

Limited English Proficiency: An Emerging Compliance Risk

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How consumer financial services providers can meet the needs of a growing population of “limited English proficiency” (LEP) consumers without running afoul of laws prohibiting deceptive practices and discrimination has emerged as a significant industry compliance concern for the Consumer Financial Protection Bureau (CFPB) and bank regulators.

In the last two years, the CFPB entered into two consent orders with lenders stemming from LEP issues. One of those actions alleged that a lender excluded Spanish-speaking customers from debt repayment and settlement offers, and the other alleged deceptive telemarketing of ancillary products to Spanish-speaking consumers. In an April 2015 Fair Lending Report, the CFPB also encouraged lenders to “provide assistance to LEP individuals in order to increase access to credit and to reach out to the Bureau with ideas of how to promote access.”

Compliance risks relating to LEP include both fair lending issues, where consumers may be treated differently based on their language abilities or preferences (which are likely to be considered proxies for ethnicity or national origin); and unfair, deceptive, or abusive acts or practices risks, particularly where a company communicates through marketing or offers customer service in a foreign language but requires that documents be filled out in English.

The risks associated with LEP policies and procedures can vary significantly depending on the product, market area, reliance on third parties and other fact-specific considerations. Consequently, there is no one-size-fits-all approach for effectively mitigating LEP risk.