i)). CAEATFA will continue to monitor loan performance and Loss Reserve coverage needs for these loans.

§10091.7(b)(1)(B) This subsection was amended to remove Lender participation in the Credit-Challenged Program as the trigger for a 20% Loss Reserve Contribution for loans made to Credit-Challenged Borrowers.

Necessity: With the removal of the optional Credit-Challenged Program (see changes to subsection §10091.1(j) in the Definitions section above), this is a necessary cleanup. All loans to Credit-Challenged Borrowers will now automatically receive a 20% LLR contribution, not just the loans from Lenders who are enrolled in the Program.

§10091.7(b)(1)(D): This subsection was amended to change the Loss Reserve Contribution percentage for loans made to non-Credit-Challenged Borrowers from 11% to 5%.

Necessity: This change is necessary to allow CAEATFA to more efficiently and appropriately deploy Loss Reserve funds in support of more loans, with the goal of driving program scalability. An 11% Contribution amount was established at the beginning of the GoGreen Home program. After analysis of seven years of loan and claim data, CAEATFA has observed, and Lenders have confirmed, that 5% is an appropriate Loss Reserve Contribution amount for loans to non-Credit-Challenged Borrowers and which are not Microloans, that will continue to provide adequate coverage for Lenders. This does not apply to Microloans, which shall continue to receive an 11% Contribution (see the proposed change described above in 10091.7(b)(1)(A)(ii)).

§10091.7(e)(1): This subsection was amended to preserve the existing Loss Reserve Account rebalancing method for loans enrolled prior to January 1, 2024. Sub-points have been subordinated for consistency.

Necessity: CAEATFA introduced a new rebalancing method that will come into effect on January 1, 2024. Loans enrolled prior to the introduction of this new method must and will continue to be rebalanced according to the original method, and so that method must remain in the GoGreen Home regulations.

§10091.7(e)(2): This subsection was amended to establish January 1, 2024 as the start date for a new Loss Reserve rebalance method to come into effect. As is the nature of a revolving Loss Reserve credit enhancement structure, Loss Reserve Contributions which are no longer needed, because loans have been paid off, shall be recaptured during regular “rebalancing” to be redeployed for more loans. Under this new method, CAEATFA will annually rebalance Lenders’ Loss Reserve Accounts by first recalculating the Loss Reserve Contribution amount using the same formula used when calculating the original Contribution. CAEATFA shall use the current outstanding Claim-Eligible Principal Amount rather than the original Claim-Eligible Principal Amount in this calculation. The sum of these recalculated Loss Reserve Contribution amounts will be considered a ‘target’ coverage balance, or the ideal Loss Reserve balance that would provide an appropriate amount of coverage considering current outstanding principal as well as any Borrower defaults that a Lender may experience. If the current balance of the Lender’s Loss Reserve Account is higher than this target coverage balance, the rebalance amount shall be the difference between the current balance and the target coverage balance. If the current balance of the Loss Reserve Account is lower than the target coverage balance, for example because there have been enough claims against the Loss Reserve to bring the balance down, no funds will be rebalanced out of the Account. As some Loss Reserve Contribution amounts will be calculated and recalculated against the Borrower’s credit score, and a Borrower’s changing credit score can reflect a change in their risk profile for the Lender, Lenders will also have the opportunity to provide updated Borrower credit scores.

Necessity: This new rebalance methodology more accurately reflects actual risk to Lenders and the loss coverage they need and has been generated after much engagement with GoGreen Home Lenders and much forecasting and analysis of past defaults and loan performance over the seven years that GoGreen Home has been enrolling these loans and paying claims. This new method will ensure Lenders retain appropriate loss coverage while allowing CAEATFA to redeploy Loss Reserve Contributions more rapidly for more loans, as the entirety of the initial Loss Reserve Contribution will not be encumbered in the Loss Reserve Account for the entire term of the loan. Rather, as each loan’s principal is paid off over the year, the corresponding Loss Reserve Contribution amount can be rebalanced and used to credit enhance other loans.

§10091.8. Loan Enrollment

This Section describes all the documentation and data required for a loan to be enrolled into the Program in order to receive a Loss Reserve Contribution. The Section covers documentation provided by the Contractor, Borrower, and Lender, though Lenders are responsible for compiling and submitting the package.

§10091.8 (c)(9): This subsection was amended to clarify that the census tract of an Eligible Property is only required for submission if the loan is a Microloan and the Lender is reporting the Borrower as an LMI Borrower for the purposes of receiving a 20% Loss Reserve Contribution.

Necessity: CAEATFA removed the Low Income Borrower via Census Tract designation as a trigger for a 20% Loss Reserve Contribution for all loans that are not Microloans. This amendment clarifies that Lenders only need to report the census tract of the Borrower's Eligible Property if the loan is a Microloan and the Lender is seeking a 20% Loss Reserve Contribution due to the Borrower residing in a Low Income Census Tract.

§10091.8 (c)(41) This subsection was amended to clarify that Lenders need to indicate if a Microloan should receive a 20% Loss Reserve Contribution due to the Borrower qualifying as an LMI Borrower.

Necessity: When there were three ways to qualify for a 20% Loss Reserve Contribution (Credit-Challenged Borrower, Low Income Borrower via Census Tract, or Low Income Borrower via Household Income), Lenders had to designate which option to enroll the loan under. Per the change described above to subsection §10091.7(b)(1)(A)(i), CAEATFA is limiting eligibility for a 20% Loss Reserve Contribution based on the Borrower qualifying as an LMI Borrower via Census Tract to Microloans, removing the Low Income via Household Income designation altogether, and automating the 20% Contribution based on Credit-Challenged Borrower status (see the changes described to subsection §10091.1(j) above). Therefore, this modification clarifies that only when the loan is a Microloan and the Borrower lives in a Low Income Census Tract do Lenders need to report that the Borrower qualifies as an LMI Borrower for the purpose of the 20% Loss Reserve Contribution.

§10091.17. Interest Rate Buy Down (IRBD) Disbursement

This section was added to describe what CAEATFA will do if CAEATFA secures funding from an external source to administer an interest rate buy-down (“IRBD”), in the form of a payment provided by CAEATFA directly to a participating GoGreen Home Lender to reduce the interest rate of a GoGreen Home loan. If CAEATFA is able to secure this external funding, it will 1) work with the funding source to develop an overview of the IRBD campaign’s terms and eligibility requirements (a “term sheet”), including information about the amount of IRBD funding available, target interest rates or rate reduction amounts, any maximum amount of IRBD funding available per loan (if applicable), eligibility criteria and the process by which Lenders may apply to participate in the IRBD campaign; 2) adopt that term sheet via formal resolution of CAEATFA’s Board, 3) publish the terms on its website and alert the public prior to the Board meeting, and 4) accept applications from Lenders to participate in the IRBD campaign.

Necessity: Interest Rate Buy-Downs (IRBDs) are a tool that financing programs can deploy to make financing offerings more attractive and increase uptake. IRBDs can deliver various benefits, such as incentivizing certain project types (e.g., whole building retrofits, or decarbonization/electrification projects), improving access for low- or moderate-income Borrower types, making projects more affordable for Borrowers, and driving Lender and Contractor participation in financing programs. Government- or utility-administered financing programs such as the Tennessee Valley Authority or MassSaves HEAT in Massachusetts have all successfully utilized IRBDs.

CAEATFA has identified a few potential sources of IRBDs for GoGreen Home, including federal, state, and local utility entities. Each funder has their own goals and requirements for eligibility; however an IRBD funder’s requirements will never supersede or amend, and instead will only be layered on top of, GoGreen Home’s existing eligibility criteria and requirements.

This potential variability makes it necessary to have a new section that specifies generally what will happen when CAEATFA secures IRBD funding and how GoGreen Home Lenders can participate, but still establishes a standardized, consistent, and public process.

The necessity for specific provisions of §10091.17 are included below:

§10091.17(b): This provision was necessary to specify the information that will be developed and made publicly available about the IRBD campaign via a “term sheet”. This information shall include information about the amount of IRBD funding available, target interest rates or rate reduction amounts, any maximum amount of IRBD funding available per loan (if applicable), eligibility criteria, and the process by which Lenders may apply to participate in the IRBD campaign. As mentioned, each source of funds may have dollar or timeline limits, geographic or measure restrictions, or other criteria for recipients and CAEATFA will need to explain the details and eligibility criteria of each IRBD campaign on a case-by-case basis. For example, an electric utility providing IRBD funding may decide that the IRBD should only be available for loans including gas-to-electric heat pump conversions. This provision also notes explicitly that the terms of the IRBD will never contradict existing requirements described in the regulations.

§10091.17(c): This provision was necessary to establish that CAEATFA will utilize the public process of a CAEATFA Board meeting to approve and publish the terms of participating in an IRBD campaign. CAEATFA will publish the terms of the IRBD and alert the “interested parties” that has already been established for other source of additional external funding prior to the Board meeting. This ensures that the terms of each new or amended IRBD campaign term sheet is transparently discussed and affirmed through the public forum of CAEATFA’s governing Board’s meetings.

§10091.17(d) This provision was necessary to affirm that a GoGreen Home Lender must agree to the terms and processes outlined in the term sheet, and that their participation in an IRBD campaign is contingent upon CAEATFA’s approval.

Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters are prescribed by statute applicable to the Authority or any specific regulation or class of regulations pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulation or to the Authority.

Mandate on Local Agencies or School Districts

The Executive Director of the Authority has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts (pursuant to Government Code Section 11346.5(a)(5)).

Fiscal Impact

The Executive Director of the Authority has determined that the Emergency Regulations do not impose any additional mandated cost or savings requiring reimbursement under Section 17500 et. seq. of the Government Code, or any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Sections 6601-6616, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required. There will be no cost or savings to any State Agency or effect on Federal funding to the State.

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