

American Bankers Association  
Consumer Bankers Association  
Consumer Mortgage Coalition  
Credit Union National Association  
Housing Policy Council of The Financial Services Roundtable  
Independent Community Bankers of America  
Mortgage Bankers Association  
National Association of Federal Credit Unions

July 11, 2016

The Honorable Melvin L. Watt  
Director  
Federal Housing Finance Agency  
Constitution Center  
400 7th Street, SW  
Washington, D.C. 20219

Re: Language Preference and the Uniform Residential Loan Application

Dear Director Watt:

Per the request of Federal Housing Finance Agency (FHFA) staff, the undersigned trade associations are submitting feedback in response to the options for a draft language preference question that is currently being considered and reviewed by the FHFA and the Consumer Financial Protection Bureau (CFPB) for inclusion on the Uniform Residential Loan Application (URLA).

While we have reviewed the draft question(s) and attached our feedback to this letter, we must again stress our strong objections to the inclusion of a question on the URLA and the lack of a transparent process for developing and introducing the question. The URLA comes too late in the process to provide useful information to borrowers. In fact, we believe the inclusion of the question on the URLA form will only serve to confuse consumers and expose industry to potential liability. As we have expressed, there are better ways to consider and ultimately address the needs of limited English proficiency (LEP) borrowers. Accordingly, we strongly urge the FHFA not to include the language preference question on the form at this time.

Between early May--when industry was first alerted that the FHFA had opted to move forward with including a language preference question on the URLA--and Tuesday, July 6, industry was not afforded an opportunity to provide any input on the inclusion or phrasing of the question. This is despite a lengthy collaborative process that resulted in an improved URLA form. It is not clear why this effective and collaborative process was abandoned when a question that would represent a new direction for the form was introduced.

It concerns us greatly that, with approximately one month before this form is slated for release, agency staff are unable to provide answers to questions about legal risks from this change, as well as how data generated by the question will be stored and accessed. We believe the legal and compliance risks

(outlined in greater detail in our June 8, 2016 letter to FHFA) associated with this question are very real. They warrant meaningful consideration and analysis by both the FHFA and the CFPB.

The process that would be necessary to sufficiently understand and develop solutions for the issues affecting borrowers with limited-English-proficiency should be deliberative, but it cannot be short given the complexity of the issues.

If data on language preference is the goal, FHFA should weigh alternative options such as including the question in the Federal Reserve's Survey of Consumer Finance, the FHFA's own National Survey of Mortgage Originations, and/or the American Survey of Mortgage Borrowers that your agency is currently developing. These surveys would appear to be far more appropriate platforms for asking a survey question on preferred language than does a legal/operational form like the URLA.

In the final analysis, we urge that the FHFA and the CFPB and other agencies having relevant responsibilities for borrowers begin working with industry, consumer advocates and all stakeholders in a fair and transparent process to identify the needs of LEP borrowers and to develop workable proposals to address them.

We appreciate your consideration of these views and our comments.

Sincerely,

American Bankers Association  
Consumer Bankers Association  
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**SUBJECT TO CHANGE**

07/06/2016

While we have reviewed the draft question(s) and included comments below, we must again stress our objection to the inclusion of this question on the URLA and the lack of a transparent process for developing and introducing the question. The URLA comes too late in the process to provide useful information to borrowers. We believe the inclusion of the question will only serve to confuse borrowers and open the industry to potential liability. We believe that there are better alternatives to consider to address the needs of limited English proficiency (LEP) borrowers. Accordingly, we strongly urge the FHFA not to include a language preference question in the URLA at this time.

We do, however, encourage the FHFA to consider the comments and questions we have posed on the draft questions FHFA provided so far. We also request the opportunity to provide additional substantive feedback as the process moves forward.

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*The FHFA's suggestions from July 5:*

**PREFERRED LANGUAGE (Optional)**

If communications were available in a language other than English, what would be your preferred language?

- Spanish     Chinese     Korean  
 Vietnamese    Tagalog     Other: \_\_\_\_\_

- 1) *What is the rationale behind this selection of languages? These options align with a standard in California state law, but not with Census data (which suggests that French is spoken with more frequency than Korean). (Comment applies to Question 1 and Question 2)*
- 2) *2) What information are we trying to glean from this question? Is the issue language preference or language proficiency? (Comment applies to Question 1 and Question 2)*

**Your answer is voluntary and will not affect your mortgage application. (1, 2) The Lender or Other Loan Participants (4) are not committing (5) to communicate with you or provide documents to you in your preferred language.(2,3)**

- 1) *This needs to be specific to eligibility for a mortgage, not its effects on the application generally. If additional costs are incurred as a result of translation services, for example, it could affect the cost of the mortgage. (Comment applies to Question 1 and Question 2).*
- 2) *If FHFA is intent on proceeding with this formulation, the language should be thoroughly tested with consumer focus groups to gauge: 1) What consumers believe is meant by "mortgage application"; and 2) general reaction to the second sentence. It strikes us as casting the lender in a bad light and unfair.*
- 3) *This is a potentially confusing statement. Some lenders communicate in other languages and*

*provide translated documents (particularly in Spanish).*

- 4) It is not clear who is included in "other loan participants?" (Comment applies to Question 1 and 2.*
- 5) What is the definition of "committing" in this context? It should be clear that there is no obligation to communicate and provide forms in the preferred language. See suggested question above.*

OR

QUESTION 2 (Please see additional applicable comments above).

**PREFERRED LANGUAGE (Optional)**

If communications were available in a language other than English, what would be your preferred language?

- Spanish     Chinese     Korean  
 Vietnamese    Tagalog     Other: \_\_\_\_\_

**Your answer is voluntary and will not affect your mortgage application.**

**This question does not represent a commitment by the Lender or Other Loan Participants to communicate with you or provide documents to you in your preferred language, ~~but may enable them to assist you or to direct you to persons who can assist you.~~ (1)**

- 1) This is very likely to create the impression that if he or she answers the question, the lender probably will make an effort to provide the borrower assistance of some kind. But the information is given to late in the process to work. It is also not clear that seeking this assistance might result in additional costs to the borrower. Since the phrase creates an unnecessary source of friction between lender and borrower, it should be deleted.*