Thank you for the opportunity to respond to the Request for Comments on the "Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies."

Virginia Organizing is a statewide grassroots community organizing group that works with the Alliance for a Just Society, a national organization that advocates on issues associated with economic and racial justice. The 2008 economic meltdown exposed some of the shortcomings that the practices of financial institutions have had in minority communities. Therefore, we hope that your agencies and the entities you regulate will see Section 342 as a chance to transform practices and to broaden the opportunities that our financial institutions can provide for women and in communities of color. In addition to improving the potential for employment and advancement within these institutions, the vigorous application of effective Section 342 standards will translate into better services and products for <u>all</u> of our communities.

Given our perspective, we are concerned that the policies suggested in the Statement are, at best, the minimum that the agencies can do in this context. We will suggest some improvements in the standards, particularly those associated with the entities that you regulate.

Before doing that, however, we believe that it is appropriate for us to comment on other provisions of Section 342. The provisions governing the relationships of the agencies with contractors for goods and services have the potential to provide an important and positive impact on the availability of business opportunities for minority and women owned businesses. These provisions also have the potential to impact directly the possibility that your contractors will improve their practices with respect to the employment of women and minorities. Furthermore, unlike the provisions associated with entities you regulate, you actually have the power to withdraw contracts from non-compliant entities. We encourage you to use these authorities with confidence.

Respecting the proposed standards for regulated entities, we offer the following observations and recommendations.

1. The inadequacy of self-assessment.

Apparently the system established in these standards will include a voluntary self-assessment by the regulated entities. Our experience with these organizations suggests that a self-assessment system is unlikely to have much of an effect on their behavior. Consequently, we note that the provisions of Section 342 require your agencies to develop standards for "assessing the diversity policies and practices of entities regulated by the agency.'' This language appears to us to require the agencies to do some kind of assessment. The language clearly does not require that self-assessment by the regulated entities be used. The agencies have other options. In fact the requirement that each of the agencies establish an Office of Minority and Women Inclusion would seem to imply that these Offices should have something to do.

Recommendation: That the agencies reassess their approach to assessment and establish standards that provide for an actual assessment by the regulating agencies of the diversity practices of the entities.

2. Provide for agency evaluation of the proposed self-assessments.

Assuming that there is a chance that our first recommendation may not gain favor with your agencies, we suggest that, at the very least, the proposed self-assessments be subject to review by the regulators.

The vague and provisional language used throughout the proposal will make it very difficult for either the agencies, the entities or any other observer to know whether any reasonable self-assessment has been achieved. Furthermore, the proposed standards will not even require that the self-assessments be disclosed to the regulating agencies. The proposal says: "Voluntary disclosure to the appropriate Agency of the self-assessment and other information the entity deems relevant." These features in the proposed standards invite regulated entities to treat this process as irrelevant. To overcome these deficiencies the agencies should, at a minimum, develop a standardized questionnaire or some similar instrument that requires that specific information be provided to the agencies. Such standardization would permit comparisons and an assessment of the progress that entities are making toward diversification of their workforces and their contracting practices.

Recommendation: That the agencies establish a standardized evaluation system and that they use such a system actually to evaluate the self-assessments done by the regulated entities.

3. Other forms of assessment needed for accountability.

If the regulated entities are the only source of information about their diversity practices, the agencies are entirely at their mercy. There are other ways to assess the quality of diversity programs. The agencies should, for example, examine the history of diversity complaints, employee actions, civil rights actions, legal actions and whistleblower complaints associated with the entities. In addition, the agencies should compare self-assessments with information filed with the Economic Opportunity Commission and the Office of Federal Contract Compliance Programs in order to have a check on the information provided through self-assessments.

Recommendation: That the agencies establish methods for evaluating the accuracy of self-assessments through research into the history of entity civil rights records and through other information available from government sources.

4. Needed clarity associated with size and characteristics in the application of standards.

The standards consistently suggest that there will be variations based on the size and characteristics of the regulated entities. The only hint in the proposal at any such lines of demarcation refer to "regulated entities (a) with 100 or more employees; or (b) who are federal contractors with 50 or more employees and are prime contractors or first-tier subcontractors, with contracts of $50,000 or more…" (These organizations are required to file information on their diversity practices to the Equal Opportunities Commission.) However, even these numeric yardsticks are not actually being applied. Our concern is that, absent some specific guidance, self-assessment standards will vary considerably throughout the system and among agencies. We also worry that some very important entities will be subject to even weaker efforts if criteria regarding size are set to high. Further guidance on the meaning of variations based on size and characteristics needs to be provided.

Recommendation: That the proposed standards be modified to provide specific guidance as to the meaning and applicability of the term "an entity's size and other characteristics."

5. Lack of accountability.

In addition to the language providing for voluntary disclosure of self-assessments to the agencies, we are alarmed to find absolutely no accountability system anywhere in these standards. Some form of

follow through and accountability to you as regulators and to the public needs to be provided. We are aware of the provision in the law that nothing in section 342(b)(2)(C) ‘‘may be construed to mandate any requirement on or otherwise affect the lending policies and practices of any regulated entity, or to require any specific action based on the findings of the assessment.’’ It is clear that this provision actually prevents you from bringing action against regulated entities. However, this language does not mean that the agencies are unable to place these assessments and evaluations of these assessments before the public. We are concerned that the proposed standards largely turn away from this possibility when they suggest it to be sufficient that “the regulated entity provides transparency in its activities regarding diversity and inclusion by making the ….information available to the public annually through its public Web site or other appropriate .communication methods.” Voluntary disclosure of these self-assessments gives the regulated entities little incentive to make improvements in their hiring or contracting practices. The suggested methods of voluntary disclosure, even if utilized by regulated entities, will merely be written by publicity departments and they will never disclose problems.

Recommendation: That the agencies make the results of assessments available to the Congress, to the customers of financial institutions, and to the general public.

It is our hope that the agencies will reassess these regulations based on the included recommendations. Section 342 of Dodd-Frank was intended to be transformational. As written, these suggested standards will be regarded as mere “eyewash” by most of the financial institutions and will have virtually no effect on their behavior.

Respectfully submitted:

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