

September 9, 2024

Submitted via email to: 2024-NPRM-MortgageServicing@cfpb.gov

Comment Intake – Mortgage Servicing
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street NW, Washington, DC 20552

Re: Docket No. CFPB-2024-0024; RIN 3170-AB04

Dear Director Chopra,

On behalf of the clients, communities, companies, and borrowers we serve, we are writing to encourage the Bureau to consider, as part of the proposed Regulation X mortgage servicing rule, practical ways to provide language assistance to borrowers with limited English proficiency (“LEP”).

Our organizations support the Bureau’s efforts to provide LEP borrowers with access to language assistance. We believe there are meaningful and operationally feasible approaches that can be pursued to improve language access for borrowers, which we will detail in our individual comment letters.

While we support the Bureau’s efforts to provide language access in the mortgage market, we write to you jointly to express our shared concerns regarding the marketing-related component of the Bureau’s proposed LEP requirements, in which, upon borrower request, a servicer must provide translation or interpretation services for any language the servicer knows or should have known was used in marketing to the borrower. We believe that this particular standard is too broad and operationally cumbersome for servicers to execute; as a result, it has the potential to constrain, rather than expand, language access.

Specifically, the proposal is vague on key policy elements crucial to effective implementation, such as: what is the Bureau’s definition of “marketing,” what does it mean for a borrower to “receive marketing,” and what are the criteria that will be used to determine when a lender “should have known” that a loan was marketed in another language? These concepts are not defined or sufficiently explained in a manner that clarifies the conduct that triggers the relevant obligations.

In addition, marketing practices are not currently tracked or monitored across companies in a way that would enable one company to determine whether a borrower received non-English language marketing materials or conversed with another company’s loan officers in a language other than English. This is especially true when the entity servicing the loan is distinct from the entity that originated the loan.

In sum, while we appreciate the Bureau’s attention to language access and will share additional thoughts separately, the marketing section of the Reg X mortgage servicing proposal would not produce the gains in language access that the Bureau seeks, and instead would more

likely be counterproductive. We encourage the Bureau to remove the marketing section and pursue operationally feasible policies that will enhance assistance to borrowers with limited English proficiency. Should you have questions or wish to discuss this issue further, please contact Matt Douglas at matt.douglas@housingpolicycouncil.org, or Alys Cohen at acohen@nclc.org to discuss next steps.

Yours truly,

Community Home Lenders of America
Consumer Federation of America
Housing Policy Council
Independent Community Bankers of America
Mortgage Bankers Association
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
National Housing Conference
National Mortgage Servicing Association
UnidosUS