



MORTGAGE BANKERS ASSOCIATION

June 15, 2022

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204, The Capitol
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy:

On behalf of the Mortgage Bankers Association¹(MBA), I am writing to express our views regarding provisions within H.R. 2543, the *Financial Services Racial Equity, Inclusion, and Economic Justice Act*, which is scheduled to be considered by the full U.S. House of Representatives today. MBA strongly supports policies designed to reduce the racial homeownership gap, support sustainable homeownership for communities of color, and promote fair, equitable, and responsible lending for minority borrowers. In order for H.R. 2543 to better achieve those aims, MBA offers these comments.

TITLE II—Diversity Data Collection and Reporting
Subtitle A—Diversity and Inclusion Data Accountability and Transparency
Sec. 211. Disclosures by Regulated Entities.

MBA supports the intent of language included from H.R. 2123 the *Diversity and Inclusion Data Accountability and Transparency Act*, as introduced by Rep. Joyce Beatty (D-OH), to ensure a more diverse and inclusive work force in the financial services sector. Section 342 of the Dodd-Frank Act (DFA) required various federal regulatory agencies to establish Offices of Minority and Women Inclusion (OMWI). A major function of the OMWI is to increase diversity at financial institutions and their regulators, and while much work remains to be done, the industry is committed to continuing these important efforts. MBA recommends amending the language to ensure that additional mandatory reporting requirements are anonymously instituted, which would still achieve the proposal's intended effect of building more diversity within the financial services sector without imposing additional targeted regulatory burdens.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 390,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,200 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

TITLE III—Access to Housing and Lending
Subtitle A—Improving Language Access in Mortgage Servicing
Sec. 311. Language Access Requirements and Resources.

As indicated by our focused work with regulators over the past several years, MBA and its members are eager to serve all borrower cohorts and would welcome potential measures that help lenders provide information to borrowers in their preferred language and ensure that they fully understand their mortgage transactions. However, MBA opposes the inclusion of language from H.R. 3009, the *Improving Language Access in Mortgage Servicing Act*, as introduced by Rep. Sylvia Garcia (D-TX), which would establish language translation requirements related to residential mortgage applications and servicing.

In our ongoing dialogue with the proposal's lead sponsor, MBA has emphasized that the legal framework contemplated by this proposal should avoid imposing compliance burdens that would significantly increase lender liability associated with serving borrowers with limited English proficiency (LEP). To encourage lending to LEP consumers, MBA believes that any legislation pertaining to this issue should reflect the following considerations:

- a federal preemption clause to provide lenders with a uniform legal framework across the country;
- clarification of what constitutes “oral interpretation” services;
- ample time for covered entities and regulators to fully develop a system that works to encourage lending in all communities;
- a safe harbor for lenders complying in good faith with LEP legislation and regulation;
- a readily available publicly accessible database of CFPB, HUD, and/or FHFA approved interpretation services, so that lenders have access to reputable translating individuals and entities;
- limiting any requirement to provide oral interpretation to the languages covered by written translations prepared by the CFPB and FHFA (e.g., the eight most commonly spoken languages by LEP consumers);
- a reasonable definition for the types of consumer and borrower communications that must be accommodated in the consumer's preferred language; and,
- improved accessibility and interagency harmonization of the FHFA's Mortgage Translations clearinghouse, a resource created through extensive industry/regulator collaboration.

For these reasons, and in order to best develop a workable solution for consumers, we believe targeted amendments (in keeping with our suggestions) should be made to this language.

Subtitle B—Fair Lending for All
Sec. 321. Office of Fair Lending Testing.

MBA is concerned that the current language included from H.R. 166, the *Fair Lending for All Act*, as introduced by Rep. Al Green (D-TX), would create interpretations of the law that would be difficult to comply with and confusing. MBA is also concerned this provision would require lenders to ask invasive personal questions of borrowers. MBA strongly supports lending equality and efforts to prevent credit discrimination with respect to applications for, and the extension of,

mortgage credit. Indeed, one of our association leadership's key priorities this Congress is working to increase homeownership within communities of color. Achieving this goal will most certainly require appropriate oversight of the mortgage industry, with a keen focus on preventing discrimination to ensure equal treatment for all credit applicants.

Though we are unable to support this provision in its current form, we stand ready to work with members of the Committee to help develop legislative proposals that would serve to eliminate discrimination and ensure equitable access to homeownership opportunities.

TITLE IV—Diversity in Financial Institutions and Corporations
Subtitle C—Improving Corporate Governance Through Diversity
Sec. 431. Submission of Data Relating to Diversity by Issuers.

MBA supports the inclusion of language from H.R. 1277, the *Improving Corporate Governance Through Diversity Act*, as introduced by Rep. Greg Meeks (D-NY), which would establish an advisory group to increase the diversity of Boards for publicly traded companies. Diversity at all levels for private sector entities has been increasing in recent years. Ensuring that decision makers and executives have access to diverse perspectives and opinions increases overall efficiency and improves performance and results.

Potential Amendments under Consideration

Pressley amendment — American Sign Language Interpretation Services

As drafted, MBA opposes this amendment for the same considerations offered in our previous comments regarding Title III, Subtitle A. Sec. 311 and would advocate for limiting any requirement to provide oral or American Sign Language interpretation services to the languages covered by written translations prepared by the CFPB and FHFA (e.g., the eight most commonly spoken languages by LEP consumers).

Williams amendment — Expanding Access to Credit through Consumer-Permissioned Data Act

MBA acknowledges and appreciates the intent of the *Expanding Access to Credit through Consumer-Permissioned Data Act*. The prudent use of additional underwriting data, such as rental or utility payments – often referred to as “alternative data” – has the potential to increase responsible access to mortgage credit for consumers that do not have robust credit histories with the national credit reporting agencies. We have concerns, however, with the way the legislation would require creditors to consider this additional underwriting data, as it would require creditors to treat information provided by consumers “in the same manner and with the same weight” as information provided by a national credit reporting agency. We believe this data should be collected with protections to ensure accuracy, and as drafted, it is not sufficiently clear how this requirement would interact with the use of common automated underwriting systems in the industry – such as those maintained by Fannie Mae or Freddie Mac.

A more beneficial approach to this worthwhile objective would be to direct the agencies and enterprises (Fannie Mae, Freddie Mac, the Federal Housing Administration, the Department of Veterans Affairs, the Department of Agriculture) responsible for setting the underwriting

parameters on a large share of mortgages in the United States to incorporate and allow the use of additional data in their underwriting guides. This approach would allow lenders the ability to consider data in ways that more clearly would fit within the bounds of investor guidelines, thereby further expanding access to responsible mortgage credit.

Conclusion

Thank you in advance for your consideration of the views expressed within this letter. We stand ready to work with all Members of Congress to ensure a robust, just, equitable, and inclusive housing market – one that is accessible, affordable, and works to benefit borrowers, renters, and other critical stakeholders.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Killmer", with a long horizontal flourish extending to the right.

Bill Killmer
Senior Vice President
Legislative and Political Affairs

cc: The Honorable Maxine Waters
The Honorable Patrick McHenry
All Members, U.S. House of Representatives