

February 16, 2018

VIA ELECTRONIC MAIL

Director Melvin L. Watt
Federal Housing Finance Agency
400 7th St., S.W.
Washington, DC 20024

RE: URLA and Language Access Implementation

Dear Director Watt,

On behalf of the Americans for Financial Reform LEP Task Force,¹ we applaud the Federal Housing Finance Agency's (FHFA) decision, announced on October 20, 2017, to include a question on the redesigned Uniform Residential Loan Application (URLA) about the borrower's language preference. This is a critical step toward improving language access in the mortgage market, and expanding the opportunity for borrowers with limited English proficiency, immigrants, and other underserved borrowers to access sustainable, affordable homeownership.

In addition to the decision to include language preference in the URLA, we want to recognize FHFA's work on a variety of other language access issues over the past year. This includes the language access provisions in the 2017 scorecard for Fannie Mae and Freddie Mac (together the Enterprises), the Requests for Input on this topic that FHFA issued in 2017, the research the agency commissioned in order to better understand the barriers faced by non-English-speaking borrowers, and the language access plans the agency has asked the Enterprises to develop.

All of this work has laid the foundation for significant improvements in the ability of non-English speaking borrowers to better understand the mortgage transaction and better obtain fair access to mortgage credit. It also will support improvements in industry tools and practices that will result in better communication and outcomes between borrowers and servicers during the life of a mortgage, including when a homeowner faces a hardship.

A number of additional steps, both immediate and longer term, are critical to realize fully the benefits of FHFA's work on improving language access. We describe these steps below.

¹ Americans for Financial Reform (AFR) is a nonpartisan and nonprofit coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups. AFR was formed in the wake of the 2008 crisis, working to lay the foundation for a strong, stable, and ethical financial system. AFR's LEP Task Force was formed to advocate for improved language access for borrowers with limited English proficiency (LEP borrowers) as they navigate the financial marketplace. For the past two years, our task force has been focused specifically on improving language access in mortgage lending and servicing. The task force includes representatives from a range of consumer, community and civil rights organizations, including Connecticut Fair Housing Center, Consumer Action, Empire Justice Center, Mobilization for Justice, Inc., National CAPACD, National Consumer Law Center (on behalf of its low-income clients), National Fair Housing Alliance, National Housing Resource Center, and UnidosUS, among others.

Immediate Actions

1. **Direct the Enterprises to establish policies and required procedures to facilitate collection and transfer of borrower language preference information.** Collecting the borrower's language preference on the mortgage application will help ensure that mortgage originators are aware of the language needs of applicants, and can provide them with oral interpretation and translated documents, to the extent that these are available. This will help ensure that borrowers understand the terms of the loan and make well-informed decisions. The benefits of collecting language preference may be even greater in mortgage servicing. This aspect of mortgage lending is less familiar to most borrowers. Clear, understandable communication is critical to enable borrowers having difficulty making their mortgage payments to understand the options available to them and to be able to seek assistance from their servicer. But these benefits only will be realized if the language preference information that is collected on the URLA is also included in the loan file and transferred along with servicing rights.

The Enterprises can play a pivotal role in promoting language access by requiring that lenders selling loans to them or companies servicing loans on their behalf must maintain any collected language preference information and transfer it to any subsequent holder or servicer (and these subsequent parties also would be subject to such a requirement). It is our understanding that at least one major vendor of mortgage origination and servicing platforms already has an existing mortgage servicing platform that allows servicers to capture language preference at no additional cost, and that it will update its origination platform to incorporate the collection of information from the recently announced revisions to the URLA, including language preference. This infrastructure will enable lenders to capture language preferences reported by borrowers. We would expect other vendors to follow suit and modify their platforms to capture all of the new data fields, including language preference.

While we expect the technology and infrastructure to be updated, these changes alone are not sufficient to ensure the systematic collection and transfer of the data. Establishing a policy concerning the collection and transfer of data is crucial to ensure that servicers and lenders take action. We have seen examples in the past where policy changes by the Enterprises resulted in broad changes in industry practice. One such example occurred in 2000, when the Enterprises announced that they would no longer purchase mortgages with single premium credit insurance, an expensive product that was very lucrative for lenders but offered virtually no benefits for borrowers. Because of the Enterprises' policy action, single premium credit insurance essentially disappeared from the mortgage market. This is just one example of the Enterprises' unique ability to influence practices in the market. It would be extremely beneficial for them to use that influence to ensure that the language preference data collected on the URLA is used to help borrowers throughout the life of their loans.

We urge FHFA to take immediate steps to require the Enterprises to put in place the policy guidelines that will ensure that lenders capture language preference at the time of

loan origination and that servicers request and transfer the information to all parties involved in servicing over the life of the loan.

Short-Term Actions

- 2. Provide and Mandate the Use of Translated Disclosures and Documents.** Providing translated disclosures and documents to mortgage borrowers with limited English proficiency can improve access to origination and servicing. As discussed in further detail below, in the section on Long-Term Actions, the Enterprises should work with other federal agencies to take steps to create and publish translated versions of disclosures and other key documents in the top eight languages spoken by consumers with limited English proficiency. According to the U.S. Census, these languages are: 1) Spanish, 2) Chinese, 3) Vietnamese, 4) Korean, 5) Tagalog, 6) Russian, 7) Arabic, and 8) Haitian Creole.² FHFA and the Enterprises could work with other agencies, such as the CFPB, in developing and updating such translated documents. We discuss the translation of disclosures and the need to require provision of those disclosures in greater detail in our RFI comments.³

FHFA should require the Enterprises to establish a timeline for producing these translated disclosures and documents in their forthcoming language access plans. Once the translated disclosures and documents have been approved, FHFA should require the Enterprises to mandate their use. Translated origination and servicing disclosures should convey, in the borrower's preferred language, the purpose of the translated disclosure as well as providing the translated text and the accompanying English document. On the origination side, this will help ensure borrowers understand the terms of the loan agreement into which they are entering. On the servicing side, this will allow homeowners to be informed of their financial obligations and improve their contact and communications with their servicers. While translated documents should be provided, the English documents would remain the official, legal ones.

FHFA should work expeditiously to ensure that key disclosures and documents are translated into the eight languages most widely spoken by LEP consumers. Some disclosures and documents have already been translated into Spanish but not, to our knowledge, into any other languages. FHFA should instruct the Enterprises, in their language access plans, to specify how and when they will translate these documents into the other seven widely spoken languages, and once approved, specify when their use will be required by lenders and servicers.

- 3. Provide Oral Language Assistance.** Clear communication between borrowers and lenders, and between borrowers and servicers, is essential to effective interactions that serve the interests of both parties. In addition to the points about the translation of

² U.S. Census Bureau, 2010–2014 American Community Survey 5-Year Estimates, American Community Survey (Washington, DC: U.S. Census Bureau) Table B16001 (accessed February 22, 2016).

³ <http://ourfinancialsecurity.org/wp-content/uploads/2017/08/AFR-Task-Force-Response-to-FHFA-RFI-on-Language-Access-7-31-2017.pdf>

documents discussed above, it is important to address verbal communication. In our experience, the term “translation” refers to written documents, and the term “oral interpretation” is used to describe the provision of language assistance in oral communications. Effective oral interpretation requires the interpreter both to speak the appropriate language and to have appropriate cultural competence and subject matter expertise. The existing structures for providing oral interpretation to non-English-speaking borrowers have some significant gaps. Because these issues are industry-wide, and not limited to any particular lender or servicer, it makes sense to take an industry-wide approach to solving them. With their ability to influence the overall mortgage market, the Enterprises are well-suited to take a leadership role in finding ways to close these gaps. FHFA should direct the Enterprises to develop oral interpretation programs as part of their language access plans and to expand access to such services within a reasonable timeline.

There are several means through which non-English-speaking borrowers currently get access to oral language assistance. These include using the services of HUD-approved housing counseling agencies with bi-lingual staff, receiving assistance from bi-lingual lender/servicer staff, accessing language line oral interpretation by telephone, or using independent interpreters, who may be friends, family or others.

Of these, HUD-approved housing counseling agencies are the most likely to have both the language and subject-matter expertise needed to serve as effective links between borrowers and lenders and servicers. However, the two currently available search tools to find housing counseling assistance do not allow users to find counseling agencies in a given geographic area with language capacity in any given language. The CFPB tool is searchable by geography but not by language, and the HUD tool is searchable only by language and state. FHFA should direct the Enterprises to take the lead on building on the existing tools to create a new tool that would allow users to find counseling agencies by both geography and language capacity.

Additionally, there are existing networks available to connect lenders and servicers with HUD-approved counseling agencies. For example, there are organizations that operate hotlines that allow a lender or servicer to call when they have a client in need of counseling or coaching, and this model could also be broadened to oral interpretation. The hotline could conduct a brief intake and then refer the client to a HUD-approved counseling agency with the needed language capacity. There are several statewide and nationwide networks with similar capacities. These models are scalable and could be very useful in connecting consumers in need of oral interpretation with HUD-approved counseling agencies with language capacity. We believe a reasonably small investment from the Enterprises would allow the scaling of existing models to greatly improve the ability of lenders and servicers to connect their clients with language needs to HUD-approved counseling agencies that can meet those needs.

Language lines, bi-lingual lender/servicer staff and independent interpreters also have language capacity and can be a helpful resource, but too often lack subject matter

expertise in mortgage origination and servicing. This can result in misinformation, information gaps and similar problems that disadvantage borrowers, in some cases even contribute to avoidable foreclosures. FHFA can support the industry and benefit borrowers by directing the Enterprises to establish standards for subject-matter expertise for language line service providers, and offering training (and perhaps even certification) to those interpreters as well as to bi-lingual loan officers and other lender or servicer staff who may be called upon to interpret on behalf of customers. For example, the Fannie Mae Servicing Guide already requires servicers to “employ multilingual staff, if applicable, to communicate with the diversity of borrowers whose mortgage loans it services, or making translation services available to the borrower.”⁴ The Enterprises can build on this requirement by requiring servicers to ensure proper training for their multilingual staff and the translation services they use. Oral interpretation and language assistance resources should be made broadly available for the LEP population.

Long-Term Actions

4. **Accept non-English documents in mortgage origination and servicing.** As borrower demographics continue to change, the Enterprises should facilitate the acceptance of non-English or translated documents, in addition to those available in English. This is an area ripe for further examination by a convened working group.
5. **Establish a Clearinghouse.** FHFA’s RFI discussed the creation of a clearinghouse of resources that could be used by lenders and servicers as well as by borrowers, housing counselors and attorneys. A clearinghouse that includes key translated disclosures and documents would be useful for lenders and servicers. A clearinghouse should collect, aggregate and distribute, or make accessible, language resources to the industry. A clearinghouse also can aggregate [glossaries](#) of terms in the top 8 languages. Once these translated resources are in the clearinghouse, FHFA should direct the Enterprises to require their servicers to use them when serving borrowers with limited English proficiency.
6. **Establish a Working Group.** FHFA and the Enterprises should work with stakeholders to develop policies to expand language access. A working group should be comprised of other federal agencies such as the CFPB, USDA, FHA, HUD Office of Fair Housing and Equal Opportunity, HUD Office of Housing Counseling and the federal banking regulators, as well as members of the industry and advocacy communities. Its main role would be to monitor language access developments in the mortgage market and ensure continued expansion by engaging both in research and policy development. For example, the working group could explore implementation of existing rules and potential expansion in areas such as acceptance of non-English documents. It also could work to identify additional languages in which to translate documents to make sure the disclosures/documents reflect changes in the market. The working group also could be responsible for ensuring that glossaries and other materials are updated and reflect changes in the market. More broadly, the working group could develop field testing and

⁴ Fannie Mae Servicing Guide, A4-1-01, available at <https://www.fanniemae.com/content/guide/svc121317.pdf>.

other methods to determine the effectiveness of existing policies and identify ongoing needs in the market.

We would appreciate the opportunity to meet with you to discuss these matters in greater detail. In the meantime, if you have any questions, please feel free to contact Debby Goldberg, National Fair Housing Alliance, at dgoldberg@nationalfairhousing.org and (202)898-1161 ext. 112, or Agatha So, UnidosUS, at aso@unidosus.org and (202) 776-1724. Thank you for your consideration of our views on these critical matters.

Sincerely,

Americans for Financial Reform LEP Task Force