

April 18, 2018

Federal Housing Finance Agency
Office of the Director
400 7th Street, S.W.
Washington, D.C. 20219

Dear Director Calabria and FHFA staff,

The Americans for Financial Reform (AFR) Language Access Task Force¹ and the undersigned organizations applaud the Federal Housing Finance Agency's (FHFA) continued support to broaden access to homeownership for creditworthy borrowers with limited English proficiency. In 2017, approximately 26 million individuals in the United States were considered limited English proficient (LEP), making up 8.5% of the total U.S. population.² Despite this sizable need and opportunity, the language needs of many current and potential homeowners are left unmet in the mortgage marketplace. Access to the mortgage market remains a formidable challenge for LEP borrowers. For the past few years, the AFR Language Access Task Force has focused on improving language access in mortgage lending and servicing and appreciate FHFA's ongoing attention to this important issue. We were pleased to see language access provisions in the 2019 scorecard for Fannie Mae and Freddie Mac (together the Enterprises), including making progress on the Enterprises' multi-year language access plans.

We commend FHFA for including a language preference question on the Uniform Residential Loan Application (URLA). This is a critical step toward improving language access in the mortgage market and expanding the opportunity for LEP borrowers, immigrants, and other underserved borrowers to access sustainable, affordable homeownership. As we discuss further below, FHFA's progress in this area promotes market access while enhancing lender compliance and market coverage.

We also applaud FHFA's language access progress in additional areas over the past few years, including the language access provisions in the 2017 scorecard for the Enterprises, the Requests for Input on increasing language access in the mortgage process 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 their mortgage transaction and better obtain fair access to mortgage credit. It also will support improvements in industry tools and practices

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's Language Access Task Force was convened to advocate for improved language access for borrowers with limited English proficiency as they navigate the financial marketplace. Members of the AFR Language Access Task Force include Center for Responsible Lending, Connecticut Fair Housing Center, Consumer Action, Empire Justice Center, National Fair Housing Alliance, National Consumer Law Center (on behalf of its low income clients), The National Council of Asian Pacific Americans, and UnidosUS.

² https://www.migrationpolicy.org/sites/default/files/datahub/MPI-Data-Hub_LEP-Population_US-States_1990-2017.xlsx

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.

Members of the AFR Language Access Task Force are actively engaged in the FHFA Language Access Working Group, which has provided us the opportunity to work with FHFA and industry stakeholders to move forward the discussion on how to improve language access in mortgage transactions. We applaud FHFA for creating the Mortgage Translations clearinghouse for Spanish language documents and resources this past year. The expanded Spanish glossary and Spanish translated documents in the clearinghouse are a valuable resource for Spanish-speaking borrowers and the loan officers and advocates who serve them. FHFA's continued work to provide similar resources in Chinese and Vietnamese builds on these accomplishments and broadens the agency's impact. We look forward to continuing this work with FHFA.

FHFA has played a critical role in increasing the capacity of lenders and servicers to deliver standardized, quality services to LEP borrowers by providing translated documents and offering oral language interpretation. We recognize the concerns raised about using translated documents; among them, the importance of clarifying the role of translated documents in the mortgage process. The advantages to providing LEP borrowers with translated documents are significant. First, translated disclosures enable borrowers to be better informed about the terms of their transactions, and the written nature of the material allows a borrower to share the information and obtain counsel from a trusted advisor, such as a housing counselor. Second, translated forms allow an applicant or borrower to provide necessary information more easily. Third, because translated disclosures (and translations of the note and security instrument) are to be used for informational purposes only and do not constitute the legal contract, such documents provide crucial information while retaining certainty around the transaction documents themselves. Borrowers can and should be informed that the translated disclosures are only being provided for explanatory purposes and that the official recorded transaction documents are in English. Finally, FHFA and the Enterprises have already created and approved official translated documents, and placed them on the Mortgage Translations webpage, a publicly available web platform. The documents can be downloaded in accessible formats, at no cost. This ensures the accuracy and standardization of translations for lenders and servicers, while reducing the cost and risk because the documents are easily accessible and recognized as accepted by FHFA and the Enterprises.

As FHFA and the Enterprises look ahead in the multi-year language access plans, we encourage FHFA to consider the development of bi-lingual forms, to build on existing efforts to improve language access in origination and servicing while increasing efficiency. FHFA also should ensure that the information on language preference collected in the uniform application is retained and shared with the servicer, to ensure language access, to the extent such services are available, throughout the life of the loan.

We encourage FHFA's coordination with other regulatory agencies, including collaboration with the Consumer Financial Protection Bureau (CFPB) on the glossaries for the clearinghouse. We support the formation of a federal interagency working group to examine strategies for better serving the LEP population. But regulatory coordination should not limit or slow FHFA's continued work on translated documents and other improvements to increase access to the mortgage market for LEP borrowers. Moreover, we think it is important to acknowledge that

FHFA has already been in dialogue with various federal regulatory bodies regarding its language access initiatives while these plans are being developed, including the CFPB, the Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), the Veterans Administration (VA), and the Joint Task Force on Federal Lending (which includes the OCC, FDIC, and DOJ).

While we are aware that concerns have been raised about increased risk and legal uncertainty relating to the use of translated documents and the collection of language preference information, identifying LEP borrowers and providing them with services and translated documents serves to limit legal exposure while promoting compliance. As explained in detail in our comments to FHFA's RFI on Language Access in 2017,³ asking borrowers about their language preference will not result in increased liability under state laws, and providing in-language services can enhance lenders' and servicers' compliance with fair lending laws. Lenders and servicers are more likely to face liability for unfair or deceptive acts or practices or under state laws for *not* providing translated documents and oral interpretation, especially where the initial negotiations were not conducted in English. The CFPB already has determined that disclosures describing the limits of translation services are permissible and effective, which protects lenders and servicers while allowing them to provide available in-language support as more resources are developed. The existing legal framework balances sufficient protections for lenders and servicers serving LEP borrowers in-language with important safeguards to protect LEP borrowers from harm as they navigate the mortgage market.

LEP borrowers are an important and growing segment of the consumer marketplace and FHFA should build on its accomplishments to make mortgage lending and servicing fully and fairly accessible to them. AFR's Language Access Task Force looks forward to continuing our work with FHFA and the Enterprises to improve language access for LEP borrowers in the mortgage market.

If you have any questions about the perspective shared by the AFR Language Access Task Force and the undersigned organizations, please contact Linda Jun at linda@ourfinancialsecurity.org or Agatha So at aso@unidosus.org.

Sincerely,

AFR Language Access Task Force
Americans for Financial Reform Education Fund
California Reinvestment Coalition
Center for Responsible Lending
Community Legal Services of Philadelphia
Connecticut Fair Housing Center
Consumer Action
Empire Justice Center

³ Available at: <http://ourfinancialsecurity.org/wp-content/uploads/2017/08/AFR-Task-Force-Response-to-FHFA-RFI-on-Language-Access-7-31-2017.pdf> (submitted on Jul 31, 2017) and <http://ourfinancialsecurity.org/wp-content/uploads/2017/10/FHFA-LEP-RFI-2nd-submission-of-AFR-et-al-9-1-17-1.pdf> (submitted on Sept 1, 2017).

HomeSmart NY
Massachusetts Communities Action Network
MHANY
NAACP
National Consumer Law Center (on behalf of its low income clients)
National Fair Housing Alliance
National Housing Resource Center
The Leadership Conference on Civil and Human Rights
The National Council of Asian Pacific Americans
US PIRG
Woodstock Institute