EIC C-PACE Advisory Committee Meeting
October 24, 2018

Susan Morth/EIC: Good morning, thank you so much for listening to our C-PACE Advisory Committee meeting today. I hope you all have the agenda in front of you. We are lucky enough to start this morning with some guest speakers. Jack Gray and Scott Ellithorpe from Assured Guaranty are on the line and will be speaking to us about the possibility of an insurance wrap to address a rogue municipality risk. Meaning under the Pay When Received (PWR) product if a municipality were for some reason to receive the PACE assessment funds and not turn them over to EIC's trustee or if the municipality would not foreclose in their normal usual promised fashion. That's our first topic.

Our second topic, hopefully you've had the chance to review the attached document. Which is our PWR non-bonded finance structure, we are looking for feedback from capital providers on that.

Lastly, we would like to ask the group what their minimum deal size requirements might be. Trying to understand the availability of PWR capital for smaller projects.

With that introduction, if I may turn it over to Jack Gray, Managing Director of Structured Finance at Assured Guaranty.

Jack Gray/Assured Guaranty: Thank you, Susan. I'm Jack Gray, I run a structured municipal practice here at Assured Guaranty. Assured Guaranty, as I'm sure some of you are aware, is a bond insurer. We insure financial risk, repayment of debt, we are the only bond insurer that continued writing business straight through the crisis. We got no bail out of any kind. We are rated AA by S&P for our claims paying capability. Our website has a lot information about us, should you want to find out more about who we are and what we do.

Susan actually gave an excellent summary of the risk that we have been asked to consider insuring over. We have done some preliminary work both with legal and on the credit side. Basically in the PWR outline, I think you all have, what Susan described as the rogue muni risk boils down to B romanette two, three, and five in terms of the obligations that the municipality assumes in entering into a C-PACE transaction with EIC. I guess I'll stop there, it's fair to say that many details of how this might work will be transaction specific and funding specific on how the ultimate vendor, if you will, will be financing their loan. But we are ready and in fact enthusiastic to try and work through some of those details and take a live deal through our credit process. I'll stop there. That is basically where we are on this.

Susan: Are there any questions, please jump in with a question or if you need a clarification.

Jack: Well, either we were quite synced or thorough or the specifics will matter, as I said. Another thing I'll say is you all have my email from the invite to this meeting. To the extent you want to reach out to me directly and work through some ideas you might have I'd be happy to of course to field, in fact very enthusiastic, about fielding those phones calls and having those discussions.

Eric Alini : Just a quick question, assuming it wasn't the first deal, do you have an idea of what the timing of what your process might be on top of the normal credit process we would have?

Jack: Eric, it's fair to say, let me put it this way, with the first deal you are right to characterize it will be more of an iterate process and that of course will burn more time. By the time you have sorted through what we are going to need in terms of information and just as important, I think, is sorting through the specifics for the given jurisdiction. In other words it's from my understanding from talking to my credit colleagues, is that Nassau County will be different from Westchester County. Not necessarily in large substantial ways but in small but important ways, like timing. Like what is their protocol? Once we've gotten that basic stuff down and understood, I think we can be no more than a couple of weeks and that can run parallel with your own credit process.

Eric: Okay, thank you.

Susan: So, if there are no further questions, I just reiterate, Jack generously offered capital providers should reach out directly to Assured Guaranty as EIC is not involved in this process. We are just hoping to facilitate the answers to concerns and questions which, again, is the purpose of this advisory committee. So, thank you Jack, and thank you so much Scott.

Susan brought Cliff and Genevieve up to date with the discussion thus far, as they joined the meeting late.

Cliff: I've heard that to the moment the possibility of this insurance is deal by deal and it's too early for it to be generally available. Could you describe that?

Jack: You are absolutely right, it is too early. I think the only practical way to kind of ramp this up, having thought about it. That's my opinion, I would be happy to entertain and explore other options. But I agree with you that practically speaking that an individual transaction, presumably a reasonably large one, would be a good way to prime the pump here and to get something done, proof of concept as it were. The key is, you can get into fairly tricky weeds, and we have in the preliminary work we've done with okay, how do you parse a rogue municipality's lack of fulfilling its obligation from a loan that shouldn't have been made because the underlining property with the PACE improvements added is just not economically viable at all. Obviously, that is an unusual circumstance but not unheard of. My favorite example as many of you have heard of, is when I moved to this city there were vast tracts of Manhattan that were simply abandoned for non-payment of taxes obviously that was a long time ago, I'm showing my age, but it happened and so leaving aside those very extreme scenarios I think we would love ultimately to figure out a programmatic way to put together a large pool of C-PACE loans that would support each other as it were for this very narrow risk that we have been asked to look at as opposed to the broader risk of the general commercial real estate viability of the C-PACE. I think working out those complexities will be a quality problem for all of us but you are absolutely right. Cliff, the first step will be an individual transaction.

Susan: Any other comments? Thank you again, Jack and thank you again Scott. Moving on to the other attachment, the PWR non-bonded finance structure. I am hoping some of you've may have had a chance to review this. We've been asked by capital providers if they must bond transactions in New York State and the answer is no, so we are working on with our lawyers creating a structure for a non-bond financing and we're looking for input from capital providers today and also you know going forward. I know that one or two of you have reviewed this and I think we do have some questions or comments so I will open to the group.

Josh Smith/Petros: One question I did have is there a specific reason why document #3 the Non-Recourse Promissory Note from EIC to the Lender, if you look at a promissory note rather than just an assignment of all revenue received by EIC from the lender?

Mark Thielking: I don't know why we took that approach, we will have to ask our counsel and follow up.

Josh: Sure, ultimately all that we are sort of expecting is to get any money that you get to get to us, so for my mind it seems like an assignment might be a little easier on everybody than an actual note that sort of connotes obligations if money is not actually transferred, I don't think anyone was intending.

Susan: That's a good question, thanks so much. We will ask our counsel and definitely get back to you on that, thank you.

Michael Yaki/Clean Fund: I have a quick question, when you are contemplating the EIC trust account issue, is that trust account going to be per property or is it per municipality, I'm just wondering for the document how that was structured?

Susan: That would be by capital provider, I think that would be the answer. So it is not by municipality, the intention is that each capital provider would have their own sub-account, their account at the trustee level so it wouldn't be by municipality, we are looking at this by capital provider.

Michael: Okay

Jormen Tse/Bank of America: I had a question about the municipal agreement. In regards to EI underwriting standards is that something that will be circulated for the PWR program or is that something that can be customized per lender?

Susan: I think that you are asking a question that is near and dear to Cliff Kellogg's heart, so you're asking a question of where is the handbook for PWR and what are the underwriting criteria because they are different and so we are putting together something that I am promising to get out to the group before Christmas and Hanukkah. So there will be underwriting standards similar to our make whole program that I know B of A is familiar with like bankruptcy and you have to have paid your taxes on time but other components are not to be the same and there won't be a 35% cap on the value of the property, there won't be a 20 year term limit. There are many things that will be easier and less restrictive under PWR PACE, Jormen. You've hit the nail on the head, we don't have a handbook for that yet and also the fees are different. We've talked about a one and a half % upfront fee with a cap of $75,000 an a 25 basis point adder on the interest rate. So that is sort of the sketch of where we are and then there new and recent C-PACE guidelines from NYSERDA that apply to both the Make Whole program and the PWR program but they involve a cost benefit ratio, there is no SRI test any more. I think the effect here is that New York State has gone from the more restrictive PACE programs to one of the least restrictive more progressive programs under NYSRDA's new and very well thought out C-PACE guidelines. We are working on a new handbook expressly for the PWR program and I was going to surprise Cliff with my Christmas gift, but we will get it out before mid-December.

Jormen: Thank you.

Cliff: I was just going to say Thank you and acknowledge that Susan. Isn't Hannakah earlier than Christmas?

Susan: It is, Cliff

Josh: I know you have a number of municipalities that have already opted into PACE 2.0 or at least a handful of them, does the opt into to PACE 2.0 include opting into the non-bond structure or would you need to go back to those municipalities for the non-bond structure?

Mark: We do not have to go back to the municipalities to do non-bonding, that structure is acceptable.

Susan: But we do have to go back to our municipalities that are onboard for the make whole and have them sign the PWR addendum. So there is a little something for them to do but we have that addendum in front of all the existing 40 some odd existing municipalities that are in our original program and as we are rolling the PWR product out to municipalities that are not members we are making it clear and a press release that will be forthcoming from us this week advertises the fact that going forward municipalities will clearly know that they can sign up for the Make Whole Only, Make Whole plus PWR together, they can do both or if they like they can do just PWR. We are allowing the municipalities have the choice and making it very clear now in our press release and documentation that we have two programs and they can pick and choose the ones that are right for that particular municipality.

Josh: Perfect, and I know that you guys keep that municipalities list pretty up-to-date. Is it also possible to get a designation for the jurisdictions that have opted into PWR?

Susan: Absolutely, we can add that our already multi-colored map.

Josh: Thank you.

Susan: Thank you Josh, good suggestion.

Genevieve: I had some questions related to other documents that would sort of fit around this financing agreement, is the thinking that this whole financing agreement would be recorded on the land records? And I also had a question may be related to Josh's question on the Promissory Note, which was what is the form of assignment of this financing agreement to the lender or is the lender party to this agreement as well, what is the chain of connection from this owner EIC agreement back to the lender and which documents are recorded. And, as a last question to that, how would the financing agreement if the lender is not a party to it take into account the lender's disbursement and construction requirements which will most likely be different from lender to lender?

Mark: Genevieve, it's Mark. Good to hear you on the phone. The concept on the finance agreement is that EIC alone would be a party but we do need feedback from all of you on how that work because you as a party to essentially disbursement of capital needs to have your rights reflected in a portion of that finance agreement maybe an addendum, it might be an attachment. That again is the feedback we are looking for on this. We recognize that is a key component of the finance agreement that should be and we are conceptualizing and thinking that the agreement we have today that we use for our current product would be radically different and a much tighter document reflecting basically our rights in the agreement between the property owner and EIC and then there would be a much bigger addendum with your concerns or components attached to that. But that's again conceptual at this point. And that can actually be customized, I believe, with each capital provider. It doesn't have to be a template process. What was the other question?

Genevieve: Got it. I asked if you were anticipating the financing agreement be recorded on the property records?

Mark: What we are doing on the recordation of the county records is only recording the charge not the agreement and this is specifically because the charge is actually the component that is most material to the property owner and also avoids the pathway of a loan or mortgage because technically it is not and we do not want to go there so we are only recording the charge which is obviously governed by the law and all that.

Genevieve: That would support Josh's suggestion that you ditch the promissory note because that would also make it look like a loan. We would be happy to give you feedback on that. I think what might be helpful for Greenworks and I'm sure others on the phone, could you explain to us what is the rationale for the parties of the finance agreement to solely be EIC and municipality. I think that will help us frame our feedback more constructively in terms of how you build other documents around this base document that you are drafting?

Mark: I am not the lawyer, but I can only reflect what I heard but in essence the local law and municipal agreement only speak to EIC being a constituted authority that is allowed to enter into an agreement with the property owner it would be either be the municipality or EIC in those documents. But again, we will raise this and get a more succinct answer.

Genevieve: Okay, great.

Susan: Anything else at the moment on the non-bonded structure? Okay, last topic, I think, on the agenda is as many of you do know in the past we have one PACE program in New York, which was our Make Whole program. One of the very nice things about the Make Whole is it did allow for not-for-profits and other commercial property owners that might not have had the best credit to be able to access PACE financing. We did twenty deals or so in our Make Whole program and the average size was about $200,000 and we did some that were much smaller than that and a few quite a bit bigger. We are wondering what the availability of capital is going to be under the PWR program for smaller projects. Are there firms on the line here that could say we would be interested in seeing deals of $100,000 or bigger $200,000 or bigger? Because EIC does get a lot of incoming phone calls from contractors and also from property owners and we are going to be very transparent and offer those property owners both choices. We are going to say that EIC has internal capital, here are our rates, here is what we can do for you. Alternatively, we will have a list of all of you guys on our website as approved capital providers and will encourage people to view what outside capital providers have to offer. We are just trying to understand internally, if anyone would like to give us feedback on do you have minimum deal sizes or anything else; comments on what we just said on how we can best inform everyone nationally what New York has to offer and be as open a possible about the fact that there is a choice here for municipalities, there is a choice here for property owners, and everyone can pick what works best for them.

Cliff: I can't directly answer that question, but many other capital providers can or we can survey our members if that will be helpful? But I wanted to ask, when you said you had your own capital, you are referring to the Make Whole program, is that right?

Susan: That's correct. Bank of America is our capital provider for our A and higher rated municipalities and Rosemawr Investment Management is our capital provider for below A rated municipalities. When I refer to EIC's own capital I mean those two capital providers depending on the rating of the municipality involved.

Cliff: I'm wondering if EIC with it's Make Whole program will intentionally direct that capital to the smaller transactions which I think always are a little more expensive to complete and I know a number of capital providers have put in minimums that probably do not reach some of those deal sizes you talked about and I'm wondering if EIC intends on directing that capital especially to that market?

Susan: I think what we are saying is we had assumed that the smaller deals would not be of interest to national capital providers but where I've stopped myself is, I'm not going to assume anything. It might be that a capital provider that never did a deal below $5 million decides we are going to specialize in one to two hundred thousand dollar solar projects for a certain class of not-for-profits. I don't want to assume to know something that I don't, but if the answer is most capital providers are not interested in small deals then we would just like to know that and also to say that if there is any information you can give us about what your future intentions might be we would interested in knowing and if not then that is fine too. We just wanted to open it up. I know that Genevieve is on the phone from Greenworks Lending and we've all read about the great deals they have done for not for profits, I'm thinking off the top of my head, Greenworks might be interested in a lot of projects we see coming into us. We are just wondering would there be others that would be interested as well?

Genevieve: Greenworks doesn't really have a project size minimum and we fund a lot of projects of the sizes you just mentioned. One question I did have about what you just of what you will show to customers, my understanding is that the rates for the Make Whole program are lower and would appear favorable to the building owner but they obviously come with strings attached in the form of much more stringent underwriting requirements. Can you walk us through how you guys are thinking about explaining to folks that call into the program sort of how to think about the PWR vs Make Whole, which you won't call it that to customers. Just how will you be explaining the different options to them and the only reason I ask is because interest rates are a very powerful sort of sticker that tell customers a lot about what they perceive as price and overall cost and without telling them much about overall value and process. So we would be interested to understanding how you would be aligning that through your marketing. I don't know if you have the answers now but in early thinking, I'd be interested to know.

Susan: I think that is a really great question and we have done a lot of thinking about that and have internally anyway we understand that while our EIC interest rates inside the Make Whole may or may not be lower than outside capital providers. That is one debate, but let's assume they are lower, as you said it's not an apples to apples comparison because we do have some restrictions about the value of the property, the 35% cap, twenty year term limit, also you are not benefitting from a sophisticated well-oiled machine as it relates to the Greenworks internal process vs our internal process. You know we are a very small not-for-profit, we don't have the employees, we don't have the computer systems. This isn't going to be our two hundredth financing we've done. We have a track record of getting them done and we are not afraid to do those deals, but we do appreciate that customers may not be interested in having to provide us documentation on many occasions they rather maybe have someone sweep in and just do everything for them so they don't have to think about it. I think that's the kind of conversation we are going to have with folks maybe on some very less complex deals we might wind up being a better choice for a client but also we have had conversations, Genevieve, with solar developers who wish to kind of roll a type of a solar installation through a subset of customers. Maybe that particular solar company may be better off having a relationship with an outside capital provider because they don't understand PACE financing, they would have to call us many, many times before they got it straight. It's very hard for them to have the inside expertise to be able to smoothly execute on a PACE financing with us for a customer. So I mean, you hit the nail on the head and we are hoping to strike that right balance and if anyone has any feedback or wants to send us a one page on the benefit of using outside capital we are happy to review that and to suggest those possibilities to clients going forward. I guess what it is, is we just want to facilitate as many deals as possible and make sure everyone knows they have choices and hopefully it all works out. We are not going to be trying to sell every incoming phone call on us. I hope that answers your question.

Genevieve: Yes, it does.

Susan: Anybody other than Greenworks that might be interested in smaller sized deals, you can let us know offline that would be great.

Cliff: I'll certainly talk to the members of C-PACE Alliance.

Susan: Thank you, Cliff. We will open now to any questions that might be from the audience. If not, we thank everyone for their participation. It's very important to us to benefit from your knowledge, we really appreciate the fact that you all have done a lot of PACE deals nationally and have a tremendous amount of very valuable experience and we are really thankful to benefit from that as we roll out our new programs here. Thank you everyone.